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TOWARDS A LASTING PEACE: ADDRESSING THE POLITICAL AND HUMANITARIAN SITUATION IN KENYA

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THE BROOKINGS INSTITUTION – UNIVERSITY OF BERN
PROJECT ON INTERNAL DISPLACEMENT

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Speakers: **Dorina Bekoe**, Senior Research Associate, Center for Conflict Analysis and Prevention, United States Institute of Peace
Akwe Amosu, Senior Policy Analyst for Africa, Open Society Policy Center
KD Ladd, Nutrition Specialist, International Medical Corps

Moderator: **Khalid Koser**, Deputy Director, Brookings-Bern Project on Internal Displacement

Nature of the Crisis

Bekoe explained that the crisis in Kenya is complex, consisting of at least two layers. The immediate crisis is linked to the electoral process during the December elections. While unfair election practices were clearly the catalyst for the recent violence, the conflict itself is fueled by entrenched socio-economic and judicial inequalities. In other words, the second layer of the conflict is of a structural nature which some argue is rooted in inter-communal dynamics. Participants debated the degree to which identity politics, specifically ethnic identity in Kenya, is a factor in the conflict. Several participants emphasized the link between ethnicity and economic class and affirmed that the resolution of property disputes will be a prerequisite for reaching a sustainable peace accord.

The National Accord and Reconciliation Act

When Kofi Annan first entered conflict mediation in January, his goals were to: 1) bring an end to the violence, 2) address the humanitarian crisis, 3) examine the political dynamics of the conflict, and 4) work to eliminate root causes of the conflict –by addressing land ownership, constitutional reform, and the truth and reconciliation commissions.

The National Accord and Reconciliation Act, a bill passed in February, is being fast-tracked through Parliament. Amosu noted that while this is indeed an achievement, we should keep in mind that it is a political agreement, not a peace accord. One participant suggested that the act not be viewed as a deal, but rather as stage one of a long process in reconciliation. It was suggested that the bill has the potential to trigger other major developments that could foster a durable peace in Kenya.

Panelists and participants addressed some of the negative consequences of the current agreement as well. Some felt that since the accord was imposed from the outside, it will be ultimately unsustainable. Most notably, the national accord eliminated all forms of government opposition by absorbing them into the coalition government. Now, there are no checks and balances on the leadership except by civil society organizations and other non-state, non-governmental actors, which have no formal mechanisms of redress. It was also suggested that perhaps civil society was thinking in the short term when they pushed the accord. As one participant noted, the government has become the winner in all of this. Given the circumstances, it is unlikely that any party will take responsibility for the violence and the two parties could agree to avoid an investigation into their respective indiscretions.

Humanitarian emergency

Ladd explained that Kenya, because it has been a relatively stable country, had no contingency plans for the large-scale humanitarian disaster that has emerged. In some ways, the shock and lack of preparation on the ground has been reminiscent of the Katrina emergency in the US. Among the various challenges to jump-starting emergency aid was the absence of an already-functioning cluster approach.

Accessing information on the needs of Kenyan people affected by the crisis has been very difficult, partly due to insecurity, road blocks, and the lack of aid agency personnel. Mobile medical teams were sent out as soon as needs were targeted – mostly in the Rift Valley. Ladd lamented that the conflict has set Kenya's health care status back a number of years. Many TB and HIV/AID-affected individuals have had difficulty accessing the necessary drugs, causing critical interruptions in their treatment. Due to absence of planning and coordination, there are large gaps in food distribution leaving out the most vulnerable. Food prices rose at the peak of the crisis and are still quite high. Problems with information-sharing remain. All of this points to the need for contingency plans for other so-called "stable" countries.

So far, the National Reconciliation Accord has had no impact on the ground. Looting, property destruction, inter-ethnic violence and sexual assaults are still a reality. Many

IDPs remain fearful of returning home or are unable to return as their homes and business have been destroyed. As a result, several IDPs have gone to their ethnic home areas without adequate resources to resettle.

There are other complications arising from the violence and displacement, exacerbated by the lack of official recognition of the emergency. Ladd noted that the government of Kenya refuses to identify the IDP camps as such. Latrines and other basic facilities were built for one month and have already been in use for three. This lack of sanitation is likely to lead to an increase in disease. Now we are faced with a situation in which rising insecurity in camps is contributing to sexual violence. Additionally, the host population remains underserved. The Ministry of Health and other government staff were unable to go back to work due to restricted travel in certain insecure areas. All of this serves to undermine local capacity-building.

Role of Kenyan Civil society
Amosu noted that Kenya has a vibrant and well-established civil society, which played a big role in setting Kofi Annan's agenda. These organizations focused on the following as major steps toward resolving the conflict: 1) determining accountability for leaders who organized the militias; 2) engaging in constitutional reform, police reform and land reform; and 3) establishing a committee for truth and reconciliation. Furthermore, Amosu commented that the active role of Kenyan civil society in the political process suggests that there is a wealth of local capacity that should be harnessed. Resolving the conflict in Kenya will not be just a project for the international community, but rather a movement that is led by Kenyans.

Civil society in Kenya is not a monolithic body but represents a wide array of actors. Indeed there are differences of opinion on how to move forward on several issues. For example, some are advocating for an immediate investigation and reporting of the violence and election fraud that has transpired while others think that truth and reconciliation should come later. Civil society organizations have also been quick to self-evaluate how they have handled the crisis. For example, one group has already noted that they failed to effectively connect with poorer Kenyans, particularly those living in Kibera slum.

One of the participants criticized the perception of civil society as a 'silver bullet'. These organizations have accomplished a lot, he said. However, they are now unjustly pitted against the government when they should be a link between the government and the people.

Approaches to the conflict
The importance of understanding the recent violence was underscored in discussions around long-term elements of the conflict, e.g. issues with land rights. One participant took note of the problem indicated by the humanitarian community's surprise upon the outbreak of violence. Scholars of African affairs had long-predicted exactly this sort of crisis in Kenya – and they note that Kenya is not unique. There are fundamental problems which contributed to Kenya's situation: a program of imposed national identity and

institutions, a mentality of winner-take-all in elections, and politics played as a zero-sum-game. The possibility that post-election violence was in fact premeditated also arose during discussions. There are reports that some people were paid prior to the elections to initiate violence, indicating that the crisis would have broken regardless of the election outcome due to deeper, historical grievances.

A debate emerged during the course of the discussion as to whether structural or attitudinal elements of the conflict should be addressed first. The argument in favor of tackling unequal social structures and institutions focuses on the need for mechanisms for accountability, the management of public goods, and so on, as the first priority. Systems need to be in place so that we can immediately work toward improved transparency. Kenyans have huge incentives to engage in constitutional reform right now, and this agreement could provide the necessary space. Another discussant countered this argument by noting that while such change is indeed necessary, it is not the first step. You can't build a transparent judicial system, he said, if there is rampant dehumanization across communities. The conflict cannot be solved with a checklist of abstract benchmarks to achieve, e.g. "justice." It is more important to build trust between parties. Another participant suggested the use of parallel reform processes – both in elections and institutional structures.

Another issue is that violence is not really affecting the middle and upper classes, yet these are the people making decisions. Participants noted that there has been almost no discussion with the people actually suffering the consequences of the conflict. There should have been meetings with the leaders from all the concerned parties to build ownership of the process. Collaborative capacity building can happen through short training programs. One participant shared his experience in Burundi, where even in a six day retreat, this sort of activity had a tremendous impact. In this case, participating leaders set their own agreement and co-wrote a code of conduct for the elections. However, as another participant pointed out, this example only looks at the political level and a handful of leaders.

Moving toward peace
The government of Kenya's recent offensive on the SLDF (Sabaot Land Defence Force) is an effort to demonstrate its commitment to the accord and to dismantling militias. Unfortunately, this has been done in a careless way. It is creating new displacements and there is a complete media blackout on affected areas. There needs to be a closer examination of these military exercises.

Several participants noted that the national accord is at least a step forward. Truth and reconciliation will require a lot of commitments and much more time. Clearly, stronger security would be ideal, but there isn't room for external actors to provide this. There needs to be ownership. There is also a need to keep the spotlight on relevant issues. One participant suggested that Kofi Annan should return to Kenya at least every month to maintain the political pressure.

Given that Kenya is not unique, as several participants expressed, the current crisis could provide an opportunity to look at election processes throughout Africa. It also provides strong evidence in favor of contingency planning for other countries. As organizations move forward, it's important that everyone continue to take a cue from civil society to determine next steps on the ground.

Immediately on the horizon is the situation of 600,000 Kenyans displaced over the last three months. Koser capped off the discussion by noting the imperative to include durable solutions for the displaced into the broader political discussions. The Kenyan government has publicly called for IDPs to return home and has been quietly closing IDP camps since January. These measures only serve to exacerbate the protection and health needs people currently face. It is hard to avoid the conclusion, he noted, that finding durable solutions for the displaced in Kenya will be a necessary prerequisite for achieving lasting peace and stability there. (For the full text of Koser's closing statement, please go to http://www.brookings.edu/speeches/2008/0314_kenya_koser.aspx).