

ELECTORAL MISMANAGEMENT AND POST-ELECTION VIOLENCE IN KENYA —THE KRIEGLER AND WAKI COMMISSIONS OF INQUIRY

BY ARNE TOSTENSEN*

Abstract: The 2007 general elections in Kenya were fiercely disputed and triggered widespread violence throughout the country. After former UN Secretary-General, Kofi Annan, brokered an accord between the rival parties leading to the formation of a grand coalition of the declared winner and the opposition, two official commissions of inquiry were appointed by the new government. One commission – dubbed the Kriegler Commission after the name of its chair – was mandated to review how the elections had been conducted and document how irregularities had led to the challenged results. The remit of the other commission – commonly referred to as the Waki Commission after the name of its chair – was to investigate the extent and causes of the violence that erupted in the wake of the elections. This article provides a reading of these two reports through the lens of the human rights instruments to which Kenya has acceded. It argues that an array of human rights was violated and that the causes underlying the eruption of post-election violence must be considered in terms of the deep-seated social structures and historical injustices that successive post-independence governments had failed to address.

Keywords: elections, violence, ethnicity, human rights, Kenya.

A. INTRODUCTION

The 2007 general elections in Kenya were fiercely disputed and triggered widespread violence throughout the country. After former UN Secretary-General, Kofi Annan, brokered an accord between the rival parties leading to the formation of a grand coalition of the declared winner and the opposition, two official commissions of inquiry were appointed by the new government. One commission was mandated to review how the elections had been conducted and document how irregularities had led to the challenged results.¹ The remit of the other

* Arne Tostensen (b. 1948), dr. philos. (University of Bergen), senior researcher, Chr. Michelsen Institute, Bergen. Co-editor (with Margot E. Salomon and Wouter Vandenhole) of *Casting the Net Wider: Human Rights, Development and New Duty-Bearers*, (Antwerp: Intersentia 2007). Email: arne.tostensen@cmi.no. The author would like to acknowledge with gratitude the helpful comments by Godwin Murunga and two anonymous referees.

¹ Independent Review Commission on the General Elections held in Kenya on 27 December 2007. It is commonly known as the Kriegler Commission after the name of its chair, alternatively by its acronym IREC. The Kriegler Commission and IREC will be used interchangeably in the subsequent text.

Waki Report On Post Election Violence

Tom Lansford, Tom Muller



Waki Report On Post Election Violence:

The International Criminal Court and the End of Impunity in Kenya Lionel Nichols, 2015-02-02 The period immediately following Kenya's 2007 presidential election left a shocking trail of atrocities with over 1 000 people dead and countless thousands left victimised and displaced In response the International Criminal Court began a series of investigations and trials promising no impunity for even the highest ranking perpetrators When the country's president and vice president were implicated in the crimes the case took on worldwide significance The International Criminal Court and the End of Impunity in Kenya is a five year study addressing critical human rights issues with a global reach and is the first detailed account of the ICC's intervention in Kenya It probes the relationship between the ICC and state institutions known as positive complementarity and asks whether the ICC's intervention led to an end to impunity The author provides comprehensive analysis of the Waki Commission's sealed envelope the government's attempts to establish a special tribunal and the trials in The Hague He also provides in depth consideration of any influence the ICC's intervention may have had on the passing of a new constitution the establishment of a truth commission and important reforms to the judiciary police and witness protection programme Documenting the effects of these interventions on the Kenyan people and on the country's legal and judicial systems the book provides vital lessons in global justice as it Details the ICC's involvement in Kenya in the aftermath of extreme violence and instability Evaluates the ICC prosecutor's strategy of positive complementarity Identifies optimal conditions for positive complementarity to be effective Links cultures of impunity to state sponsored corruption Explores the possible impact of the ICC on national and global policy Discusses implications in responding to future crimes against humanity Replete with official government sources *The International Criminal Court and the End of Impunity in Kenya* is necessary reading for researchers and practitioners working in public international law particularly those specialising in conflict and post conflict states

Children and Youth in Armed Conflict Ann-Charlotte Nilsson, 2013-12-05 This is a book that students and professionals from different disciplines and backgrounds including from academia international organisations non governmental organisations the medical community governments etc will find to be a valuable resource in their quest to learn more about an area of study that has long been neglected 2 Volume set

Elections in Dangerous Places David Gillies, 2011 From Afghanistan and Iraq to Haiti Cote d'Ivoire and Egypt ill timed fraudulent or poorly managed elections have led to discord violence and even regime change While much of the international community views elections as a critical milestone in the stabilization of war torn societies *Elections in Dangerous Places* shows how flawed elections can act as democracy in reverse and diminish political legitimacy and stable governance Through a series of frank and incisive case studies of conflicted countries contributors chapters challenge the centrality and timing of elections as a key pillar of reconstruction at a war's end They underline the dangers in rushing elections compromising principles and lowering the bar for what constitutes free and fair elections in situations of conflict The authors also underline the economic cost of elections

in uncertain political situations and argue that global taxpayers who must bear the burden are justified in questioning the value of ill timed elections A candid and important study of political turmoil Elections in Dangerous Places provides valuable lessons and practical advice on how to better mitigate conflict and violence before during and after highly charged elections

Rules, Politics, and the International Criminal Court Yvonne Dutton, 2013-08-21 In this new work Dutton examines the ICC and whether and how its enforcement mechanism influences state membership and the court's ability to realize treaty goals examining questions such as Why did states decide to create the ICC and design the institution with this uniquely strong enforcement mechanism Will the ICC's enforcement mechanism be sufficient to hold states accountable to their commitment so that the ICC can realize its goal of ending impunity for genocide crimes against humanity and war crimes Will states view the ICC's enforcement mechanism as a credible threat and refuse to join unless they already have good domestic human rights practices and institutions that are independent and capable of prosecuting human rights abuses If states that most need to improve their domestic legal practices as relates to protecting against human rights abuses do not join the court is there any hope that the threat of punishment by the ICC can play a role in bettering state's human rights practices and deterring individuals from committing mass atrocities This work provides a significant contribution to the field and will be of great interest to students and scholars of international law international relations international organizations and human rights

The Responsibility to Protect and the International Criminal Court Serena Sharma, 2015-12-22 This book provides an account of how the responsibility to protect R2P and the International Criminal Court ICC were applied in Kenya In the aftermath of the disputed presidential election on 27 December 2007 Kenya descended into its worst crisis since independence The 2007-08 post election crisis in Kenya was among the first situations in which there was an appeal to both the responsibility to protect and a responsibility to prosecute Despite efforts to ensure compatibility between R2P and the ICC the two were far from coherent in this case as the measures designed to protect the population in Kenya undermined the efforts to prosecute perpetrators This book will highlight how the African Union sponsored mediation process effectively brought an end to eight weeks of bloodshed while simultaneously entrenching those involved in orchestrating the violence Having secured positions of power politicians bearing responsibility for the violence set out to block prosecutions at both the domestic and international levels eventually leading the cases against them to unravel As this book will reveal by utilising the machinery of the state as a shield against prosecution the Government of Kenya reverted to an approach to sovereignty that both R2P and the ICC were specifically designed to counteract This book will be of interest to students of the Responsibility to Protect humanitarian intervention African politics war and conflict studies and IR Security Studies in general

The Humanisation of Global Politics Sassan Gholiagha, 2022-09-01 This book observes a growing humanisation of global politics relating to the appearance of individual human beings in discourses of global politics It identifies a mismatch concerning International Relations theory and International Law and the study of the humanisation of

global politics To overcome this mismatch Sassan Gholiagha proposes a novel theoretical framework based on feminist and constructivist International Relations theory and non statist theories of International Law scholarship The book applies this interdisciplinary framework together with an interpretative analytical framework to three cases the discourse on prosecution studying international criminal law and the work of the International Criminal Court the discourse on protection focusing on the Responsibility to Protect and the use of drones in targeted killing operations Drawing on these case studies and the frameworks the book identifies how individual human beings as participants in global politics position themselves and are positioned by others in these various discourses

Documenting the Undocumented Veronica P. Fynn, 2010 Proceedings of the annual conference held Apr 16 17 2009 at York University

Kenya National Assembly Official Record (Hansard), 2009-07-22 The official records of the proceedings of the Legislative Council of the Colony and Protectorate of Kenya the House of Representatives of the Government of Kenya and the National Assembly of the Republic of Kenya

Constitutional Triumphs, Constitutional Disappointments Rosalind Dixon, Theunis Roux, 2018-04-19 Evaluates the successes and failures of the 1996 South African Constitution following the twentieth anniversary of its enactment

Political Handbook of the World 2012 Tom Lansford, Tom Muller, 2012-04-02 For this edition the Handbook editors have attempted to cover national elections for all of 2011 This information is incorporated within the regular text wherever possible or in headnotes at the beginning of the country entries for elections that occurred in the latter part of the year Each entry begins with information on a country s political status area population major urban centers languages currency and head of state and chief executive Demographic and economic information is presented in the section titled The Country while political background constitution and government foreign relations and current issues are examined in Government and Politics Political Parties and Groups provides an extensive analysis of formal parties political groupings and any antigovernment or illegal formations Each entry ends with an overview of the nation s legislature a current cabinet list and a brief intergovernment representation section including a membership list of intergovernment organizations for the respective country

Political Handbook of the World 2015 Tom Lansford, 2015-03-24 The Political Handbook of the World provides timely thorough and accurate political information with more in depth coverage of current political controversies than any other reference guide The updated 2015 edition will continue to be the most authoritative source for finding complete facts and analysis on each country s governmental and political makeup Compiling in one place more than 200 entries on countries and territories throughout the world this volume is renowned for its extensive coverage of all major and minor political parties and groups in each political system It also provides names of key ambassadors and international memberships of each country plus detailed profiles of more than 30 intergovernmental organizations and UN agencies And this annual update includes coverage of current events issues crises and controversies from the course of this year

Infrastructures for Peace in Sub-Saharan Africa Mediel Hove, Geoff Harris, 2019-06-14 Cultures of violence are

characteristic of many countries in sub Saharan Africa and attempts to move towards cultures of peace have often proved difficult and ineffectual And yet the wide variations in levels of violence within and between countries show that it is not inevitable rather it is the result of choices made at individual community and societal levels This book examines the potential of peace infrastructures as vehicles to strengthen and spread progress towards cultures of peace Peace infrastructures vary hugely in sophistication and level The examples examined in this book range from tiny structures which help resolve conflicts between individuals and within community organisations peace committees which serve local communities peace education and peace club programmes in schools mediation mechanisms to prevent election violence and to ministries of peace to coordinate government and non government efforts in peacemaking and peacebuilding The overall finding is that the development of peace infrastructures at all levels has great potential to build cultures of peace 1 It is the only book available which documents the experience and potential of nonviolence in post independence sub Saharan Africa 2 It makes a persuasive case for the development of various peace infrastructures in order to make peace sustainable 3 It explains how strategic planning can be utilised both to bring about change and to institutionalise it

State Fragility and State Building in Africa Dele Olowu,Paulos Chanie,2015-10-19 This book describes the contrast between the strong economic growth and democratization that have occurred in Africa and its stalling political progress It presents and discusses fragility as the phenomenon that has caused the state to remain weak and faltering and has led to at least one third of the continent s citizens living in fragile states Following the examination of the drivers of fragility and the impact of fragility on citizens and neighbouring states the book discusses capacity building approaches This part shows how effective states can be built on the African continent a process that would result in a change from state fragility to state resilience It is based on lessons learnt from close studies of the nations where the state has been most developed in the region in Eastern and Southern Africa The book provides and responds to the most recent and up to date information on African development and uses insights of people who have lived and worked in the continent for most of their lives

Africa and the Responsibility to Protect Dan Kuwali,Frans Viljoen,2013-11-26 Situations of serious or massive violations of human rights are no longer purely of domestic concern and sovereignty can no longer be an absolute shield for repressive governments in such circumstances Based on this realization the international community has recognized a responsibility to protect individuals in states where their governments are unable or unwilling to provide protection against the most serious violations However so far only one intergovernmental organization the African Union AU has explicitly made the right to intervene in a Member State part of its foundational text in Article 4 h of its Constitutive Act Although there have been cases of Article 4 h type interventions in Africa the AU Assembly has not yet invoked Article 4 h explicitly This book brings together experts in the field to explore the potential application of Article 4 h and the complexities that may explain its non invocation so far Although Article 4 h is noble in purpose its implementation faces several legal and policy challenges given that the use of force penetrates the

principles of state sovereignty and non intervention the very cornerstones upon which the AU is founded This book considers these issues as well as the need to reconcile Article 4 h in so far as it allows the AU to exercise military intervention to protect populations at risk of mass atrocities with the provisions of the Charter of the United Nations Drawing from the insights of law political science diplomacy and military strategy the book offers a unique combination of multi disciplinary expertise that harnesses the views of a diverse group of authors focused on the legal policy and practical insights on the implementation of Article 4 h and the responsibility to protect in Africa in order to provide concrete recommendations on how to end mass atrocities on the continent Witchcraft and Colonial Rule in Kenya, 1900-1955 Katherine

Luongo,2011-09-26 Focusing on colonial Kenya this book shows how conflicts between state authorities and Africans over witchcraft related crimes provided an important space in which the meanings of justice law and order in the empire were debated Katherine Luongo discusses the emergence of imperial networks of knowledge about witchcraft She then demonstrates how colonial concerns about witchcraft produced an elaborate body of jurisprudence about capital crimes The book analyzes the legal wrangling that produced the Witchcraft Ordinances in the 1910s the birth of an anthro administrative complex surrounding witchcraft in the 1920s the hotly contested Wakamba Witch Trials of the 1930s the explosive growth of legal opinion on witch murder in the 1940s and the unprecedented state sponsored cleansings of witches and Mau Mau adherents during the 1950s A work of anthropological history this book develops an ethnography of Kamba witchcraft or uoi

Peace Studies for Sustainable Development in Africa Egon Spiegel,George Mutalemwa,Cheng Liu,Lester R.

Kurtz,2022-10-26 This book presents a snapshot of a major challenge and shares subjective views on various areas of conflict in Africa and the diverse theoretical and practical efforts to achieve peace Following an essential review of several real world conflict contexts on the African continent and attempts to come to terms with them critically as a first step the book explores the lessons learned to date with regard to peace studies in Africa Kenya Godwin R. Murunga,Duncan Okello,Anders

Sjogren,2014-12-11 The aftermath of recent Kenyan elections has been marred by violence and an apparent crisis in democratic governance with the negotiated settlement resulting from the 2007 election bringing into sharp focus longstanding problems of state and society The broader reform process has involved electoral judicial and security sector reforms among others which in turn revolve around constitutional reforms Written by a gathering of eminent specialists this highly original volume interrogates the roots and impact of the 2010 constitution It explains why reforms were blocked in the past but were successful this time around and explores the scope for their implementation in the face of continued resistance by powerful groups In doing so the book demonstrates that the Kenyan experience carries significance well past its borders speaking to debates surrounding social justice and national cohesion across the African continent and beyond *The*

Politics of International Criminal Law Holly Cullen,Philipp Kastner,Sean Richmond,2020-12-15 The Politics of International Criminal Law is an interdisciplinary collection of original research that examines the often noted but understudied political

dimensions of International Criminal Law ICL As a nascent legal regime that seeks to regulate the longstanding power of states to manage war and crime ICL faces challenges to its legitimacy including disagreement over its aims and effectiveness inequality in the work of its institutions and opposition from dominant countries The editors bring together eleven senior and emerging scholars and practitioners from Europe Asia Africa Australia and North America to analyse these challenges from an illuminating range of theoretical and empirical perspectives Taken together the collection ultimately helps advance our understanding of the particularly charged relationship between law and politics in ICL

Youth and Peaceful Elections in Kenya Kimani Njogu, 2013 Elections provide a tremendous opportunity for national transformation and the pursuit of democratic practice They can be a moment of national renewal However in most of Africa elections are often characterized by violent conflict as politicians seek to capture or maintain power through ethnic mobilization propaganda and misrepresentation Considering opportunities offered by information technology especially mobile phones and the discovery of extensive natural resources Africa has an opportunity to significantly change the lives of ordinary citizens But this transformation requires that youth are fully present in the political economic social and cultural arenas They will need to marshal their energies and stay focused on the things that are important for the continent of Africa In the case of Kenya youth should not wait to be invited to take up political leadership Instead they will need to invite themselves to the table and take advantage of the opportunity provided in Constitution and demand accountability and transparency in the conduct of national affairs This book is part of ongoing work at Twaweza Communications in the pursuit of democracy peace and justice Themes covered include youth and leadership elections and peace youth as peace makers family and global values among other topics

The Routledge Handbook of Insurgency and Counterinsurgency Paul B. Rich, Isabelle Duyvesteyn, 2012-03-15 This new handbook provides a wide ranging overview of the current state of academic analysis and debate on insurgency and counterinsurgency as well as an up to date survey of contemporary insurgent movements and counter insurgencies In recent years and more specifically since the insurgency in Iraq from 2003 academic interest in insurgency and counterinsurgency has substantially increased These topics have become dominant themes on the security agenda replacing peacekeeping humanitarian operations and terrorism as key concepts The aim of this volume is to showcase the rich thinking that is available in the area of insurgency and counterinsurgency studies and act as a further guide for study and research In order to contain this wide ranging topic within an accessible and informative framework the Editors have divided the text into three key parts Part I Theoretical and Analytical Issues Part II Insurgent Movements Part III Counterinsurgency Cases The Routledge Handbook of Insurgency and Counterinsurgency will be of great interest to all students of insurgency and small wars terrorism counter terrorism strategic studies security studies and IR in general as well as professional military colleges and policymakers

Waki Report On Post Election Violence: Bestsellers in 2023 The year 2023 has witnessed a remarkable surge in literary brilliance, with numerous captivating novels enthralling the hearts of readers worldwide. Lets delve into the realm of top-selling books, exploring the fascinating narratives that have captivated audiences this year. The Must-Read : Colleen Hoover's "It Ends with Us" This heartfelt tale of love, loss, and resilience has captivated readers with its raw and emotional exploration of domestic abuse. Hoover masterfully weaves a story of hope and healing, reminding us that even in the darkest of times, the human spirit can triumph. Waki Report On Post Election Violence : Taylor Jenkins Reids "The Seven Husbands of Evelyn Hugo" This spellbinding historical fiction novel unravels the life of Evelyn Hugo, a Hollywood icon who defies expectations and societal norms to pursue her dreams. Reids absorbing storytelling and compelling characters transport readers to a bygone era, immersing them in a world of glamour, ambition, and self-discovery. Discover the Magic : Delia Owens "Where the Crawdads Sing" This mesmerizing coming-of-age story follows Kya Clark, a young woman who grows up alone in the marshes of North Carolina. Owens crafts a tale of resilience, survival, and the transformative power of nature, captivating readers with its evocative prose and mesmerizing setting. These top-selling novels represent just a fraction of the literary treasures that have emerged in 2023. Whether you seek tales of romance, adventure, or personal growth, the world of literature offers an abundance of captivating stories waiting to be discovered. The novel begins with Richard Papen, a bright but troubled young man, arriving at Hampden College. Richard is immediately drawn to the group of students who call themselves the Classics Club. The club is led by Henry Winter, a brilliant and charismatic young man. Henry is obsessed with Greek mythology and philosophy, and he quickly draws Richard into his world. The other members of the Classics Club are equally as fascinating. Bunny Corcoran is a wealthy and spoiled young man who is always looking for a good time. Charles Tavis is a quiet and reserved young man who is deeply in love with Henry. Camilla Macaulay is a beautiful and intelligent young woman who is drawn to the power and danger of the Classics Club. The students are all deeply in love with Morrow, and they are willing to do anything to please him. Morrow is a complex and mysterious figure, and he seems to be manipulating the students for his own purposes. As the students become more involved with Morrow, they begin to commit increasingly dangerous acts. The Secret History is an exceptional and suspenseful novel that will keep you guessing until the very end. The novel is a warning tale about the dangers of obsession and the power of evil.

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