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Electoral violence during party primaries in Kenya

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ABSTRACT
Since the restoration of multi-party democracy in Kenya in 1991, elections have witnessed intra-party violence during the primaries for selecting parliamentary and civic seats candidates. This article addresses the question of why electoral violence occurs during party primaries in Kenya and argues that violence is an outcome of the organization of political parties, which has revolved around personalities identified with ethno-regional interests rather than institutionalism. The upshot has been the absence of party institutionalization to establish structures for recruitment of members and organization of primaries. Such organizational weaknesses have denied parties the capacity to match the intense competition for tickets of ethno-regional dominant parties that guarantees nominees to win seats in their strongholds. Intra-party violence has followed. The article submits that intra-party electoral violence in Kenya is a function of the politics of clientelism and ethnicity, both of which have severely hampered the institutionalization of political parties and their capacity to cope with the stiff competition for the tickets of ethno-regional dominant parties.

The transition from a one-party to a multi-party political system in Kenya in 1991 raised expectations for democratization that hinge on free and fair elections. However, multi-party elections since 1992 have not only been perceived as rigged, but they have also been characterized by violence. Electoral violence often occurred between candidates, members, or supporters within political parties rather than between parties.

This has been particularly evident during party primaries for selecting parliamentary and local authority candidates. The selection of presidential candidates has generally been orderly and non-violent. However, the selection of parliamentary and civic authority candidates conducted through "open voting" is often accompanied by manipulation, intimidation of candidates, rigging, fraud, bribery, chaos and incivility that have descended into intra-party violence. The question addressed therefore is: What drives party members and supporters to resort to intra-party violence to resolve their electoral differences?

Whereas studies on party primaries are gaining popularity in developed democracies, spawning data that are increasingly making comparative studies possible,[1] few such studies exist on Africa to offer reference for the question addressed here. The few studies on party primaries in Africa are largely from Ghana, which has fairly strong political parties with a loyal membership compared to the weak parties that are found in Kenya without a defined membership. In any case, the available studies on the subject address the organization of the primaries,[2] selection system and process of primaries,[3] the demand for, and adoption of, party primaries,[4] and the effect of party primaries on electoral performance,[5] thereby leaving out the question of why electoral violence occurs among party members and supporters during primaries in Africa.

To address this question, we contrast the selection of presidential candidates to the primaries for parliamentary and civic elections in Kenya and suggest that the chaotic and anarchic nominations that erupt into electoral violence are functions of a poor institutionalization of political parties in an ethno-regional party dominant system that often predisposes candidates and supporters to engage in violence. This is particularly the case when nominations are held towards the end of the nomination deadline, yet primaries are the decisive phase of the electoral process.

In the absence of systematic datasets on party primaries in Kenya, the article relies on qualitative data derived from a multitude of sources. The article has four parts. The first sets the argument by outlining the concept of institutionalism and relating it to the organization of political parties in Kenya. The second part illustrates the significance of institutionalism in the conduct of an orderly and peaceful selection of presidential candidates, which is a major contrast to the violence that erupts during parliamentary and civic elections primaries. The third part delves into the conduct of parliamentary and civic elections primaries to demonstrate the poor institutionalization of these primaries and the resultant electoral violence in the 2007, 2013, and 2017 elections. The fourth part is the conclusion.

1. Institutionalism and the organization of political parties in Kenya

Institutions have been defined in two ways: On the one hand, mainly by sociologists, as norms, customs, and practices that initially tend to be taken for granted in informal human relationships but gradually develop into regularized behaviour and conventions that take on a rule-like status in social thought and action.[6] This partly explains why sociologists see institutions everywhere, from handshakes to eating manners and marriages.[7] Indeed, for sociologists, any practice or regular behaviour is an institution.

On the other hand, political scientists and economists have a formal understanding of institutions and define them as routine behaviour and relationships that have identifiable regular structures with rules, regulations, and operational procedures. Institutions then become forms of organization with well-defined organizational patterns, rules, regulations, and procedures that govern the interaction of groups; concrete symbols that these groups inhabit or use; and formal behaviour that may coalesce around all these.[8] These regularized arrangements culminate in some order and stability that make predictability possible in organizations. It is against this background that Easton argued that formal political institutions include the state and related structures such as bureaucracies, political parties, party systems, political actors and agencies, and interest groups.[9]

We adopt this formal institutional perspective in order to assess the extent to which the poor institutionalization of parties in Kenya has contributed to electoral violence during party primaries. As already alluded to, institutionalized political parties are founded on the basis of recognizable principles that underlie their ideologies, policies, and membership. Such parties assume the character of a formal organization by developing structures and operational procedures guided by elaborate rules and regulations to enable them to recruit members and to carry out the functions and obligations required to reach out to the electorate and win elections.[10] The resultant structure and operational procedures enable the parties to develop capacity not just to link up with the grassroots and compete for power by articulating policies for the welfare of society, but also to carry out internal activities. However, political parties in Kenya seem not to resonate with this type of organization.

Following the nature of politics in Kenya that converges around ethnicity and patronage,[11] most of the Kenyan parties have been formed and tend to draw support along ethnic lines. Indeed, ethnicity significantly informed the formation of the first national political parties that led the country to independence in 1960. Whereas the Kenya African National Union (KANU) was formed by leaders from the Kikuyu and Luo communities, leaders from the smaller ethnic communities, who feared the Kikuyu-Luo dominance in KANU, embarked on organizing a coalition of their communities that resulted in the formation of the Kenya African Democratic Union among the Abaluyia, Kalenjin, Maasai, and coastal ethnic groups.[12]

Subsequently, KANU would often be associated with the ethnic group of its chairman. During the Moi era, it was thus thought to be a Kalenjin outfit in contrast to the Kikuyu and Luo party that it was considered at its formation. The post-1992 parties have also been primarily identified with the ethnic communities of their founders, with some communities even changing their support to parties in accordance with the allegiance of their leaders. Given that the country's regions have been identified with particular ethnic groups since the colonial period, one consequence of the ethnic basis is that most parties have become primarily ethno-regional parties.[13]

As observed by Riedl with respect to political systems based on patronage,[14] political parties in Kenya also revolve around personalities. The parties tend to be dominated by their founding leaders, who also double up as (perceived) political heads of their ethnic communities. Party leaders have developed elaborate patronage linkages with their ethnic communities, which has enabled them to control the activities and make the most important decisions of the parties. Thus, as much as some of the parties have constitutions that spell out rules and regulations for governing their activities, they are usually violated at will by the party leaders, who are also their financiers.[15]

With parties revolving around influential personalities, most do not have registered members. They operate on the assumption that all persons in the ethnic community of the leader are their supporters and therefore "members". Consequently, it makes sense to see them as belated versions of Duverger's cadre parties,[16] that is, with no particular interest in or need for members, being primarily electoral support creating vehicles. Very few parties have actually held membership recruitment drives, including KANU that used to recruit members during the one-party era. Thus, though KANU may claim to have members, its register is likely to be outdated and of little or no use.[17]

However, some parties have attempted to register members by issuing membership cards, but this process has been abused by contestants for leadership positions buying the cards, or even printing their own, and then dishing out to any individual to turn up

and vote for them during party elections. A person can thus hold membership cards for several parties to which he/she does not belong. Virtually all parties have now shed any pretence of registering members, claiming that people from the ethnic group and region from which the leader comes are members of the party.

Consequently, political parties have difficulties with their operational structures. Most parties have not conducted internal elections to confer leadership democratically. Consequently, they do not have structures of delegates that link grassroots supporters to the national level. The result is that such parties have not organized national conferences to elect officials as provided for in their constitutions. Those that have attempted to do so have ended up holding national conferences consisting of "hired delegates" that do not come from the purported regions and are not even party members. This has quite often been evidenced by conflicting lists of delegates from some regions that differ from the persons arriving from the regions for the conference, only to find the hired delegates having already taken their seats. Such delegates are normally hired by politicians to lock out their competitors from attending the conferences. Thus, the national conference turns out to be a mere showcase of the presumptive leader or wealthy elite.[18]

Nevertheless, parties without registered members still attract a significant following. Such following is usually based on ethnicity, as ethnic communities would be supporting their own kinsman to secure the leadership of the country. Alternatively, the following is based on political patronage as where delegates are paid to attend a party's national conference to vote for the patron. With such support bases, party leaders have ignored the need for party membership and have relied on patronage and ethno-regional mobilization of support to personalize party activities to serve their interests, thereby disconnecting the members and the party elite, particularly between elections.

Such members are usually mobilized during elections to play the cosmetic role of installing contestants through party primaries. This has conditioned party primaries in Kenya to manifest quite differently from what one sees elsewhere. Normally, a party primary is conducted among party members (or their representatives) or voters registered as adhering to the party. In Kenya, primaries are to be understood as (very) open primaries, where all interested voters in a constituency can participate in the selection of a party's parliamentary and civic candidates, subject to what might later happen at the party headquarters. This has turned party primaries into huge, sometimes countrywide, elections that have proved difficult for parties to organize and manage.

The regionalization of Kenyan politics means that primaries are particularly intense in parties and constituencies where the national leader (and presidential candidate) belongs to the dominating ethnic group. The expectation is that the ethnic group will not only vote for their man in the presidential contest, but also to a very considerable degree for his party's candidates for parliamentary and civic seats. Consequently, the competition for the ticket of the dominant party in such constituencies becomes particularly intense, leading in some cases to outright violence, as described below.

Furthermore, many parties depend financially on their leaders. This has rendered most parties, particularly in the opposition, so vulnerable that they cannot enforce rules and regulations that adversely affect the interests of the leaders and financiers, again a parallel to many of the old cadre parties.[19]

Kenyan political parties are generally not founded on ideas and ideals. It is only after the formation of the parties that attempts were made to link them to some ideology, particularly when coining electoral manifestos. The lack of party ideals also explains the frequent defections by politicians from one party to another. To politicians, the suitability of a party is not its ideology, but the opportunities for political career advancement in terms of electoral victory that it offers based on the ethnic and regional support it commands.

Political parties in Kenya do not function as institutions. Constitutions with rules and regulations for conducting the affairs of the parties may exist on paper but are not adhered to. Kenya's low level of party institutionalization has rendered internal party democracy a façade and it has contributed to the low level of party system institutionalization as documented by Riedl in her study of the authoritarian origins of African party systems, where Kenya could also have served as an illustrative case.[20]

2. The institutional basis of the selection of presidential candidates

There has been a major contrast in Kenya between the nomination of presidential candidates and the primaries for parliamentary and civic elections. Whereas the political parties have selected their presidential candidates in an orderly, non-violent manner, the primaries for parliamentary and civic elections have been characterized by chaos, incivility, and violence. We attribute this to the attempt to adhere to institutionalism in the selection of presidential candidates and the institutional failure of political parties during the civic and parliamentary primaries. A review of the methods and process of selecting presidential candidates since 2007 may help to appreciate this point and enhance our understanding of the violence in the civic and parliamentary primaries.

In the 2007 elections, not all members of political parties were involved in the selection of presidential candidates. Whereas the Party of National Unity (PNU) settled on its candidate without any contest, the other two main contending parties, Orange Democratic Movement (ODM) and Orange Democratic Movement Party of Kenya (ODM-Kenya) used conferences to select their presidential candidates despite the disagreements over the election of the parties' delegates.[21]

The two parties embarked on the process by inviting candidates to send their applications to their national election boards upon payment of the nomination fee. Whereas ODM-Kenya cleared Kalonzo Musyoka to compete against Julia Ojiambo for the party's ticket, ODM had five aspirants who were considered influential in their respective provinces: Raila Odinga, the Lang'ata MP, who was battling it out with former Vice President Musalia Mudavadi from Western Province, Eldoret North MP William Ruto from Rift Valley, Gachoka MP Joseph Nyaga from Eastern Province, and Najib Balala of Mvita constituency in Coast Province. The nomination of candidates was followed by a campaign period, during which the candidates launched their visions for the country. Though originating from the same ideological background, the visions of ODM candidates differed with regard to emphasis on issues. Ruto, for instance, paid a lot of attention to security by suggesting the integration of the army in the management of cross-border security, while Odinga emphasized infrastructure development as a key contribution to Kenya's economic rejuvenation. Further differences were made through the manner in which the candidates launched their visions. For instance,

Odinga made a major difference from his competitors by getting the launch of his presidential vision televised live by one of the media houses.[22]

ODM-Kenya and ODM held National Delegates' Conferences (NDC) to nominate their presidential candidates. Though both parties had a formula for the number of delegates from each constituency, the fact that the parties did not have registered members gave aspirants a leeway to handpick delegates from their strongholds. That some candidates enjoyed support from larger geographical areas or more densely populated areas than others initially raised fears that the losers may not accept the outcome and that the events would be marred by violence and a breakup of the parties. Nevertheless, such fears were allayed when both events went on undisturbed.

In ODM-Kenya, Kalonzo Musyoka emerged the winner partly because he organized a better function for launching his vision. Furthermore, Kalonzo's support base in ODM-Kenya was wider than Ojiambo's, who conceded defeat. As a gesture of appreciation, Kalonzo chose Ojiambo as his running mate.

In ODM, Raila scooped the presidential ticket through secret ballot at the NDC, beating all his rivals in their respective provinces except in Western Province, where Mudavadi beat Raila by 303 votes to 128.[23] With a resounding victory for Raila, all the losing aspirants conceded defeat and pledged to support the winner. Perhaps in recognition that Mudavadi had beaten him in his stronghold, Raila picked Mudavadi as his running mate. The peaceful nominations were hailed by many observers, some even imagining that Kenya's intra-party democracy had come of age. They were, however, proved wrong by the parliamentary and civic nominations.

In 2013, the general membership of the parties was also not involved in the selection of presidential candidates, because parties were forming coalitions to present a single candidate in order to improve the chances of winning by carving out ethno-regional voting blocs to support the agreed-on candidates. Subsequently, presidential candidates were selected through negotiations and bargaining. This method of selecting presidential candidates was also made necessary by the Elections Act of 2012 and Political Parties Act of 2011 providing for pre-election coalitions.

The first coalition to appear was Jubilee, a merger between Uhuru Kenyatta's National Alliance (TNA) and William Ruto's United Republican Party (URP). The creation of this coalition was informed by the impending trials of Uhuru and Ruto at the International Criminal Court for crimes against humanity in connection with the 2007/2008 post-electoral violence. The two reframed their charges as a conspiracy by leaders in the then government, civil society organizations, and the international community to impose leaders on Kenyans.[24] This, alongside the peace narrative that purported to unite the Kikuyu and Kalenjin communities that were at the forefront of the violence in Rift Valley, rallied these communities to form and support the Jubilee coalition with Uhuru as presidential candidate and Ruto as his running mate.

The formation of Jubilee prompted other parties to identify their candidates for the election. The urge to get strong candidates to face Jubilee saw virtually all leaders of the key political parties face no nomination challenges. Raila Odinga, thus, faced no challenge in ODM, just as Wycliffe Mudavadi became the candidate of United Democratic Front (UDF), while Kalonzo Musyoka secured the leadership of Wiper Democratic Movement (WDM). Thereafter, these candidates embarked on weaving coalitions that could effectively compete with Jubilee and win the elections. It was in these circumstances that the Coalition for Reforms and Democracy (CORD) emerged with Raila Odinga as its presidential candidate.

The selection of presidential candidates in 2017 was informed by the practice in 2013. As Jubilee had settled on Kenyatta running for a second term with Ruto as his running mate, there were no presidential primaries in the party. This gave the opposition the impetus to start discussions for strengthening their coalitions if they were to make an impact in the elections. Whereas disagreements emerged in CORD over who should be selected as the coalition's flag-bearer, Mudavadi suggested the formation of a super alliance to dislodge Jubilee.

Subsequently, the major opposition parties embarked on negotiations to form a coalition with only one candidate in the presidential elections.[25] Whereas all the parties agreed in principle on the need for an alliance, the bone of contention was the sharing of power, particularly the positions of president and deputy president.

Following lengthy negotiations, the leaders agreed to form the National Super Alliance (NASA) coalition. The coalition settled on Odinga as presidential candidate with Musyoka as running mate. The power-sharing agreement gave Mudavadi the post of premier cabinet secretary under whom there would be two deputy premier cabinet secretaries, reserved for leaders of other coalition partners.[26] With the main coalitions selecting their candidates through negotiations and consensus, there were no presidential election primaries. Again, disagreement and violence were not witnessed in the process.

The selection of presidential candidates has thus tended to be orderly and peaceful, partly because the process has involved a manageable number of people relative to the organizational capacity of the parties. Furthermore, the fact that presidential candidates are selected through bargaining and negotiations that culminate in consensus or agreements suggests that some rules of engagement are established and followed. Indeed, political bargaining and negotiations for selection of presidential candidates are becoming a routine and, therefore, are becoming institutionalized. This has steered the parties clear of the chaos and incivility that have quite often turned the primaries for parliamentary and civic elections violent.

3. Electoral violence in parliamentary and civic elections primaries

The fact that political parties in Kenya tend to be more personal rather than institutional has severely affected their ability to establish regular rules, procedures, and structures for conducting their activities. One of the party activities that has been affected by the poor institutionalization is the organization of party primaries. In the absence of rules, procedures, and structures for conducting primaries, political parties have struggled to make ad hoc arrangements for conducting them. Nevertheless, the clientelist politics that obtain in Kenya, which has turned political parties into ethno-regional organizations, have weakened their institutional functioning. The consequence has been chaotic and anarchic primaries that have quite often descended into violence. A review of the parliamentary and civic elections party primaries since 2007 serves to illustrate this point.

3.1 The 2007 parliamentary and civic primaries

The leading political parties in 2007 embarked on the process of nominating their parliamentary and civic candidates by setting up eligibility criteria for candidates and structures for managing the process. Borrowing from previous experiences, all three leading

parties, ODM, PNU, and ODM-Kenya, cobbled together election boards based at party headquarters in Nairobi to administer their primaries. This was followed by drafting requirements that candidates had to meet before being cleared to participate in the primaries. Interestingly, the requirements put more emphasis on payment of non-refundable fees than on party membership and political ideals. In addition to the fees, the candidates were also required to fulfil the legal requirements for candidates in the parliamentary and civic general elections, that is, being a Kenyan citizen and a registered voter.[27]

These criteria in reality meant that any voter could be a candidate. This set the ground for the free-for-all primaries that followed in the three parties and they experienced stiff competition for their tickets, mainly in the strongholds of the respective presidential candidates. The general assumption was that parliamentary aspirants cleared by a presidential candidate's party to contest in a constituency within his stronghold would almost be guaranteed to be elected in the general election. Consequently, PNU, ODM, and ODM-Kenya all attracted a host of parliamentary and civic aspirants in their strongholds to warrant each party holding primaries to select a candidate for each constituency and ward.

Whereas the demand for the tickets of these parties among aspirants was palpable, the need for each party to retain its bloc of followers (who were not necessarily registered members) saw them focus on reducing defections to other parties that could arise out of disagreements over the results of the primaries. This consideration saw these three parties hold their parliamentary and civic primaries simultaneously on 16 November 2007, in order to reduce the defection of losers to other parties. Nevertheless, defections still occurred partly due to dissatisfaction with the manner in which the primaries were conducted.

Those who decamped from PNU and ODM to other parties argued that their decision had been prompted by the undemocratic and unfair management of the nominations in the two parties. Indeed, the parliamentary primaries of these parties were marred by widespread irregularities and violence. Some observers described the nominations as "chaotic" and "a major fiasco".[28] The number of reported malpractices, incivility, and undemocratic tendencies justifies such descriptions.

Some of the parties went into the primaries without even agreeing on the voting method to be used. Affiliate parties to PNU had also not resolved the contentious issue of whether or not to field a single candidate in each constituency. Some of the coalition partners insisted on fielding their own candidates, while others preferred fielding a single candidate for the coalition. Uhuru Kenyatta, for example, declared that KANU would field its own parliamentary and civic candidates countrywide, while NARC-Kenya insisted on PNU fielding a single candidate in each constituency. The Democratic Party, which also decided to field its own candidates, accused NARC-Kenya of being an outfit for sitting MPs who wanted to manipulate the exercise and emerge as sole PNU nominees in their constituencies.[29]

Such disagreements were further compounded by an argument over the voting method to be used, more so in PNU. Whereas some PNU supporters argued for the secret ballot, others preferred queue voting, that is, open voting. Though the ODM national election board settled on secret ballot, it had a certain share of shortcomings that contributed to anarchic and chaotic primaries that sometimes witnessed the outbreak of violence. As none of the parties had registered members, they often resorted to using national identity cards and official Electoral Commission of Kenya (ECK)

voters' cards to determine voter eligibility. Voting was, therefore, open to all and it became a public function rather than a party affair. This also made it possible to vote in more than one party's primaries, if one so wished.

The lack of party membership also applied to potential candidates. Besides the political leaders, none of the competing candidates were members of the newly formed coalition parties. As a result, parties did not have proper mechanisms for screening those cleared to contest the nominations. This partly explains the large number of candidates vying for nomination, with a constituency like Chepalungu having 42 candidates for the ODM ticket. Individuals who were members of other political parties were still cleared to contest in the ODM primaries. For example, after James Orengo had been re-elected as SDP Chairman, he participated in the ODM nomination for Ugenya constituency without renouncing his SDP membership.[30]

With every person being an eligible voter and a possible candidate in the absence of strict party membership, and parliamentary as well as civic nominations being carried out simultaneously in all 210 constituencies, logistical and management capacity problems quickly surfaced. One problem was the supply of voting materials. None of the parties had the capacity to produce and distribute voting materials to all constituencies in time. For instance, PNU nominations in Mt Kenya region started late in the afternoon due to the late arrival of voting materials. In Embu District, some stations ended up without ballot papers while in other stations names of aspirants were missing on ballot papers. The ODM nominations suffered the same fate. In Ugenya constituency, for example, chaos erupted, with youths chanting "No Mwanga, No nominations", when the name of a leading contender for the ODM ticket, Steve Mwanga, was found missing from the ballot paper.[31]

In places without properly prepared voting materials, people went on to improvise their own after waiting for hours. For ballot boxes, they used cellotaped plastic waste buckets, food containers, and torn cartons. For ballot papers, the 32-page exercise books used in primary schools were on hand.[32] Where such improvisation was not quickly imagined, the voters waited for hours on end. In Nyando constituency, for example, aspirants were still waiting by 5 pm for ballot papers to be printed.[33] Where voters became impatient to wait for the voting materials, each one occasionally ended up declaring his/her candidate the winner. One of the authors witnessed this at ODM's Matayos polling centre in Busia District, where voters failed to get voting materials and ended up declaring the most preferred candidate the winner. Such declarations would sometimes attract arguments on who actually won and the protagonists would resort to violence. This partly explains why violence erupted in some polling centres.

Political parties also encountered logistical problems in appointing and sending polling officials to the voting centres. For instance, PNU nominations were marred by confusion partly because the party headquarters failed to send presiding officers and clerks to polling centres to conduct the exercise following the withdrawal of the Electoral Commission of Kenya officers from the earlier arrangement to manage the party's primaries. ODM also faced similar challenges. In Eldoret South constituency, ODM nominations were delayed due to parallel lists of presiding and returning officers. In Rangwe constituency, some of the ODM polling officers reached their polling centres very late and when they failed to convince the aspirants to postpone the nominations to the next day, they reportedly took off with the voting materials. This contributed to the outbreak of violence in that constituency.[34]

Some candidates, occasionally in collusion with polling officials, capitalized on logistical problems to hijack ballot papers and use them to rig the elections in their favour. In Eldama Ravine constituency, the former MP, Musa Sirma, had to use his gun to scare away angry ODM supporters, who were baying for his blood after ballot papers were found in his car. Sirma had allegedly diverted the ballot papers and was intending to get them marked in his favour and stuffed in the ballot box. In Kericho town, irate voters burnt more than 5,000 ODM ballot papers being transported in a private car to an unknown destination. In Kieni constituency, a PNU presiding officer was arrested with hundreds of ballot papers that he was allegedly attempting mark in favour of a candidate.[35]

There were also cases where nominations were deliberately disrupted by candidates who found themselves probably losing. For instance, in Nairobi's Kasarani constituency, former MP William Omondi stormed an ODM polling station in Roysambu with over 100 armed youths, grabbed ballot papers and tore them into pieces. In Makadara, at Jericho Social Hall, a group of youths stormed the ODM polling centre, beat up a returning officer and burnt ballot papers. In Gatundu North constituency, supporters of former MP, Patrick Muiruri, grabbed and burnt ballot papers in a PNU nomination booth as they hustled the opponent's supporters. In Kuresoi constituency, irate ODM supporters of the outgoing MP, Moses Cheboi, burnt ballot papers at Olenguruone claiming that the returning officer had been compromised to favour Zakayo Cheruiyot. At the civic level, an ODM aspirant in Sokoni ward in Bahari constituency stormed Kiwandani polling station and roughed up the presiding officer before destroying polling materials and running away with two ballot boxes.[36]

The other malpractice reported in the parliamentary and civic primaries was bribery. Many aspirants went out to buy votes as the last resort for survival in hotly contested nominations. During the PNU nominations in Kirinyaga Central, Matere Keriri's agent was ejected from Thaita polling station for allegedly bribing voters. Bribery allegations were also reported in Tetu constituency where Nobel Peace Prize Laureate Wangare Maathai threatened to withdraw from the PNU nominations as one of the aspirants was dishing out bundles of money to voters at polling stations. In Kimilili constituency, ten PNU aspirants called for nullification of results, citing voter bribery as the main reason.[37] Similar allegations were reported in ODM nominations.

There were also incidents of outright rigging, most of which ended in violence. In Westlands constituency, an ODM aspirant stormed a polling station at Westlands Primary School and confiscated voting materials after word went out that a rival, Fred Gumo, had already been given clearance by ODM officials. The incident resulted in running battles between supporters of the two contestants. In Laikipia East constituency, three PNU aspirants refused to accept the nomination results even before the voting had been concluded, on allegations of glaring irregularities.[38]

In Kisumu Town West constituency, the nomination exercise was disrupted in seven polling stations that were strongholds of one of the female ODM aspirants. Rowdy supporters of a leading male contender dispersed the voters, who were allegedly supporters of the female candidate, and destroyed ballot boxes to ensure that there would be no results from those polling stations. Violence was also seen in the ODM stronghold constituencies such as Ugenya, Kanduyi, Amagoro, Nyakach, Alego-Usonga, Nyando and Mt Elgon, where aspirants disagreed or suspected that electoral malpractices were committed.

In the midst of the ensuing chaotic nominations, some losing aspirants dashed from their constituencies to Nairobi to convince and/or con their party headquarters that

they had won the nominations in order to get the clearance certificates before the arrival of the true winners. One such loser was the former Nyakach constituency MP, Peter Odoyo, who was almost lynched by an angry mob when he attempted to present the fraudulently obtained clearance certificate to the returning officer. Such fraudulent manoeuvres were precipitated by party headquarters issuing losers with clearance certificates, only for the genuine winners of the primaries to arrive later to claim the certificates. In the circumstances, some parties issued more than one certificate in a constituency. With several clearance certificates from one party for the same constituency, in the midst of the announcement by ECK that it would accept only the first certificate from a party presented to the returning officer, aspirants embarked on strategizing how to beat each other in presenting their certificates.

The ever-changing lists of nominees at the parties' headquarters that went contrary to the expectations of voters triggered further violence in constituencies and at party headquarters. For instance, in Homa Bay town, residents took to the streets to protest an attempt by the ODM election board to impose outgoing Rangwe MP, Philip Okundi, on the constituents after he lost in the primaries. Meanwhile, the unrest in Siaya District over similar contentions quickly spread from Ugenya where James Orengo was preferred by the ODM headquarters over Steve Mwanga, to neighbouring Gem and Alego-Usonga constituencies. As violence ensued in Muhoroni constituency, two contenders presented nomination results to the ODM election board to prove that each of them had beaten former MP Ayiecho Olweny, but the board proceeded to issue the clearance certificate to Olweny.[39]

Such incidents were not confined to ODM nominations. In PNU, the Kamukunji nomination results were also disputed, forcing the party to hold an arbitration meeting. A scuffle ensued during the meeting, during which Brian Otieno Weke assaulted Simon Ng'ang'a, who had allegedly won the nomination. In KANU, then former Mt Elgon MP John Serut was beaten by rowdy youth when he attempted to raid the party headquarters at Hurlingham in Nairobi to claim his clearance certificate after losing the nomination poll.[40]

After a couple of days of demonstrations in the constituencies over the mismanagement of the primaries, the focus of violence shifted to the party headquarters. At Rainbow House, where the ODM secretariat staff had shifted their operations after protesting aspirants had made Orange House inhospitable, goons shattered all windowpanes, damaged computers, and made away with blank nomination certificates. The armed youth were protesting the issuance of nomination certificates to individuals who had lost in the primaries. The PNU secretariat was also at one time thrown into panic and confusion when a civic nomination loser turned up with a gun and a group of hooligans to demand his clearance certificate.[41]

The above examples demonstrate how the parties' low levels of institutionalization and organizational capacity contributed directly to intra-party violence during the nomination and candidate selection phase of the 2007 general elections.

3.2 The 2013 county assembly, parliamentary, and gubernatorial primaries

In addition to the constituency elected MP, the 2010 Constitution created four other elective seats, namely Member of County Assembly (that was to be elected in each civic ward), the Woman Member of Parliament (elected in each county), Senator (elected in each county), and Governor (also elected in each county). This multiplicity

of seats created major challenges for political parties to conduct their primaries. Though the 2011 Elections Act attempted to streamline and regulate the party primaries by giving the Independent Electoral and Boundaries Commission (IEBC) some regulatory powers, the political and personal interests that surrounded the selection of candidates rendered the IEBC unable to enforce its regulations.For instance, parties were required to submit their nomination rules to the IEBC at least six months before the date set for submitting party candidates to the commission, which was estimated to be on or before 18 January 2013. The goal was to enable the commission to review the rules to ensure they would engender free and fair primaries. Parties were also required to submit membership lists at least three months before the primaries. The parties were not only expected to use such membership lists to conduct the primaries, but the commission was also to use them to verify that candidates were actually party members.[42]

Unfortunately, parliament amended the 2011 Elections Act to considerably reduce the timelines within which IEBC was to enforce these regulations. More specifically, the amendments on timelines were meant to allow time for losers in party primaries to defect to other parties or contest the elections as independent candidates. Consequently, the parties never complied with the requirements and IEBC did not have time to do anything about it. As a result, political parties did not use membership lists to conduct their primaries as expected, largely, however, because the parties did not have membership lists. Furthermore, most of the parties, particularly the big ones, held primaries for all seats on the last day set by IEBC in order to prevent losers from defecting to other parties. The result was that parties did not conduct the primaries effectively and fairly. There was also no time to arbitrate on disputes, which significantly led aggrieved parties to resort to violence in an effort to be heard within the limited time.[43]

As was the case in 2007, most of the parties had formed election boards at party headquarters in Nairobi to manage their primaries.[44] These boards established the requirements of candidates for respective seats. These were primarily the nomination fees and compliance with the provisions of the 2012 Elections (Amendment) Act. Since the parties did not have registered members, virtually all parties – like in 2007 – went on to qualify any person registered as a voter in a constituency to be eligible to participate in the primaries either as a candidate or voter. All this made the primaries too huge to manage and opened up the possibility for people to participate in the primaries of more than one party. This again set the ground for the "free-for-all" primaries, especially in the presidential candidates' party strongholds. This was based on the assumption that the parliamentary, gubernatorial, and county assembly representative aspirants nominated by the presidential candidate's party within his stronghold stood a fair chance of winning in their respective elections, that is, the same kind of consideration as prevailed in 2007.[45]

In order to reduce defection of losers from one party to another, parties held their primaries on 17 January 2013, just a day prior to the deadline set by IEBC for parties to submit their nominees. With every person being an eligible voter and the nominations being carried out on the same day in all 290 constituencies for five elective seats, logistical and management problems marred the secret ballot method that virtually all parties were using this time around. The primaries ended with many shortcomings that often resulted in anarchic and chaotic scenes, sometimes including the outbreak of violence.[46] This was also observed at first hand in Homa Bay and Siaya counties, precisely as was the case in 2007.[47]

One of the logistical and management problems was the supply of voting materials, as in 2007, and with the same dire consequences. Again, some candidates capitalized on logistical problems to hijack ballot papers for rigging purposes. For instance, in Homa Bay County there were reports of ballot papers found on the streets marked in favour of one of the Senate candidates. Logistical problems were also manifest in the appointment and sending of polling officials to the voting centres. One can really talk of déjà vu: an inadequate number of ballot papers, candidates' names missing, delayed start of voting, postponement of voting to the next day, no arrangements for safeguarding of ballots cast, and presiding officers not showing up.

In some cases, ballot boxes and returning officers were kidnapped and taken to undesignated places to tally the votes and announce particular candidates as winners as happened in the FORD-Kenya primaries for the Funyula constituency seat in Busia County. The returning officer was commandeered to a remote pub from where he announced one of the candidates as the winner without including vote tallies from a number of polling stations.[48]

Furthermore, results for ODM primaries in many constituencies were never declared. Thus, some people were still waiting to vote, while others were waiting for the results from the ODM election board. In the meantime, the ever-changing lists of preferred nominees that went contrary to the expectations of many voters were being generated at the party's headquarters. The anxiety that resulted from these incidents led to the outbreak of violence in Homa Bay and Siaya counties.[49]

These shambolic primaries occasioned a fallout in ODM, not just between the leadership of the party and losing candidates, but also between the party and the electorate. The latter were particularly interested in making their choice in the primaries of the dominant party in the region because they had learnt from the past that it was the primaries that determined the actual winners in the elections. When they were denied a chance to vote – or their votes were not taken into consideration when the nomination was decided on – many of them resigned from the electoral process, some vowing not to participate in the general elections. This forced Raila Odinga to campaign in his Nyanza stronghold to mend fences with the voters, which he had never done in previous elections. With such chaos, manipulations, rigging, and violence in the primaries, those who failed to secure the tickets of their preferred party defected to minor political parties to revive their political ambitions. Those in ODM decamped to join smaller parties in the CORD coalition just as those in Jubilee looked out for smaller parties supporting the election of Uhuru Kenyatta.

3.3 The 2017 county assembly, parliamentary, and gubernatorial primaries

In the run-up to the 2017 elections, attempts were made to improve on the process of conducting primaries by both the IEBC and political parties. For instance, in January 2017, the IEBC published the Elections Operation Plan for 2017, in which a section was devoted to improving the quality of party primaries by scheduling a timeline for the parties to conduct their nominations. Subsequently, IEBC observed the timelines for carrying out electoral activities and kept on reminding parties to comply with such provisions, though it was sometimes forced to go beyond the stated timelines by court cases that challenged some electoral issues.[50] Some political parties, such as ODM, also started their primaries early and issued a staggered calendar for primaries in different counties to avoid nation-wide nominations on a single day.[51] Jubilee,

however, went on to plan for primaries on a single day, though the logistical challenge forced it to reschedule the nominations a couple of weeks later for different counties.[52]

Despite such efforts, the 2017 primaries were as chaotic and shambolic as the previous ones. The perennial problem of the lack of an acceptable membership list disrupted nominations in many parties. For instance, Jubilee had a plan to use a membership register, based on a digital smart card for which a member paid KES 20, for its nominations. However, aspiring wealthy politicians quickly bought all available cards and distributed them to their potential voters, together with money, to beat their opponents. The cards, therefore, ran out before the less wealthy aspirants could access them.[53] Indeed, even individuals who wished to register as party members failed to do so due to the lack of cards. In the circumstances, politicians and their supporters in the Jubilee strongholds rejected the use of smart cards and a register in the nominations, which partly caused the cancellation of the party's primaries that had been scheduled for 21 April 2017.

The cancellation of Jubilee's primaries was not just due to contention on the use of smart cards, but also other logistical challenges that, as usual, affected virtually all parties. The challenges included the lack of a register to determine legitimate members, failure to appoint presiding officers for some polling stations, late arrival of presiding officers, late delivery of election materials, lack of means of transport to ferry election materials and officials, shortage of ballot papers, missing names of some candidates on ballot papers, and defective ballot boxes, some without lids, among others.[54]

Where efforts to resolve the issues were not visible, particularly delays in starting voting, the impatient crowds descended into demonstrations that turned not just chaotic, but also violent. Matters got worse where voting had started and allegations of rigging spread. Voters abandoned the voting queues and joined their candidates in demonstrations that turned violent. Indeed, violence was not just triggered by allegations of rigging, but also by disputed results that were not acceptable to some candidates as was the case in the Jubilee results for Gilgil constituency in Nakuru County.[55]

4. Conclusion

It has been our aim to account for the regularity with which party primaries in Kenya have been characterized by chaos, fraud, bribery, and incivility that has quite often descended into intra-party electoral violence. With reference to party primaries for the general elections 2007–2017, we have shown that the organization of political parties in Kenya has not just been driven by ethnicity, but it has revolved around personalities identified with ethno-regional interests. This has given way to the supply of ethno-regional dominant parties in each election, with limited chances for institutionalization. Though some of them have written constitutions, and rules and regulations for conducting their activities, the politics of patronage have rarely allowed parties to adhere to them.

Consequently, parties do not have registered members to whom leaders are accountable; individuals occupy party leadership positions without being elected; founding leaders of political parties dominate their affairs; and the poor resource base of political parties has severely dented their capacity to conduct ordinary party activities. Due to the lack of ideological orientation, ideals, and principles in the political parties, there are frequent defections from one party to another. Indeed, political parties are formed

and used as instruments for individual rides to power. Consequently, political parties in Kenya do not function as institutions and one can even suspect that the weak institutionalization is acceptable – at least in some cases – as a means to protect individuals' political interests.

Such weaknesses have hampered the capacity of parties to handle the intense competition for the tickets of ethno-regional dominant parties, where the nomination of a candidate by the dominant party translates into a seat grab. With most political parties involving all members in the nomination of candidates using weak structured selection procedures, in the midst of limited time to organize massive primaries, and a leadership that is reluctant to follow rules and procedures, members have quite often resorted to bribery, manipulations, incivility, and rigging that have particularly marred the parliamentary and civic primaries of the leading political parties. In the absence of appropriate party structures to arbitrate the resultant disputes, both candidates' and members' frustrations have culminated in intra-party electoral violence.

Thus, intra-party electoral violence in Kenya is a function of the politics of clientelism and ethnicity, both of which have severely hampered the institutionalization of political parties and their ability to improve their capacity to cope with the stiff competition for the tickets of ethno-regional dominant parties.

Notes

1. Sandri, Seddone, and Venturino, *Party Primaries*.
2. Wanyama, "Voting without Institutionalized Political Parties."
3. Ohman, "The Heart and Soul."
4. Ichino and Nathan, "Primaries in Demand?"
5. Ichino and Nathan, "Do Primaries Improve Electoral Performance?"
6. Sangmpam, "Politics Rules."
7. Kenny, "Gender, Institutions and Power."
8. Sangmpam, "Politics Rules."
9. Easton, *The Analysis*.
10. Wanjohi, *Political Parties in Kenya*; Wanjohi, "Sustainability of Political Parties."
11. For an extensive discussion of the politics of ethnicity and patronage in Kenya, see Barkan, "Legislators, Elections, and Political Linkage"; Barkan, "Divergence and Convergence"; Oyugi, "Uneasy Alliance"; Oyugi, "Ethnic Politics in Kenya"; Bratton and Kimenyi, "Voting in Kenya," among others.
12. Wanyama, "Voting without Institutionalized Political Parties."
13. Oloo, "The Contemporary Opposition."
14. Riedl, *Authoritarian Origins*.
15. Oloo, "The Contemporary Opposition."
16. Duverger, *Political Parties*.
17. Wanyama, "Voting without Institutionalized Political Parties."
18. Oloo, "The Contemporary Opposition."
19. Ibid.
20. Riedl, *Authoritarian Origins*, 37–42.
21. Wanyama, "Voting without Institutionalized Political Parties."
22. Ibid.
23. *The People Daily*, 2 September 2007.
24. European Union Election Observation, 2013.
25. *The Standard*, 23 February 2017, "NASA Launches Joint Onslaught on Uhuru in August Elections."
26. *Daily Nation*, 28 April 2017, "How NASA Leaders Broke Deadlock on Flag-bearer Choice."
27. *Sunday Standard*, 11 November 2007, "Party Sets Nomination Guidelines."
28. *Saturday Standard*, 17 November 2007, "Party Nomination End in Fiasco."

29. *Daily Nation*, 7 October 2007, "Which Nomination Route for the Party of National Unity?"
30. *Daily Nation*, 30 September 2007, "ODM Nominations Attract Big Numbers."
31. *Saturday Nation*, 17 November 2007.
32. *Saturday Standard*, 17 November 2007, "Party Nomination End in Fiasco."
33. *Saturday Nation*, 17 November 2007, "Confusion and Violence Mar Party Nominations."
34. Ibid.
35. Ibid.
36. *Saturday Standard*, 17 November 2007, "Party Nomination End in Fiasco"; *Saturday Nation*, 17 November 2007, "Confusion and Violence Mar Party Nominations."
37. *Saturday Standard*, 17 November 2007, "Aspirant Steals Papers"; *Sunday Nation*, 18 November 2007, "Kabogo Moves Out of PNU Citing Irregularities."
38. *Sunday Nation*, 18 November 2007, "Kabogo Moves out of PNU Citing Irregularities."
39. *East African Standard*, 20 November 2007, "Turmoil: Guns, Blood and Tears."
40. Ibid; *East African Standard*, 20 November 2007, "Aspirant is Charged with Beating Rival."
41. *East African Standard*, 20 November 2007, "Turmoil: Guns, Blood and Tears."
42. ELOG, *The Historic Vote*.
43. Carter Center, *Observing Kenya's National Elections*, 32–35.
44. Wanyama et al., "Ethnicity and/or Issues?"
45. Ibid.
46. Office of the AU Panel of Eminent African Personalities, *Back from the Brink*, 220.
47. Ibid.
48. Wanyama et al., "Ethnicity and/or Issues?"
49. Office of the AU Panel of Eminent African Personalities, *Back from the Brink*, 220.
50. *Daily Nation*, 10 May 2017, "IEBC Extends Deadline for Nominated Candidates."
51. *Daily Nation*, 16 March 2017, "ODM Pushes Start Date for Nominations by a Week."
52. *Daily Nation*, 21 April 2017, "Jubilee Cancels Primaries in all Counties"; *Daily Nation*, 24 April 2017, "Jubilee Party Reschedules Nominations in 16 Counties."
53. *Daily Nation*, 20 March 2017, "Jubilee under Pressure to Abandon Smart Cards in Primaries."
54. *The Star*, 13 April 2017, "Chaos Marks the First Day of ODM Primaries in Bungoma, Busia"; *Saturday Standard,* 22 April 2017, "Chaos as Key Jubilee Aspirants Boycott Party Nominations Citing Massive Irregularities"; *Daily Nation*, 21 April 2017, "Chaos, Confusion, Anger Hit Jubilee Nominations"; *The East African*, 20 April 2017, "Chaotic, Violent Primaries in Kenya Ominous."
55. *Daily Nation*, 21 April 2017, "Chaos, Confusion, Anger Hit Jubilee Nominations"; *The Star*, 28 April 2017, "Chaos in Gilgil after Jubilee Rival Groups Clash Over Disputed Results."

Acknowledgements

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