



Taking Stock of **Socio-economic** Challenges in the **Nairobi Slums**

An Inventory of the Pertinent
Issues between January 2008
and November 2012

Olang Sana
Okoth Okombo

Taking Stock of Socio-economic Challenges in the Nairobi Slums

An Inventory of the
Pertinent Issues between
January 2008 and
November 2012

Olang Sana
Okoth Okombo

Taking Stock of Socio-economic Challenges in the Nairobi Slums

This booklet is a publication of Friedrich-Ebert-Stiftung (FES), Nairobi. It records experiences captured between January 2008 and November 2012 within the activity-framework of Citizens Against Violence (CAVi) and its key discussion platform, the Nairobi Slums Assembly, a monthly experience and information sharing platform for the leaders of the youth residing in the Nairobi slums.

© Friedrich-Ebert-Stiftung, 2012

All inquiries regarding acquisition, use, reproduction and other forms of handling this text that may need the copyright owner's permission should be addressed to:

Friedrich-Ebert-Stiftung

Peponi Plaza, 1st Floor, D2
Mwanzi Road off Peponi Road, Westlands
P.O Box 14932-00800
Nairobi, Kenya
Phone: 254-20-3748338
Fax: 254-20-3746992
E-Mail: info@fes.or.ke
www.fes-kenya.org

ISBN No: 9966-957-56-1

Printed by:

Elite PrePress Ltd.

P.O. Box 75289-00200
Nairobi, Kenya

Design & Layout:

Sunburst Communications Ltd.

P.O. Box 43193-00100
Nairobi, Kenya
Email: info@sun.co.ke

Contents

Foreword	iv

Acknowledgements	v

Chapter 1: Background and Introduction	1

Chapter 2: Key Socio-economic Challenges in the Nairobi Slums	9

Chapter 3: Potential Threats to Free, Fair and Peaceful 2013 Elections	29

Chapter 4: Gains Made Towards Achieving Free, Fair and Peaceful Elections	45

Chapter 5: Summary, Conclusions and Recommendations	59

Foreword

Although the post-election events in 2007/2008 which saw Nairobi slums serving as the epicenter of violence, were a strong reminder of the appalling living conditions causing frustration and tensions within the slums, the situation at the eve of national elections 2013 seems to be not dissimilar from the one prevailing in 2007. In particular, not enough has been achieved in terms of security, employment and social infrastructure. However, the slums are admittedly a “black box” in many respects which renders any forecast on the election-related behaviour difficult.

To an independent observer it seems the current political affairs, accords and negotiations don't take into regard the views and interests of slum dwellers. Coalitions are formed on the basis of election arithmetic, but not on shared perceptions of the plight of the hoi polloi, particularly the great majority of the urban poor living in slums. Yet slum dwellers constitute the majority of urban voters, and their turn-out at national elections is comparatively higher than average. Their voting power, though, has not percolated to significant improvements of living conditions in the slums. They have rather been considered as a factor in political strategems that is either set or manageable. As long as representatives in elective offices are mostly non-slum dwellers, it cannot be taken for granted that the priorities and interests of the greater and poorer part of the urban population are recognized in political decision-making.

CAVi started working in slums ten years ago and has acquired intimate knowledge with social and political developments in Nairobi and Kisumu slums. The organisation runs the Slum Residents' Assembly covering ten slums in Nairobi since early 2008 with significant success. The information presented in this booklet originates from the monthly meetings of the Assembly and interviews the authors conducted with members of the Assembly. Hence the publication is not forced to rely on secondary sources, but is uniquely based on providing primary information drawn exclusively from slum dwellers. We hope it contributes to better understanding of the current situation in the slums, especially with respect to the impending election process.

The Friedrich-Ebert-Stiftung (FES) has always highly appreciated the cooperation with CAVi as a competent and committed organisation. We are particularly grateful to the three facilitators of the Slum Residents' Assembly, Olang Sana, Prof. Okoth Okombo, and Peter Maruga. Without their dedicated work in the slums neither the Assembly nor this publication would have been possible.

Dr. Peter Oesterdiekhoff
Friedrich-Ebert-Stiftung
Resident Representative

Acknowledgements

Since 2008 the Friedrich-Ebert-Stiftung (FES) has continuously supported Citizens Against Violence (CAVi) in executing its Nairobi slums programmes. CAVi wishes to thank the FES Resident Director, Dr. Peter Oesterdiekhoff, for his commitment and encouragement. Many times he personally attended CAVi meetings in the insecure slum villages. FES Programme Officer, Mrs. Maria Okongo, designed CAVi slums programmes and oversaw the implementation process, while other FES staff - Mrs. Teddy Mwabili, Mrs. Lucy Mwaura, Mrs. Elizabeth Kamau and Mr. Gideon Muyale - were so prompt and effective in their facilitation that they became an integral part of the CAVi slums family. To all of them, CAVi is very grateful.

CAVi also wishes to acknowledge the input of its team of Slums Coordinators towards making the Slums Assembly programmes a success and for assisting with the research which made the publication of this booklet possible. Special thanks go to the Senior Programme Coordinator, Mr. David Mwaniki, and his team composed of Mr. Nelson Masiga (Kiambiu), Mr. Philip Omondi (Kibera), Mr. John Makare (Kibera), Mr. Gilbert Mocheywa (Kangemi), Mr. Ouma Otsera (Huruma), Mr. Dancan Otieno (Eastleigh), Mrs. Emily Mwangi (Mathare), Mrs. Mariam Wangari (Korogocho), Mrs. Hellen Wairimu (Kawangware), and Mrs. Evaline Odhiambo (Dandora). Apart from the coordinators, CAVi acknowledges that the publication of this booklet could not have been possible without the input of the 60 delegates of the Nairobi Slums Leaders Assembly (NASLA) both during the Assembly debates and through their individual work as human rights defenders in the respective slum villages they represent.

Last but not least, CAVi wishes to thank Prof. Okoth Okombo and Mr. Peter Maruga for their skilful facilitation both during the highly charged landlord-tenant meetings and during the monthly Slums Assembly sessions. Owing to their vast experience in conflict management, leadership and civic empowerment, Prof. Okombo and Mr. Maruga (Headie) served both as an inspiration and bonding factor to the CAVi slums family. Special thanks to Prof. Okombo for finding time amidst his busy academic programme at the University of Nairobi to co-author this booklet.

The authors share all pride about this publication with the friends and partners mentioned above, but take responsibility for any shortcomings that may be detected in the booklet.

John Olang Sana
CAVi

Chapter 1



Background and Introduction

1.0 Overview

Kenya's post-2007 elections violence was a landmark event in the country's political history. The violence led to the death of over 1,300 people, displacement of others, and destruction of property of unknown value especially in the then Nyanza, Western, Rift-valley and Coast provinces. However, the social cost of the violence was greater than the visible dislocations reported in the media and elsewhere. Over four and a half years after the violence, the social cost of the phenomenon still lives with the victims: survivors who suffered in not-so-visible ways, thwwe internally displaced persons, people who lost property, victims of sexual assault, and people who sustained different kinds of physical and emotional injury. And whereas post -2007 elections crisis speeded up the pace of reforms in Kenya's body politic including the completion of the hitherto stalled constitutional review process, it is surprising that the Kenya government has made frail efforts to address the socio-economic needs of the communities and families affected by the scourge of violence. More surprisingly, very little attention to understand and

act on the potential effects of post 2007 elections crisis on the forthcoming polls already slated for March 2013.

The Nairobi slums are one area that was adversely affected by the December 2007-January 2008 post elections violence. The slums occupy one-eighth of the land space in Nairobi but host three-quarters of the city's population of four million people. Many factors combine to make the Nairobi slums the most violent and vulnerable neighborhoods in Nairobi. And as media reports indicate, post-election violence started in the Nairobi slums (Kibera) before it spread to other parts of the country. Consequently, the slums bore the heaviest brunt of the violence (relative to the up-market neighborhoods of Nairobi).

A lot of information is still outside the public domain regarding how the violence erupted, immediate issues that provoked the violence, the ethnic character of the violence, the nature of disruptions wrought by the violence, and how various slum villages are coping with the trauma. Also outside the public domain is information regarding how the actual socio-economic conditions that prevail in the slums add to their violent character, and an exposition of some unresolved issues as well as emerging threats that could affect the stability of these neighborhoods both before and after the March 2013 polls.

More importantly, there is an urgent need to re-examine the slums with reference to the Constitution of Kenya, 2010 and other gains so far made towards the implementation of the Constitution. Can the (new) Constitution be used as a reference document for increasing service delivery, advancing rights protection, and laying the foundation for the rule of law in the lives of the three million slums dwellers? What can be done in the pre-and post-March 2013 elections to not only rid the slums of their violent character but also to initiate programmes geared towards changing the face of the slum permanently?

The purpose of this booklet is to provide some insight into the

concerns outlined above. The authors of the booklet note that there has been some good progress towards addressing some or a combination of the above concerns especially in the aftermath of the violence. However, the intellectual discourse about the slums and violence is as yet embryonic and far too incoherent to guide focused interventions before and after the forthcoming polls. Primarily, the booklet aspires to provoke some thought about the slums and slum dwellers with a view to encouraging government policy makers, the civil society, the international community, the academia and other actors to make informed interventions geared towards improving the physical conditions in the slums without depriving the dwellers of dignity and rights.

The information contained in this booklets draws from the interventions made by Citizens Against Violence Organization (CAVi) in partnership with Friedrich-Ebert Stiftung (FES, Nairobi) in the Nairobi slums during the five-year period after the violence (2008 and November 2012). In particular, the booklet is informed by the issues that emerged during intra-slums landlord-tenant and community peace meetings convened between 2008 and 2010; monthly updates from CAVi coordinators representing the 10 slums represented in NASLA; and debates and issues raised on the floor of Nairobi Slums Leaders Monthly Assembly held at Jowanga Hotel, Huruma between 2009 and 2012.

Further, the information draws from field research conducted by the authors between September and October 2012. With the assistance of the CAVi Slums Coordinators, the authors visited ten slums in Nairobi County i.e. Kibera, Mathare, Huruma, Kiambiu, Kangemi, Kawangware, Korogocho, Dandora, Soweto, and Eastleigh (motherland) slums and held oral interviews with various leadership structures on the security situation ahead of the 2013 general elections. In particular, the authors interviewed village elders (wazee wa vijiji) who operate under the Chief, young aspirants, youth leaders, women leaders, church leaders, vigilante leaders and Officers Commanding Police Posts/Stations scattered all over the slums. The interviews focused primarily on respondents' hopes and fears

ahead of the 2013 polls. The authors made effort to corroborate information obtained by interviewing adult residents drawn from different ethnic and social categories.

Participant observation method was also an important source of data. Through this method, the authors were able to see the physical conditions of the slums including gains so far made by the government towards slums upgrading as well as physical reconstruction of both residential and business structures after the devastations wrought by post 2007 elections violence. The CAVi Slums Coordinators also took the researchers to different ethnic enclaves where they were able to see ethnic demarcations that emerged after post 2007 elections violence to separate communities and some of the surviving evidence of post elections destructions. Lastly, the authors reviewed relevant literature to corroborate the information obtained from the field and the floor of Nairobi Slums Leaders Assembly.

The credibility of the information, therefore, draws on the fact that CAVi and FES were among the first organizations that made attempts to reach out to the slums community when post-poll crisis was hitting them hard, yet the state was minimally present on the ground to restore stability. These early interventions enabled CAVi and FES to obtain firsthand information about the situation on the ground. CAVi and FES have also been among the organizations consistently working towards full recovery in the slums after the violence for the last five years. Arguably, experience drawn is sufficient to augment emerging discourse about the slums in terms of what can be done to deal with their violent character especially in the run up to the 2013 polls.

1.1 The CAVi-FES Post-Violence Recovery Programmes in Nairobi: A Historical Background

The CAVi and FES intervention programmes in the Nairobi Slums were launched after the Nairobi Slums Leaders' Conference held

in Nairobi on January 31, 2008. The violence was barely a month old at the time of the conference. However, the dislocations so far wrought by the violence made it possible by the end of January 2008 to organize a dialogue meeting with various groups involved in the conflict and to plan focused intervention. And as it turned out, the conference was among the first ones ever to have been convened by civil society organizations at the height of the violence.

The meeting was attended by 60 participants comprising ethnic-based leaders of youth groups, women, landlords, tenants, vigilante, and the religious leadership structures in the Nairobi slums, featuring: Kibera, Kangemi, Kawangware, Huruma, Dandora, Korogocho, Mathare, Kiambiu, Soweto, and Eastleigh. In spite of the tension, which was understandable in the circumstances in which it was held, the meeting progressed well thanks to skillful facilitation by Prof. Okoth Okombo (University of Nairobi) and Mr. Peter Maruga (Programme Officer, Nairobi Peace Initiative). The key issues addressed at the conference included landlord-tenant relationships and destructive activities by the militias. The resolutions included appeals by participating leaders for intervention by peace organizations especially in the areas of security and humanitarian assistance.

1.2 The Nairobi Slums Leaders Monthly Assembly

The Nairobi Slums Leaders Assembly (NASLA) was one of the main outputs of the 2008 inter-slums landlord-tenant meetings convened by CAVi/FES. Primarily, the Assembly was conceptualized to serve as a neutral forum where leaders (delegates) from the Nairobi Slums could meet monthly to talk about issues concerning slum dwellers and develop community-based responses not only to conflicts but also to governance and developmental issues. Since its launching, the Assembly convenes at Jowanga Hotel, Huruma, every first Monday of the month (usually from February to November). The delegates at the Assembly are 60 young people who were jointly recruited by CAVi and FES after interviews. All the delegates are

youth leaders who have impacted positively on community peace mobilization. They represent ten slums, namely: Kibera, Huruma, Mathare, Kiambui, Kawangware, Kangemi, Dandora, Korogocho, Eastleigh and Soweto. During its launching in April 2009, the Assembly set rules to guide its operations.

The achievements of the Assembly are so vast that they cannot be enumerated in this booklet. Suffice to state that since its establishment in 2009, the Assembly has had a significant impact on the lives of residents of Nairobi slums. In particular, the Assembly has enhanced the exchange of ideas amongst divergent groups living in the slums with a view to achieving some consensus on a wide range of issues. The resultant effect is that it has built the capacity of the delegates to identify, report, and deal with local issues that threaten the mutual co-existence of the various slums groups. Though restricted to a small number of delegates, the Assembly has offered young men and women an opportunity to reclaim their worth and dignity as citizens and explore how they can extend the consciousness to others who dwell in the slums. It has also created a forum at which the leaders conduct social audits of government activities and policies on the slums and identify gaps to be filled by both state and non-state actors that seek to work in partnership with the residents.

The performance of the Assembly during the 2010 constitutional referendum is especially worth highlighting. In the run-up to the referendum, the Assembly provided a forum for deeper understanding of the draft constitution especially in terms of what it meant to the slums residents. Through such engagements, the trained delegates went back to their respective slums villages and trained others. This helped to enlighten the residents on the so-called contentious issues. The delegates also volunteered to serve as monitors during the referendum. They reported on the situation in each village on a weekly basis, which helped to pre-empt any threats to violence. On the whole, the delegates contributed immensely to the conducting of a peaceful referendum and the eventual triumph of the YES team.

In the same vein, the Assembly still serves as a small cell of young reformers upon whom the government and civil society can invest resources geared towards reclaiming these neighborhoods or for launching development initiatives. The monthly Assembly reports have informed discussions in the chapters that follow.

Chapter 2



Key Socio-economic Challenges in the Nairobi Slums

2.0 Overview

A number of issues pose challenges to sustainable peace in the Nairobi slums. This chapter isolates six major issues that appeared recurrently in the Monthly Assembly Leaders Reports. The issues are land-based conflicts, pressure on housing, landlord-tenant conflicts, insecurity, low levels of civic awareness and poor state of service delivery.

2.1 Land and Housing Problems

The logic behind land struggles in the Nairobi slums is simple: Being a big market, Nairobi has attracted a large population of rural-urban migrants who aspire to take advantage of the opportunities in the market. And since they are unemployed, the majority of the migrants end up in the slums where cheap housing is available. The fact that the Nairobi slums host approximately three million people on 1/8 of the

city's land space implies that these neighborhoods by far overstretch their carrying capacity. Kibera's population of 1 million people, for instance, is equal to the population of the rest of Nairobi residents who live in middle class or up-market neighborhoods, which account for 7/8 of the city's land space. Over-congestion in the slums – itself a consequence of the increase in rural-urban migration - has created immense pressure on housing, space for business, and other public utilities.

Incidents of land-related conflicts and violence are higher on government land than on private lands that make up the Nairobi slums. Indeed, controversy surrounds the process of acquiring (government) land in the slums however temporary. Whereas some early migrants to Nairobi simply identified vacant spaces and built something on it, a significant majority say they were assisted by the provincial administration – especially the Chiefs and their councils of elders (wazee wa vijiji) to acquire space. The residents insist they paid money to the Chiefs (sometimes acting under the authority of the District Officer or even the District Commissioner) for which official receipts were issued. Some structure owners also allege they were sold the lands that they currently occupy by City Council of Nairobi and official receipts were supplied to authenticate the transaction. In a nutshell, government officers assisted structure owners to obtain government land.

Indeed, it was a common trend during the period of single party rule for the head of state and high ranking party officials to grab and distribute government land to party supporters or an ethnic group as a token of appreciation for their loyalty to the party and especially the head of State. Hundreds of slum residents became beneficiaries of such corrupt schemes as did individual politicians especially in Kangemi, Embakasi, Kibera and Huruma, which are part of government land. Past and present MPs in Nairobi as well as Councilors at the Nairobi City Council exploited weak legislations to identify and grab large chunks of land which they subsequently redistributed not only among themselves but also to their ethnic clansmen on which their political support base hung. The former

and incoming residents would also exploit weak legislations that existed between 1985 and 2002 to encroach on river, rail, and road reserves as well as other public utility lands. And with the increase in corruption, private developers colluded with the City Council and the officers in Ministry of Lands to obtain fake title deeds on government lands which they later either sold out or developed. Delegates at the NSLMA claim that the trend has only reduced in intensity but it persists in the City Council of Nairobi to-date.

The problem with this kind of illegal land transactions is that different people were sold or allocated the same piece of land. Since the law of the jungle is a common practice in the slums, the strongest or the most organized group would apply violence on opponents in order to retain the contested piece of land. Secondly, some individuals were allocated private lands. In such situations, the actual owner of the land would find it prudent to avoid the protracted legal tussles by simply hiring thugs/militias to forcefully evict invaders. Thirdly, the eviction of tenants squatting on land reserved for public utility projects has not been easy without a fight. In the wake of state-led land reforms, the City Council of Nairobi has had to engage Kiosk owners whose business premises are threatened with demolition on repeated physical combats some of which have left behind a trail of destruction and even fatalities.

With increasing human rights consciousness and the entrenchment of social and economic rights in the Constitution of Kenya 2010, attempts to reclaim land from squatters have yielded minimal results. The structure owners now claim that they deserve to be given legal titles because they have lived on these pieces of land for over 20 years. Yet, government has been reluctant to recognize the slums because doing so would imply losing government titles to individuals, a move which would increase land conflicts. Recognizing the slum as official settlements would also deny the government opportunity to develop these lands as required by law once funds become available. Further, it gives the government leverage in displacing or relocating the squatters whenever slum-upgrading-programs are rolled out.

But left unaddressed, the squatter problem complicates the prospect of ensuring long lasting stability in the slums. First, the owners have been reluctant to erect permanent and decent buildings on site because they are unsure when the demolitions may occur. This implies that structure owners have invested very little towards improving the conditions and environment around their houses. Secondly, other communities suspect that the Kikuyu, who currently constitute the majority of structure owners in the slums, have had an upper hand in grabbing public land which gives them economic advantage over the rest. As the next section shows, this suspicion has over the last fifteen years served to aggravated landlord-tenant relations in the slums where an overwhelming majority of structure owners are Kikuyu while majority of the tenants are people from Western Kenya (Luo, Luyiah, Kisii). The politicization of this matter has contributed to the high levels of insecurity in the slums.

2.2 Landlord-Tenant Conflicts

The Luo, Kikuyu, and Kisii tenants have questioned the practice in which landlords charge high rent rates on structures built on government land where all citizens have stakes. This question has come against a backdrop of a hard economic situation especially for the urban poor and intensification of political competition for presidency pitting the Kikuyu against Western Kenya communities (Luo, Luyia, Kisii, etc). The consciousness generated from the interaction of these factors has forced the slum-dwellers to re-examine the political economy of tenancy and to specifically question the moral basis of their contract with the landlords. As one Kibera tenant put it during an oral interview session in Kibera: 'Wazee wa hapa mtaani hawaoni 1k. Labda tu wakati wanalipa rent' (residents in this slum seldom see KES 1,000... maybe only when they are paying it to the landlord as rent). Stated differently, it means that Luo, Luyiah Kisii and others that make up the tenant fraternity in the slums are asking why they should toil for the communities, predominantly the Kikuyu, that invest in the residential structures in the slums.

Tenants have also demanded better conditions of the structures, including: toilet facilities, bathrooms, and dumping sites, which are lacking in the majority of the rental structures in the slums. Additionally, tenants have insisted that landlords should undertake periodic repairs especially during rainy seasons when the majority of the structures leak or get flooded. The general trend is that the landlords have been reluctant to improve the conditions of the structures. Instead, they have insisted that they incurred expenses in constructing the structures and the tenants have an obligation either to comply or to altogether relocate to other areas where they think they will get housing for free.

Since the mid-1990s, when some high ranking politicians publicly urged tenants not to pay so much for the structures (in Kibera) because they were built on government land, tenants have been looking for any opportunity to avoid this obligation. As the previous chapter has showed, the fraudulent 2007 presidential polls which pitted Mwai Kibaki against Raila Odinga did widen the rift that already existed. Indeed, landlord-tenant conflicts took a purely ODM versus PNU or Luo/Luyiah versus Kikuyu stance. In villages dominated by Luo/Luyiah tenants, they either torched Kikuyu structures or took illegal possession of them after chasing the landlords away. Where they had torched existing structures, the tenants made their own structures that they did not build properly as a strategy of escaping financial responsibility. Even in areas where the tenants did not illegally convert the structures into their possession, at least they missed paying rent for months until normalcy was returned.

The landlords reacted angrily and even violently to such threats. This explain why majority of the landlords resorted to forcefully evicting Luo/Luyiah tenants from their houses including those who were willing to comply. In Huruma and parts of Mathare, the landlords hiked rent way beyond the market rates in order to force the tenants to relocate. In situations where the tenants are unwilling to cooperate, landlords opted to hiring militias to undertake the evictions. And even in slums villages that have since recovered from the post-2007

disturbance, landlords have imposed other conditions, including production of a national identity card and discrimination based on ethnic considerations.

The sad lessons of post-2007 elections crisis increased unity and resolve among the landlords in the Nairobi slums to bring tenants under some measure of control. In all the 10 slums where CAVI operates, landlords hold meetings at which they decide rent rates. The new rates are not negotiable and they often become effective upon announcement. Tenants see this as emasculation and they have equally developed measures of dealing with the landlords. However, the tenants are on the receiving end. They seem too disorganized to respond effectively to landlords' demands without support from the government. Consequently, majority of the tenants opt to either relocate or wait for an opportunity to avenge on the landlords such as the one that was presented by the post-2007 election crisis.

The way in which forced evictions is done in the Nairobi slums leaves a lot to be desired. Largely, the landlords do not adhere to the eviction procedures. Secondly, land/structure owners always take law into their own hands to execute eviction without considering the rights of the evictees, such as consultation, compensation and identification of alternative housing/land. The timing of the exercise is always inappropriate and the police are seldom notified about the exercise so that they can come and protect property removed from the houses/land where an eviction is being enforced. NASLA delegates blame the ongoing trend on the government for failing to publish legislation on evictions. Consequently, landlords and other agencies do evictions in a manner that manifests little respect to human rights and dignity.

2.3 Insecurity and Resort to Neighborhood Associations

The Government's failure to recognize the slums has had negative implications on security. Consequently, security has largely been left

to the hands of the slum residents although the police occasionally do security patrols along the main roads. The most obvious result has been the mushrooming of ethnically distinct enclaves and ethnic vigilantes to secure the community. The vigilantes have especially become popular because they speak the same language as the community members they are created to protect.

The vigilantes in the slums are recruited from among unemployed village youth. The recruits must demonstrate good knowledge of all residents inhabiting a particular village in order to keep suspicious non-group members away. The service of the militias is compensated for through donations collected from every household and businesses operating in the area. By November 2012, a single household in Huruma and Kibera, etc were paying KES 100 per month for vigilante protection. Also, they demand between KES 50,000 and 100,000 from private developers who want to construct flats or storey buildings in the slums.

The vigilantes have proved to be a reliable security management organ in slums villages where the state is weakly entrenched. Apart from the fear of losing remuneration, the vigilantes feel they have a nationalist attachment to their duty and a responsibility to the community that hires their services. However, the vigilantes have in the recent past been infiltrated by thugs who have made them part of the security menace in some villages. The vigilantes have also been accused of imposing unfair tax on alien vehicles that enter their villages and businesses. Frequent inter-vigilante confrontations for supremacy were also responsible for violent conflicts among the slum youth. Like the militias, vigilantes are liable to misuse by politicians and businessmen who are prone to hiring them to undertake criminal missions. Also, the vigilantes serve as recruitment ground for the youth who subsequently serve in militias (jeshis.) The above weaknesses notwithstanding, the Kenya government seems to support the vigilantes as part of community policing apparatus.

2.4 Ethnic Militias

The socio-economic conditions prevailing in the slums have also encouraged the mushrooming of militia groups. Unlike the vigilantes, the militias are more aggressive, better organized and inclined to take advantage of weak security apparatus to make economic gains from the slum residents. The history of the militias dates back to single party era when the Moi regime used KANU youth wingers as security agencies for ensuring prevalence of order not only in the slums but also country-wide. When the struggles for multi-party democracy increased momentum in the early 1990s, the state used the same agency to suppress the opposition. But since KANU youth-wingers were seen as part of the state security organ, there was a limit to what it could be legally allowed to do in a bid to suppress the opposition. Instead, the government opted to create surrogate armies which later became militias. This therefore was the period when *jeshi la mzee* (big man's army) widely associated with the former president Daniel Arap Moi - emerged in the slums of Nairobi. In retaliation, the opposition also formed own outfits to fight back the state thus leading to the proliferation of a variety of militia groups such as Bagdad Boys associated with and bankrolled by a former opposition leader.

Although the militias were initially active only during election years, the opportunities provided by lack of state presence in the slums encouraged its members to find work to do during non-election years as a source of income. The year 2000 witnessed encroachment of slum-based militias into the *matatu* (public service vans) business. They attempted not only to control bus termini but also to allocate routes and harass drivers and conductors. Today, the militias have also become very useful in waging land conflicts, effecting forced evictions, and managing critical services such as water supply, solid waste management, and even responding to domestic violence. Occasionally, politicians mobilize the militias to advance their agenda in various ways, including fighting for political positions.

But the emergence and evolution of the Mungiki as a complex militia outfit has since 2000 tremendously transformed the original agenda and conceptualization of an ethnic militia. Studies show that there were some 12 well-organized militia groups operating within the Nairobi slums by 2001. These were the Bagdad, Mungiki, Kamjesh, Jeshi la Mzee, Chinkororo, the 42 Brothers, the Amachuma, and the Taliban. With increasing threats of the militias to national security, the government banned all militia and vigilante groups in 2001. However, the move only reduced the activities of the militias. The continued operations of the Mungiki- including its involvement in the post-2007 poll violence – and the actual security challenges in the slums have inspired the re-activation of the hitherto dormant ethnic militias and creation of new outfits. By November 2012, the Mungiki operations had gone down significantly. However, the Taliban and Kamjesh militias had started to re-emerge to fill in the gaps left by Mungiki in several slums. New militias had also begun to fight for space and recognition ahead of the March 2013 polls. Among them were Siafu, the Twelve Disciples, and Yes We Can. Some vigilante groups in Kibera such as Bukungu, Kamkunji and Leba had also begun to transform into militias in order to take advantage of the opportunities that abound in an election year.

A number of reasons make the militias a security menace to the slum residents. Firstly, they levy unnecessary taxes on small businesses thus discouraging investment in the slums. Secondly, sporadic inter-militia conflicts or battles between the militias and the City Council Askaris or the police often spill over into the slums thus causing the security situation to degenerate. Thirdly, residents have noted that the militias host criminal gangs who use the opportunity to steal, loot, rape, murder, and to commit all manners of criminal offenses.

However, some militias are useful to the community because they ensure minimum standards of order in the slums where they dominate. In selected slum villages, the militias are threatening to replace the police as a security surveillance and response mechanism. In such circumstances, residents pay allegiance to the militia leaders and not

the police. In sections of Mathare where the Mungiki have dominated for over a decade, residents have complained that security has degenerated after the government upped its efforts to crack down on the illicit terror gang thus forcing some of its members to relocate.

Despite many risks involved, the militias also provide a ready source of employment to thousands of idle youth. Further, it provides a sense of satisfaction. Evidently, the militias have emerged to fill security void left by the State. It has also emerged to become as big business from which the police, politicians and thousands of unemployed youth benefits. Currently, minimal presence of the Mungiki is felt in Dandora, Mathare, Kiambiu, Gorogocho, Kibera and Rongai. Kamjesh and Taliban have become stronger in Kiambiu, Mathare, Korogocho, Eastleigh Dandora and Huruma. Kamjesh militiagroups is undergoing re-activation. Kangemi residents suspect it will soon be a force to reckon with in the Kangemi slums.

2.5 Police Response to Insecurity

The Kenya government has since 2008 made efforts to step up security in the slums by increasing police presence and by responding to actual incidents of violence. However, slums are still the most poorly patrolled enclaves of Nairobi. In majority of the villages, residents report that they have never seen a policeman on patrol either during the day or at night. The reason why the slums are poorly patrolled is because some sections are impenetrable by police security patrol vans. Secondly, the slums serve as hide out for hardcore criminals. This has made some villages to be actually too insecure for police officers on foot patrol. Criminals have on a number of occasions attacked policemen on patrol, killed and robbed them of their guns which are then used for criminal missions. And with the eventual collapse of community policing services, criminals have sought to establish safe havens in the slums out of police reach. Additionally, the criminals who operate in the slums are reportedly better armed than the police.

However, the police have managed, with the support of the residents, to obtain credible information about criminals. Instead of investigating and prosecuting the criminals, Officers Commanding Police Stations (OCS) in various slums have adopted the strategy of sending warning messages to the criminals to change their habits or get eliminated. Finding a better way of responding to crime has been a big problem in the slums and the police have always resorted to shooting-down criminals. In the course of shoot-outs, policemen and innocent members of the public also get killed.

All the 10 slums in Nairobi where CAVi operates have over the last three years registered rise in crime and insecurity. Lack of access roads and security lights predispose women and girls to rape and sexual violence. Social problems such as trade in hard drugs, drug abuse, child prostitution, robbery with violence, burglary, and murder also thrive. The most insecure seasons in Nairobi slums are during the long and short rainy seasons (April-June and September –October respectively) when criminals take advantage of heavy rains to break into houses. NASLA delegates have also reported that the increasing number of illegal firearms in the slums has further complicated the security situation.

Slum residents appreciate ongoing efforts by the police to crack down on crime and general insecurity. They, however, complain that the number of police officers posted in the slums is far too small compared to the size of the population it is supposed to protect. Secondly, they accuse some police officers of collaborating with criminals and sharing the proceeds after crime. Residents of Mathare, particularly accuse the police of protecting highly connected people who run drug business in Mathare's Nigeria village where hard drugs such as cocaine, heroin, and hashish are sold on open-air market. Generally, police response is as yet too little, too late, and too unreliable to contain the degenerating security situation.

Out of frustrations, the local slum residents respond to crime by administering mob justice on the suspects. This strategy provokes

more violence as criminal gangs avenge the killing of their colleagues. Also, elimination of criminals through mob justice gets politicized especially if the victim is not a member of the community suspected to have administered the killing. Revenge and counter-revenge attacks over mob justice has for instance created tension and even led to violence between the Luo and Kikuyu ethnic communities in Mathare's Mlango Kubwa village. Mob justice also carries the risk of eliminating innocent suspects.

2.6 Youth Unemployment and the Problem of Idleness

Unemployment stands out as a major threat to stability in the Nairobi slums. Majority of rural-urban migrants take years before they can land themselves anything to do that can generate income. Also, people born and raised in the slums find it difficult to advance their education to higher levels so as to improve their employment chances. Lack of major investment in the slums due to insecurity creates a situation in which the active population have to travel long distances in search of wage labour. Nairobi's Industrial Area has always proved to be a source of relief to wage workers. Also neighbouring upmarket estates provide opportunity for house-helpers, compound attendants, etc. A small number are in the jua-kali sector where they operate different forms of small-scale businesses. The problem though, is that majority of the youth remain unemployed. And for those who have something to do, the income generated is scarcely enough for household sustenance needs.

Indeed, Kazi kwa Vijana (employment for the youth) programme which the Kibaki government rolled-out in 2008 has been an important source of economic empowerment for the youth in the slums. However, the project can only engage a small number of workers compared to the unemployed lot. The project is also riddle with corruption and mismanagement both at the national and constituency levels. NASLA delegates lament that the project

has turned out to be an exploitative scheme in which the youth toil in hard labor but high-ranking government officials get the money – hence the phrase *kazi kwa vijana, pesa kwa wazee* (work for the youth, money for the rich). Besides, the good intension of the project has been undermined by nepotism and tribalism.

The magnitude of the employed population in the slums appears to be a structural problem and has a strong class dimension. Analytically, it seems to be a deliberate design by the government, business class and politicians to keep a huge reservoir of people out of employment so as to make their exploitation and manipulation possible. Below are some of the consequences of the problem of massive unemployment among the slums youth: -

- The temptation and motivation among the youth to join militia groups and even the Al Shabab terrorist network has increased.
- Young people find difficulties in avoiding crime for survival. This has further undermined security situation in the slums.
- Unemployment has increased the number of young people willing to take risks because they have nothing to lose.
- Drug abuse among the youth has increased tremendously. The number of drugs addicts has surged over the last ten years.
- Employment has increased domestic violence among households, some leading to fatalities.
- Among the girls, poverty has increased the rate of school dropouts, early pregnancies and early marriages.
- Poverty and unemployment increases the level of ethnic consciousness amongst the slums population. This serves as a recipe for inter-ethnic conflicts.

- Unemployment and deplorable socio-economic situation in the slums has served to sustain tribal ideology among slums dwellers. Various ethnic groups – especially the dominant ones involved in power struggles – see each other as opponents and each hope their deplorable situation can only improve if one of their own ascend to presidency. Conscious about such misplaced hopes, politicians retain contact with their ethnic clansmen not so much to help them out of their apathy but to embed tribal ideology. Consequently, the aim to win or retain presidency is a life and death tussle in the slums leading to the increasing number of youth willing to risk their life for presidential candidates. It is the prevalence of such beliefs that fuelled post-2007 election violence in the slums. Interestingly, slum residents who secure well-paying jobs migrate to other residential areas and eventually lose contact with politicians.

2.7 Poor State of Service Delivery

Lack of other basic services in the slums manifest the level of the government's neglect of the slums in its policy and planning. Water rationing is an acute problem in the slums, yet lack of steady water supply not only predisposes residents to threats of cholera outbreak, it makes life very hard for the residents. Water vendors take advantage of the situation to hike the price of piped water thus increasing the cost of living. A 20-liter jerry can of water sells at KES 20 during periods of water shortage. Militia or vigilante youth also collude with the vendors by tempering with water pipes and causing disconnection, so that the vendors can earn more from their business.

The Ministry of Public Health has done little to monitor and ensure good hygiene in the slums. The slums lack adequate toilet facilities to serve its huge population. This problem arises from the fact that majority of the structures were constructed without provisions for toilet facilities. Sewer lines and drainage facilities are either lacking or so poorly maintained that they cannot deal with the problem

of increasing solid and liquid wastes. The problem of piles of uncollected garbage further undermines the hygienic conditions in majority of the slums by exposing residents to the problem of air pollution and the threat of cholera outbreak. Dandora's dumping site is not only an eye-sore. It is also an affront on the dignity and rights of the neighboring residents to a healthy environment. Owing to poor planning, occasional flooding displaces residents and further increase the number of health risks, especially bilharzias.

Despite all these health risks, the slums lack adequate medical facilities that can respond to such health emergencies. The slums have only a few government clinics which open late and close early thus denying members of the public critical services. Even when they are open, the clinics lack drugs hence patients are asked to buy them from private clinics after diagnosis. Patients also complain that personnel in public clinics mishandle them. As a remedial measure, majority of the slums residents rely on cheap and readily available herbal medicine and other private clinics in the vicinity. But complicated health emergencies such accidents or women in labor go unattended – some leading to fatalities.

2.8 Education and the Problem of Low Levels of Civic Awareness

The state of education in the slums is also deplorable. The number of public schools in the slums is dismal relative to the population of pupils and students. Following the government's declaration of free and compulsory primary education, the number of pupil enrolment in school has far outstripped the capacity of the few schools available. The consequence is mushrooming of private schools in shanties which are congested and lack basic facilities, including ventilation and playing grounds. Since these institutions are not registered by the government, the Ministry of Education seems not to care about the standard and the quality of education disseminated in these informal institutions. This has generally led to a decline in education

standards in the slums. NASLA delegates for instance observed that Kibera's Olympic Primary School was until the introduction of free primary education performing very well in the Kenya Certificate of Primary Education examinations. Today, over-enrolment has led to its decline in academic performance. Currently, Kibera despite its big population- has only two public primary schools.

Another problem is that a sizeable number of pupils dropped out of school after the post-2007 poll violence. The Ministry of Education has made limited efforts to identify and re-enroll the pupils. In general, the trend is that only 10% of pupils who join school in childhood reach form four. Majority of male pupils drop from school after class 8 in order to fend for themselves and their families. The education of the girl-child in the slums is under severe threat owing to numerous challenges they are faced with. Largely, the environment in the slums discourages girl-child education. The slums also lack models to inspire and encourage education because the few academically successful people migrate.

Development and stability in the slums is further undermined by poor political leadership and general lack of civic awareness among the residents. Like other parts of the country, the slum residents' choice of leaders to various elective positions – Council, Parliament and Presidency - is largely determined by ethnic or regional considerations. The slum residents tend to elect people from their ethnic communities irrespective of their capacity and commitment to serve. Rarely do residents care about the value content of a contender's campaign policy or party manifesto. The leaders elected to represent slum dwellers are therefore more of ethnic figures than people's representatives. Majority of them are ignorant about slums issues and how to fix them because they lack sufficient education. The few who have good education serve tribal agenda, always developing survival strategies based on ethnic manipulations.

Once elected, the politicians - especially Councilors (now County Representatives) - relocate to safer neighborhoods and only re-

appear in public during the next elections. They get completely detached from the people they represent as well as the problems that characterize the slums. The incumbents have a habit of changing their mobile phone lines so that they are completely out of reach. However, some incumbents occasionally reappear when there is a crisis from which make political mileage. The incumbents therefore don't accord priority to the socio-economic problems. They don't believe in fixing problems, but in creating a situation of desperation so that the electorate can always revert to them as ultimate saviors.

The negative attitude of voters also affects the pace of development in the slums. Interestingly, majority of the voting population in the slums see election periods as a time for self enrichment through handouts and bribery solicited from different aspirants. The aspirants also face the elections with the same mindset. They believe that the electorates need money, clothing, food alcohol and drugs instead of good policies to permanently fix the mess in the slums. The voters are actually a bother to aspirants and incumbents. The majority of the dwellers -who get the rare opportunity to meet with the incumbents or aspirants - usually present to them petty requests which cannot transform their situation in the long run. Most of the requests revolve around little sums ranging between KES. 100 and 500 to be expended on house rent, entertainment (food, drink), fare, etc. Rarely do the electorates present proposals or blue-prints which seek to transform their situations permanently.

Electoral contest in the slums is customarily accompanied with violence, a factor which makes slums extremely insecure during election period. The aspirants are predisposed to hiring hoodlums who are readily available in the slums because of high unemployment. Their role is to physically subdue political opponents. Where an aspirant for the same post comes from a different ethnic community, elections are a recipe for protracted ethnic violence, like Kenya experienced during the post-2007 elections crisis. It is a basic requirement for every aspirant in the slums to maintain a dozen youth around him/her as 'security'. Indeed, the youth protect the

aspirants in case of rampant security threats. But they can also be used deliberately to undermine the security of others in order to manipulate electoral outcome in the hirer's favor. The indispensability of the youth as security providers can be understood on the account that that regular police hardly patrol the slums hence making some sections extremely insecure to the campaigners.

Given the deeply embedded political culture of violence, potential female aspirants get discouraged from electoral contest thus making the race largely a male affair. Consequently, issues that affect women such as maternal and reproductive health, sanitary towels for school girls, maternity services, and water are poorly articulated by male leaders who do not understand them well enough. Female aspirants are also prone to humiliation, harassment and even rape during elections campaigns.

In general, low levels of civic awareness thrive in the slums, making the residents highly vulnerable to exploitation. Some of the indicators of low levels of (civic) awareness are captured below:

- The majority of the residents
 - do not know the necessary legal measures involved in land transition.
 - believe that a politician and the provincial administration can help them acquire government land free.
 - are unable to distinguish between a fake and a genuine land documents (title deeds).
 - do not know about development funds in their constituency, their specific purposes and how to access or monitor their utilization. A much smaller number know about Local Authority Transfer Funds (LATF).
- Several residents do not know the meaning of forced eviction

and the necessary steps to follow before forced evictions are undertaken.

- Majority of the victims of rape/defilement do not know what steps to take after they become victims. Many cases go unreported.
- Some residents think they can only have a right to relief food, bursary funds and constituency development funds if they voted for the incumbent MP.
- A dismal number of civil conflicts end up in law courts. Majority of the cases such as domestic violence, marital issues, and landlord-tenant disagreements are arbitrated by the Chief and his committee of village elders or District Peace Committees.
- A large number of youth who have attained the age of majority do not have national identity cards because they are unaware of the processes involved.
- Whereas a relatively large number of residents register as voters, only a small number cast their votes on the polling day.
- A significant number of the reading public in the slums have not read and fully understood the Constitution of Kenya, 2010. They do not know about their rights as provided in the Bill of Rights and other election related issues such as the number of votes they will be expected to cast on the Election Day, and the newly created constituencies in Nairobi and their boundaries.

Chapter 3



Potential Threats to Free, Fair and Peaceful 2013 Elections

3.0 Overview

In the previous chapter, we have outlined the socio-economic issues that generally make the Nairobi slums unstable and prone to conflicts. We now turn our attention to the key issues that may be viewed as potential threats to the general election slated for March 2013. The threats have been generalized to all the 10 slums where CAVI operates. However, one should note that some threats are specific to selected slums and villages. Our discussion in this chapter reveals that the majority of the existing threats to free, fair and peaceful elections emanate from the disturbances associated with the post-2007 elections violence or the unresolved issues subsequent to the violence.

3.1 Unresolved Issues Generated by Post-2007 Poll Chaos

Post-2007 poll chaos created a wide rift between the members of Kikuyu and Luo communities whose presidential candidates were the main contenders in the mismanaged polls. Power sharing arrangements between ODM and PNU did not end the tension. Rather, it settled the conflict in elite circles. Many slum residents (as well as political analysts) believe that the major contenders in the forthcoming presidential race will be a Kikuyu and a Luo. Thus, 2013 elections provide another moment to re-engage in the power struggles that were not concluded in 2007/2008. Scarcely four months to the March polls, there is already a clear division between the Luo and Kikuyu youth who dwell in the slums. Reports from NASLA delegates indicate that some Kikuyu youth have vowed that Uhuru must win the 2013 presidential polls otherwise there will be no peace in Kenya. Equally, Luo youth have stated in no uncertain terms that “the Kikuyu stole our presidency in 2007. It is now Agwambo’s (Raila’s) turn and nothing less.”

Another group worth watching is William Ruto’s United Democratic Party (UDF), which also has some following in the slums of Nairobi. However, the Kalenjin community (from whom Ruto draws much of his political support) is poorly represented in the slums, and so do not constitute a significant threat. Similarly, in spite of the declaration of Mudavadi’s candidature, the Luyiah community (who gave their overwhelming support to Raila in his 2007 presidential bid) is still divided. Some are still in ODM while others have shifted their allegiance to Mudavadi.

As political alliances form along ethnic lines, NASLA delegates are worried that the competition for presidency may once again become a Luo-Kikuyu contest. That this fear is not unfounded is already evidenced by the increasingly popular saying among political contenders: “*farasi ni mbili tu!*” (there are only two horses in the presidential race). The intense competition is already generating quite some tension. The implication is that should violence recur,

it will be fought between Luo and Kikuyu youth in the slums, adding credence to the suspicion that the traditional Kikuyu-Luo political rivalry has not died off. Just as Kibaki and Raila created an opportunity for the rivalry to rear its ugly head in 2007, Uhuru and Raila will blow fresh breath into it in 2013. Like elsewhere in the country, speculation is rife in the slums of Nairobi regarding which of the two horses will be Kenya's next *prezzo* (President).

The emotional energies feeding such speculations and the underlying bitterness that goes with them are based on the unresolved 2007/2008 issues, some of which are outlined below.

3.1.1 Preparations to respond to violence

The 2007 post-elections violence caught slum residents, including ethnic militias and vigilantes, unawares. This was so because the peaceful 2002 polls had restored Kenya's faith in the electoral process. The spontaneity of the violence made innocent people incur unpremeditated casualties from which very few have recovered. Since the memory of the violence is still fresh in residents' minds, the majority of the households interviewed during the research indicated that they are this time "prepared". The simple interpretation of this statement is that households are equipped to ward off potential attackers or to respond effectively to any crisis that might arise before or after the polls.

Moreover, there are disturbing reports that seem to indicate that residents are arming themselves in preparation for the worst during the forthcoming polls. Statements like "*roundi hii itakua deadly!*" (this time round it will be worse!) are common all over the Nairobi slums. Very few households are willing to disclose the actual size of their arsenals. There are good grounds to suspect that families have acquired machetes and other crude weapons for defense. In itself, the possible presence of such weapons creates tension and is a threat to peace. The projection that "things will be

bad” shows that violence still lingers in the air waiting for something little to ignite it.

3.1.2 Failure to punish perpetrators of post-2007 elections violence

The failure by the government to prosecute known criminals who torched homes and committed murder, rape, and other criminal acts during the December 07/January 08 post-poll chaos has provoked resentment among the victims. Individual victims and the communities they represent are therefore looking up to the next round of polls for their opportunity to revenge against such people, some of whom are said to be walking free in the slums. Further, the government’s failure to assist victims of post-elections violence to reconstruct their lives is itself a recipe for violence in 2013. Indeed, the slums still abound with people who sustained severe physical injury, lost their only sources of income, or those who had their family members killed in the violence. With no foreseeable help coming from the government, some victims and survivors could see the elections period as an opportune moment for revenge.

In addition, building from the unfortunate experiences of post-2007 elections violence, some residents have stated that they will never vote again. Among these are residents who were either victims or who got very disappointed with the results. The disappointed lot says that voting has no significance if the winner has been pre-determined. The victims of post-2007 elections violence are annoyed with the process because it caused them unnecessary physical and emotional pain, some of which they will have to live with throughout their lives. Some survivors have vowed never to go anywhere close to a polling station again. This group could be a bad influence on others, leading to low voter turnout.

3.1.3 Early migrations from the slums

Resulting from the smoldering tension, some residents who retain rural homes – especially people from Western Kenya - are planning to transport valuables, women and children during the forthcoming Christmas Holidays. The arrangement is that men will return after Christmas but the rest of the family will stay home until after successful conclusion of the election process. Thousands of residents are also planning to relocate from volatile estates (especially from those villages where the Luo and Kikuyu live close to each other) to relatively safe neighborhoods within Nairobi. Whether the residents will relocate to their rural homes or within Nairobi, such a move could lead to massive disenfranchisement, which goes against the spirit of free and fair elections. Secondly, the relocations will put a heavy financial burden on the migrating parties. This creates a situation in the slums where elections are seen as a burden and an inconvenience to the electorate at a time when the reverse should be the case.

3.1.4 Insiders versus outsiders divide

Tension is also building between two groups of residents: the insiders versus outsiders. The insiders (*wenyeji*) are people who were born and brought up in the slums and hence have no other place to call home except the slums. The outsiders (*watu wa kucome*) are residents (many unmarried and still unemployed) who only came to Nairobi recently to look for work but who retain alternative homes in rural areas (*ushago*).

The bone of contention is the allegation that *watu wa kucome* have in the past played a leading role in fueling violence –especially burning homes – because they have alternative homes in the rural areas to run to after destruction. But *wenyeji* have no alternative place to run to if Nairobi burns. They are more reserved and always exercise control even when there is a crisis. Ahead of the 2013

polls, *watu wa kucome* have been put under pressure by *wenyeji* to vacate the slums before the elections for fear that they will instigate violence like they did in 2007. But *watu wa kucome* are more in number. They have united against *wenyeji* whom they call cowards and anti-change minded. Isolated conflicts have been reported among the Luo in Mathare.

3.1.5 Degenerating landlord-tenant relations

As captured in the previous chapter, landlords-tenants relations have been characterized by conflict since December 2007 when post-elections violence erupted. Through the interventions of various civil society organizations, the situation improved in selected slum villages. But the situation is degenerating pretty fast as the nation gears up for the next round of elections in March 2013. First, there are selected villages in Kibera where Luo tenants chased away the Kikuyu structure-owners and never gave them a chance to return. The Kenya government has done very little to assist the landlords to reclaim their assets. Reports from NASLA delegates indicate that the displaced landlords are planning to take advantage of the disorder that characterize elections period to use violence in reclaiming their structures. Reports indicate that the tenants have armed themselves to counter such attacks if and when they occur.

Building upon the lessons learnt in 2007/2008, Kikuyu landlords in selected slums have rolled out a plan to evict Luo and Luyiah tenants from their houses before 2013 polls. The primary aim of the plan is to get rid of tenants who could take advantage of elections crisis widely expected in 2013 to cause destruction reminiscent of post-2007 events. Part of the plan is hiking rent beyond the ability of the tenants to pay. In Huruma, Kibera, Korogocho and Dandora, Luo and Luyiah tenants have received new rent rates which they must comply with or quit. Other landlords have issued tenants with quit notices on the pretext that they want to renovate the houses. A spot check on houses already vacated after the quit notices indicates

that no renovation is going on. Instead, some of the vacated houses have been allocated to new tenants with whom the landlords feel secure. In selected slums like Mathare where tenants have refused to vacate, the Kikuyu landlords are suspected to have colluded with arsonists to burn down the structures. This then gives the landlords opportunity to rebuild descent flats on their plots.

Luo and Luyiah tenants are already conscious about the scheme and the majority of them have vowed never to relocate. The few that have agreed to relocate demand three months notice in writing which most landlords are unwilling to do. Some tenants suspect that Nairobi politicians contesting for various elective seats are supporting the eviction plans so that the majority of Luo and Luyiah tenants get disenfranchised. If successful, such a move will give the Kikuyu competitors an advantage over the rest of the candidates.

As landlords-tenants relations degenerate in the run-up to the 2013 polls, it is highly expected that the landlords will hire militias to forcefully evict defiant tenants from their premises. The tenants could organize themselves and fight back or altogether burn down the structures in protest. Then political violence will have begun. It is also highly expected that the trend of clumping together into ethnically exclusive villages will intensify by December 2012.

3.1.6 Ongoing political alignment and pending cases in International Criminal Court

The impending cases at The Hague involving two presidential candidates, Hon. Uhuru Kenyatta and Hon. William Ruto, have had their adverse effects on ethnic relations in the slums. Nationally, the cases are shaping new political alliances with many analysts convinced that William Ruto will make good his promise to support Uhuru Kenyatta's candidature. Since the ICC prosecutor revealed the names of the six suspects, members of the Kikuyu and Kalenjin communities have suspected that Raila betrayed Uhuru and Ruto

so that he can be the ultimate successor to Kibaki during the next general elections.

Upon the commencement of Case II of Pre-trial Chamber hearings in The Hague in August 2011, politicians hired youth to circulate leaflets warning the Luo of dire consequences should charges be confirmed against Uhuru. Tension did build up when the Pre-trial Chamber finally confirmed the charges against Uhuru, Ruto and the other suspects, but it did not lead to violence because of heavy police presence. With less security expected in the slums during the electioneering period, Luo residents suspect the Kikuyu could take advantage of the situation and actualize their threats. Luo and Luyiah communities are very critical about the ongoing Uhuru-Ruto political alliance which they see as a deliberate ploy to block Raila (and therefore the Luo) from ascending to the presidency.

The slum residents are also curious to see whether the Independent Electoral and Boundaries Commission will clear the Hon. Uhuru Kenyatta and William Ruto to run for presidency based on their suspected criminal records which go against the spirit of the constitution. Violence could erupt in the slums if both or either is blocked from running for presidency. Yet, their clearance to run for the seat might embed a culture of impunity among citizens and politicians, which could undermine law and order not only during the 2013 polls but also in future.

3.1.7 *The reactivation of ethnic militias*

One of the unfortunate consequences of post-2007 elections violence is that it taught slum residents about the indispensability of ethnic vigilantes and militias for defense in the event of ethnic crises. This belief is based on the reality that the police cannot penetrate the slums to provide adequate security like the militias and vigilantes. So, as the nation prepares for the next round of polls, each community and slum village is trying to put up some security

arrangements so that its members are not caught unawares as it did happen in 2007.

The continued operations of the Mungiki in the slums with impunity despite its banning (alongside others) by the Ministry of Internal Security and Provincial Administration, has inspired the reactivation of hitherto defunct or dormant tribal militias. Since the Kikuyu elite are believed to have mobilized Mungiki to help in the defense of the Kikuyu community in the slums and Rift-Valley at the height of the violence, suspicion has increased that the Kibaki regime is interested in keeping Mungiki active but in suppressing others.

Irrespective of whether violence recurs in 2013 or not, other communities feel very unsafe with the Mungiki terror group. Some even suspect the organization is being strengthened to assist Uhuru Kenyatta (previously alleged to have connections with the group) to capture the presidency. It is projected that dormant groups such as the Taliban and Jeshi la Mzee could be reactivated to protect the Luo and Luyiah respectively. Newly emergent militias that operate outside Nairobi such as “China” and “America” could also find their way into the Nairobi slums. Vigilantes could also mushroom disproportionately.

3.1.8 Intra-party violence during party primaries

Intra-party conflicts and violence are likely to occur during intra-party nominations expected to take place between December 2012 and January 2013. The main cause of the conflict will be the scramble by candidates for the “winning tickets” which big parties with big names such as TNA, ODM, and UDF provide. The struggle will be greater in those parties because the winner of the party ticket is likely to win the March polls especially in constituencies where the party is dominant or has the support of the majority.

Intra-party nomination was characterized with violence in 2007. The affected parties were ODM and PNU. The trend is unlikely to change because the IEBC or any other independent body will not monitor the polls or nomination process. Party officials are also likely to use corruption by reserving party tickets for unpopular but financially better-off candidates as was the case in 2007. This will generate protest and even violence. Already, young candidates have sent protest messages against the high application and clearance fees charged by the mainstream parties. Other issues such as voter importation and rigging are likely to provoke resentment and violent reprisals. The fact that there will be no defections or change of political parties after the conclusion of party primaries will naturally make intra-party competition very stiff.

3.1.9 Blocking candidates

The habit of blocking some candidates from entering specific slums or villages to campaign has already begun to manifest itself in the slums. People behind this move intend to reserve block votes for some candidates. The most affected seat is County Governor. Two candidates for the Nairobi County Governor seat have been blocked from entering some villages either because they were unwanted or did not pay the youth. The police did not intervene in both cases to assist the candidates to exercise their rights to campaign in all sections of Nairobi County as provided for by law. It is widely expected that the trend will intensify as the nation draws closer to the March 2013 polls. Unless brought under control, such trends are a recipe for violent encounter between the youths.

3.1.10 Hate speech and incitement

As demonstrated in the previous sections, the slums are getting very fragile as the nation races towards the 2013 polls. Since the previous elections affected the majority of the residents, different groups

have their fears as well as expectations for the polls. Against this background of fragility, incitement from politicians or insensitive utterance from candidates seeking various elective positions could easily set the slums on fire. If the utterances by Hon. Waititu against the Maasai are anything to go by, it shows that an insensitive remark by a politician is susceptible to misinterpretation and can fuel violence of uncontrollable magnitude. Since nearly all candidates will be relying largely on their kinsmen for political support, the propensity to ignite violence by antagonizing one group against the other or simply by making innocent or unconscious utterances is very high. Already, politicians are reverting to their mother-tongues when they want to pass sensitive information which they don't want the opponent group to understand. Candidates have also begun to use vernacular FM stations to propagate divisive ethnic ideologies or to relay ethnic propaganda as witnessed in 2007/2008.

3.2 Other Threats

Some of the threats to free, fair and peaceful elections are not necessarily consequences of the 2007 post-election violence. The following is a summary of such threats.

3.2.1 *Voter bribery/money politics*

Voter bribery and money-based politics will also undermine the credibility of the impending 2013 polls. The distribution of money or other favors to the electorate after rallies has become a common trend in the slums. This practice increases fights among the youth who often disagree on how to share the money. Occasionally, fights over campaign money extend to the slums and explode in youth rivalry. Money-based politics will grossly undermine the credibility of the electoral process. It is highly likely that the youth will ignore or dismiss candidates who don't give them money or any other favors after a rally. It will also encourage thuggery and petty rivalry

as youth compete to demonstrate loyalty to the politicians in return for pecuniary gains and not in terms of the quality of their campaign message.

3.2.2 *Insecurity in the slums*

Both party primaries and the general elections will be held in the slums at a time when large sections lack police presence and are therefore very unsafe. This will force the candidates to rely on their own private security arrangements. Young people who are venturing into politics for the first time may not have enough money for hiring the requisite security. Thugs, hooligans and criminals could take advantage of such candidates - especially women- to harass, intimidate, or administer other kinds of criminal acts. Few candidates would take their door-to-door campaigns to such areas, with the effect of reduced voter turn-out. With inadequate government security in the slums, the police, elections monitors and observers will not be able to detect electoral fraud and respond to emergencies on time.

3.2.3 *Lack of information*

A significant number of slum residents are still unaware of the increased number of candidates that they will be required to elect in the March 2013 elections. Whereas the number has since increased to six (i.e. the president, senator, governor, Member of Parliament, women representative, and ward representative), the majority of voters still think in terms of the 'traditional three' – Councilor, MP and President. Much less, the majority of the slum residents do not understand as yet the roles of the additional three candidates as well as the constituencies that they will represent. A section of the electorates think wazee wa vijiji (village elders) -who otherwise impact a lot on their lives more than the Councilor or Member of Parliament - will be elected.

With too much focus on the presidential candidates, chances are high that the electorate could ignore to vote for the other candidates either because voting six candidates at the same time will be a tedious and time-consuming exercise or simply because they do not know all the candidates well enough to vote for them. Consequently, the number of spoilt votes could also increase tremendously during the forthcoming polls. More importantly politicians are likely to take advantage of the voters' ignorance to push for 'suit voting' style where electorates vote indiscriminately to all candidates from top to bottom who belong to same 'favorite' party.

A large number of the slum residents still lack information about the newly created wards and constituencies as well as their geographical boundaries. Obviously, the unscrupulous politicians are likely to read mischief in the boundaries especially if they don't serve their political interests. The issue of 'voter importation' could arise – a situation in which a voter resides in a different constituency/ward but registers as a voter and votes for his/her favorite candidate in another constituency/ward.

Unless sufficient civic education is done before the March 2013 polls, chances are high that some voters will appear in the wrong polling stations. Also, many residents still lack information about electronic voting system and whether IEBC will allow them to vote anywhere if the system is adopted. In a nutshell, voting as an exercise will, under the (new) constitution, require a highly knowledgeable citizenry and a well-informed electorate. Both preconditions have not been sufficiently met in the Nairobi slums.

3.2.4 Problems with obtaining national identity cards

Despite the insufficient civic awareness that still prevails in the slums, the majority of the youth have expressed interest to actively participate in the forthcoming polls as voters. However, a significant number that has attained the age of majority could be

disenfranchised because they lack national identity cards, without which they cannot register and vote. Delegates to NASLA explained that the process of obtaining a national identity card in the slums is long and riddled with a lot of bottlenecks which only a few youth have the resources or patience to surmount. Many applicants complain about such mandatory requirements as a birth certificate and a letter from the Chief, which they lament, increase the level of corruption. Also, some youth lament they do not have parents in the slums. In some instances, their parents are simply unwilling to cooperate. Indeed, children (now adults) who were born outside governments hospitals or registered private clinics also have a problem processing birth certificates.

3.2.5 Evictions by the government

The 2013 elections will be held in the slums against a background of either ongoing or planned evictions by the Nairobi City Council acting on behalf of the government. Several residents squatting on government land have received eviction orders which could be effected any time soon. One of the areas affected is the Kibera slum where people residing along the railway line have been given notice to relocate. Whereas the evictions done by the government have more legitimacy than those organized by the landlords, many residents could read mischief in the exercise, especially if they come just before the elections. Indeed, candidates running for various elective positions could politicize the exercise especially if the evictions work against their interest. This could lead to localized conflicts which could later spiral to other slums.

The ongoing debate about the need to create an exclusive 'Nubian Village' in Kibera in order to protect the land rights of the minority community could also get politicized out of proportion. Already, tension is building up between the Nubian and other communities in Kibera suspected to have encroached on the Nubian land. The Nubian community is waiting to see how various presidential and parliamentary candidates will address the matter in their campaigns.

3.2.6 *Circulation of illegal firearms in the slums*

Lastly, the increasing number of illegal firearms in the hands of civilian slum residents could undermine the prospect of peace during the forthcoming polls. Although the guns are traditionally used by criminals in committing crime, chances are high that they could also be used in waging political violence should conflict erupt in the pre- or post-poll period. Besides being a source of tension, the presence of guns in the slums could drastically reduce the capacity of the police to forestall or respond to political violence if it erupts. More importantly, the illegal guns could be used to settle political and ethnic scores carried over from the post-2007 elections violence.

Chapter 4



Gains Made Towards Achieving Free, Fair and Peaceful Elections

4.0 Overview

Article 1, Sub-Article (2), of the Constitution of Kenya 2010 stipulates that “The people may exercise their sovereign power either directly or through their democratically elected representatives.” The general election is the biggest national event in which Kenyans choose the representatives through whom they may exercise their sovereign power. It is through the election process that the people of Kenya bestow legitimacy upon certain individuals to hold political offices and make decisions in various capacities on behalf of Kenyans. The key requirement in this process is that its outcome should be a true reflection of the will of the people. For this requirement to be met, elections should be conducted in an atmosphere that is conducive to the expression of a voter’s free will. That is to say, an atmosphere in which a voter is not coerced by a person or circumstance to act or not act in any way that does not truly reflect the voter’s personal

preferences. In practical terms, we believe that the will of the people has been expressed when elections are free, fair and peaceful.

In chapter 3, we have painted a gloomy picture of the Nairobi slums by highlighting the main issues that can act as obstacles to the realization of free, fair and peaceful elections during the forthcoming polls. In this chapter, we attempt to revive hope in the slums by focusing on prospects for achieving the desired stability in the pre- and post-elections period. We try to achieve this by dividing the chapter into two sections. Section I highlights the positive lessons learnt from the devastations of post-elections violence and how they inform the prospects for peace and stability. Section II concentrates on the Constitution of Kenya 2010 and examines it in terms of its potential to guide development, respect for rights and rule of law, all of which are preconditions for achieving stability and sustainable peace in the slums.

4.1 Positive Lessons Learned From Post-Elections Violence

Our natural reaction to conflict is to give attention to its negative effects such as deaths, lost or damaged property, retarded development activities, and lost international goodwill. This is understandable because the pain of loss always gives it visibility. However, while giving due attention to loss arising from conflict, we should not lose sight of the fact that conflict, at the very least, always teaches us something, which we may regard as a gain from the conflict. This is true both generally and in specific situations such as our experiences in the 2007/2008 post-election violence to which some of the gains listed below may be attributed.

4.1.1 Increased civil society involvement in the slums

The devastations wrought by post-2007 elections violence taught the nation and the international community that the slums are indeed a time-bomb waiting to explode any moment. Consequently, it is today clear in the conscience of government policy makers and human rights

defenders that 3 million people cannot be subjected to indignity as the rest live in plenty. Although the involvement of the civil society in slum reconstruction went down one year after the violence, the last six months (starting from April 2012) have witnessed the return of civil society and other external agencies in the slums. These organizations seek to engage with slum residents on civic education (around the new constitution), peace building, and economic empowerment as well as in the physical infrastructural development.

CAVi is one of those civil society organizations that have intensified their involvement in the slums affected by the 2007 post-poll violence. As detailed in Chapter I, CAVi-FES Nairobi Slums Leaders Assembly (NASLA) provides a forum where youth leaders from 10 slums in Nairobi discuss actual and potential threats to peace in the run-up to 2013 elections and beyond. The Assembly has a network of youth leaders who provide CAVi with an update on unfolding events in regard to their implications to sustainable peace in the slums. The information obtained is then relayed to a network of human rights organizations with a view to prompting rapid responses. The leaders also assess early warning signs upon which practicable interventions may be based. Besides monitoring and reporting, the 60 NASLA delegates are actively involved with their respective communities in peace-building and civic empowerment.

4.1.2 *Appreciating Peace*

The youth who were at the center of the violence learned critical lessons about the value of peace and ethnic co-existence. Only a week after the violence, militias were negotiating peace with each other because the violence had taken a heavy toll on them. Not only had they lost their members in unnecessary fights, food had run-out in nearly all slum villages due to the breakdown of law and order. Considering the magnitude of devastations the conflict visited on the social fabric, most survivors agree that it was a useless fight. The youth are especially discouraged by the realization that their situation did not change despite the fact that both principles (Kibaki and Raila) on whose behalf they had killed one another are comfortably sharing

power. The majority are therefore apprehensive of being entangled in the looming next round of violence. This explains why some residents are considering migrating to their rural homes or to safer neighborhoods as the polls draw closer.

The resolve of a section of the youth to resist violence is evident in the manner in which they interact across ethnic boundaries. Indeed, it is the youth who dissolved ethnic boundaries that mushroomed spontaneously at the height of the violence as a security management strategy. Youth interaction has intensified through a number of sporting events, coming together in social gatherings and revival of inter-ethnic marriages. The majority of the families that broke at the height of the violence because of ethnic peculiarities have since re-united. Equally, women and children from different communities interact more closely and less suspiciously than immediately after the violence. The implication of this development is that different communities that make-up the Nairobi slums are beginning to appreciate the fact that they need each other in their daily struggles to make ends meet. In a nutshell, there is a general resolve to forget the past and to begin fresh inter-ethnic intercourse based on respect, tolerance and acceptance, in spite of the potential threats noted in chapter 3. It is important to observe that in complex demographic situations of the type prevalent in the Nairobi slums, it is quite possible for tendencies that are contradictory in nature to co-exist with equal degrees of emotional commitment.

4.1.3 Lessons from the 2010 constitutional referendum

The positive lessons learned from the peaceful constitutional referendum held in 2010 (just two and a half years after the violence) provided a big encouragement to the residents of Nairobi slums over prospects of sustainable peace in the slums. Although some analysts discount the peaceful referendum on the fact that two rival communities – the Luo and Kikuyu – were both on the yes-camp, the level of responsibility that the voters exhibited despite tension and actual threats of violence was exemplary. Compared to the

2007 general elections, more residents turned out to vote during the referendum. This can be interpreted to mean that there was increased hope in the new constitution as a basis for addressing social and economic challenges in the slums.

The Nairobi slum residents also admire the responsible manner in which the Interim Electoral and Boundaries Commission managed the referendum. The Commission (now Independent Electoral and Boundaries Commission) has earned itself praise by successfully conducting by-elections in different parts of the country. All in all, slum residents and Kenyans at large are reviving their hope and trust in the new electoral body especially after the disappointing performance by the defunct Electoral Commission of Kenya (ECK) team. All these developments increase hope that elections will be devoid of violence and other forms of electoral fraud that characterized the 2007 exercise.

4.1.4 Involvement of ICC in Kenya

The involvement of the International Criminal Court (ICC) in Kenya's post elections violence also bodes well for sustained peace in the slums, although it may also cause conflict due to resentments against its operations. The appearance of five prominent Kenyans in the Ocampo Six List, the trial of the suspects in The Hague, and subsequent confirmation of charges against four suspects has opened a new chapter in Kenya's history. The ICC involvement is a major step towards dealing with the problem of impunity which has over the years undermined the credibility of electoral process thus fueling bitterness, conflicts and violence as witnessed in 2007/2008.

The ICC involvement has exposed the ordinary slum dweller to the common practice in mature democracies that even the powerful and mighty are vulnerable before the law. This lesson is likely to deter irresponsible conduct by individuals and militia operatives. ICC lessons could also compel responsible behavior from aspirants. In particular, it could deter incitement and prospects for sponsoring militias to commit atrocities as witnessed during the post-2007 elections violence. The

media – especially FM Radio stations – will also find themselves under pressure to report responsibly on the elections.

4.1.5 Increased government involvement in the slums

The government has also intensified its involvement in the slums in the period after post- 2007 elections violence. Indeed the government has rolled-out a number of programs through various ministries which seek to educate and engage the youth in productive ways. One such enterprise is the *Kazi Kwa Vijana* (work for the youth) project in which the youth do community work in return for monetary remuneration. This reduces the number of idle youth who would otherwise join the militias. At the same time, the project improves the physical conditions in the slums. Since the project was rolled-out in 2008, it is estimated that some 10, 000 slum youths benefited from it, even though every phase lasts three months only.

The government has also availed micro-credit facilities to youth organizations through the Ministry for Sports and Youth Affairs. The purpose of the facility is to support small-scale business ventures as a way of promoting self employment in the informal sector. A dozen youth organizations have taken advantage of this facility to set-up small-scale businesses such as kiosks, car wash, barber shops, and salons. Non-governmental organizations, such as Oxfam GB, have also engaged hundreds of unemployed youth in the slums in waste management (plastic recycling). Such kinds of engagement help to stem insecurity and other social problems such as drug abuse that result from unemployment. Further, the government - in partnership with non-governmental organizations - has organized a series of training for selected youth on entrepreneurship skills. The aggregate effect of this training is that the youth have been encouraged to identify and exploit numerous opportunities that abound in the slums instead of looking for white collar jobs.

The government has also made some good progress towards stepping up security in the slums in the period after post-elections violence. Slum residents praise the government for beefing up security in the

slums both during the 2010 referendum and at the time the ICC Pre-Trial Chambers rendered verdicts on the six suspects in January 2012. The high levels of responsibility exercised by the police during these two events could go a long way in reviving citizens' faith in the police force.

Further, the government is involved in constructing new police stations as well as expanding the existing ones so as to enable it to increase (physical) police presence in the slums. NASLA delegates observe that police patrols in the slums are steadily increasing as the nation draws closer to the 2013 polls. Indeed, some police officers conduct patrols in civilian clothes and in unofficial vehicles hence they are difficult to notice. Delegates also report that police response to crime has also improved, although they seem to disagree with shoot-to-kill strategy. There is also steady improvement of police-civilian relations and a shift of trust from the militias to the police. Police stations in the slums currently receive more information about crime and names of suspects. This was not the case in the period immediately after December 2007/January 2008 violence given the partial and unprofessional manner in which the police responded to the crisis.

Apart from increased police presence, the government has rolled-out a massive slums upgrading program which specifically focuses on road construction and repair. A spot check confirms that there is at least one road under construction or upgrading in each of the ten slums where CAVi works. All the construction work began after the violence and most of it is nearing completion. Once such project is completed, the residents hope the police will be able to respond efficiently to security challenges especially during the forthcoming polls. The improved road network will also transform the face of the slums by expanding business opportunities which the youth will explore for self employment. Further, road construction itself provides employment opportunities to local youth thus reducing unemployment.

4.1.6 Improving landlord-tenant relations

Landlords-tenants relations have improved in most slums. This is evident in the fact that the illegal tenancy that had affected all slums has ended except in Kibera. In all the cases, the illegal tenants agreed to evacuate voluntarily after CAVi's landlord-tenant dialogue meetings which were held immediately after the violence. Although the return of landlords-tenants hostilities is foreseeable in some slums ahead of the March 2013 polls, post-elections disturbances taught both parties a lesson that they need each other. The majority of the rental houses being constructed after the 2007 violence have toilet facilities and bathroom. A number of human rights organizations have organized training programmes for both landlords and the tenants to enlighten them on the rights and obligations of each party. Also, a number of rent conflicts are now being arbitrated by the District Peace Committee, the Chief and village elders without resort to forced evictions.

4.1.7 Voter registration

A significant number of the youth who have attained the age of the majority have applied for a national identity card. Those who lost their cards are been encouraged to replace them. The provincial administration, IEBC, and human rights organizations operating in the slums are working in collaboration with local youth organizations to mobilize the youth to register as voters. Even the media have played an important role in the sensitization of the youth. In Kibera, Huruma, Korogocho and Eastleigh, close to 80 per cent of the youth have already registered as voters. Voter registration stations have been opened in all slums and they receive a large number of applications daily which are then processed and returned after two weeks. The motivation behind increased voter registration is the fact that the majority of the residents want to use the opportunity presented by the 2013 polls to transform political leadership by electing quality leaders who can guide them in finding solutions to a myriad of socio-economic challenges in the slums.

4.1.8 Community involvement in election monitoring

The youth and the slum residents at large have taken advantage of increased civic awareness to get involved in election monitoring. Primarily, slum residents are inspired by the conviction that they are stakeholders in the process and hence the need to monitor its credibility at all stages. This conviction will help to deconstruct the traditional perception that election monitoring can only be conducted by external agencies accredited by the government or the electoral commission. Already, a number of civil society organizations – including CAVI – have recruited and trained election monitors.

Community involvement in election monitoring has the advantage of pre-empting planned violence especially in slum villages which the police and accredited agencies cannot access due to insecurity. An increasing number of media houses including slum-based FM radio stations have promised to establish emergency hotlines for receiving information related to election violence. Indeed, the improvement in communications technology - especially the presence of mobile phones in nearly every household - will increase the prospects of sharing relevant information during the electioneering period not only with the media houses but also with other citizens across the nation.

4.2. Hope Inspired by the Promulgation of the Constitution of Kenya 2010

The promulgation of the Constitution of Kenya 2010 has inspired a lot of hope among slum residents on the prospects of realizing sustained peace and development in the slums. The Nairobi slum residents are conscious of the fact that the constitutional review process would not have been put on the agenda of the coalition government were it not for the violence which started in the slums and in which a majority of them suffered. The residents therefore view the constitution as an outcome of their suffering and they have demonstrated commitment to defend it. The involvement of the youth from the slums in the constitutional review, their participation in intensive civic education

that was conducted by IEBC on the draft, and their subsequent participation in the referendum have together created a high level of civic awareness that did not exist in the slums during the old constitutional dispensation. Today, nearly every slum household has the constitution, although only a few have read and understood it.

In principle, the Constitution of Kenya 2010 is a new contract between the people of Kenya, including the slum dwellers, and the leaders who will be discharging responsibility at various levels. It has increased residents' hope for a better future with increased service delivery to their neighborhoods which have over the past decades been ignored in policy planning. In particular, the constitution provides the rationale and platform within which to conceptualize and launch social, economic and civic empowerment in the slums. Further, it gives the residents power and legal mandate to demand services and protection from the state.

The potential of the new constitution to transform the lives of Nairobi slum residents was revealed by the excitement and appreciation with which the assembly members received its chapters and articles discussed during the various sessions. Five of the articles that received significant levels of appreciation are displayed in the exhibits below.

Exhibit 4.2.1

Chapter one – sovereignty of the people and supremacy of this constitution

- Art.1 All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with the Constitution.

Assembly members appreciate the fact that the Constitution gives them power, which they may delegate to individuals who exercise it on their behalf. This makes it easy for them to understand the need to participate in voting either during the general election or in the event of a referendum.

Exhibit 4.2.2

Chapter four--the bill of rights

19(3) The rights and fundamental freedoms in the Bill of Rights—(a) belong to each individual and are not granted by the State;

Those who live in the slums are usually treated as if they had no rights. This explains why the Assembly members were excited to learn that their rights and fundamental freedoms are inherent human rights, which they can demand and not just gifts from the State.

Exhibit 4.2.3

Chapter four– the bill of rights

- 29. Every person has the right to freedom and security of the person, which includes the right not to be—
 - (a) deprived of freedom arbitrarily or without just cause;
 - (b) detained without trial, except during a state of emergency,
 - (c) subjected to any form of violence from either public or private sources;
 - (d) subjected to torture in any manner, whether physical or psychological;

The rights protected by this article are very important to residents of the Nairobi slums, whose rights and freedoms are often violated by chiefs, police officers, and other security forces.

Exhibit 4.2.4

Chapter four--the bill of rights

- 42. Every person has the right to a clean and healthy environment, which includes the right—
 - (a) to have the environment protected for the benefit of present and future generations through legislative and other measures.

It was almost unbelievable when the attention of the representatives of various slums was drawn to this particular article, which emphasizes the right to have a clean and healthy environment – something on which a good number of the slum residents had given up.

Exhibit 4.2.5

Chapter four--the bill of rights

- 43. (1) Every person has the right—
 - (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;
 - (b) to accessible and adequate housing, and to reasonable standards of sanitation;
 - (c) to be free from hunger, and to have adequate food of acceptable quality;
 - (d) to clean and safe water in adequate quantities;
 - (e) to social security; and
 - (f) to education.

This article more or less summarizes the neglected day-to-day needs of the slum dwellers. It is therefore understandable that Assembly members regard it as something was designed to protect them and are enthusiastic to see it implemented.

The prospect of a devolved government also provides immense hope among slum residents, in particular with respect to efficient service delivery to citizens. It encourages active participation of the youth who constitute the majority of the slum population in politics through various elective positions provided for in the devolved government as well as at the national level. Hundreds of young people have already declared interest to run for the position of Ward Representative in the Nairobi County. CAVi - in partnership with Friedrich Ebert Stiftung (FES) - organized training for 25 young candidates from different wards in Nairobi who have already declared interest in the post of Ward Representative. The 25 candidates are not only drawn from diverse ethnic backgrounds, they also represent different political parties.

If cleared by their respective parties and subsequently elected, slum residents can bank on the hope that the youth will articulate slum issues in the Nairobi County Government. Unlike before, slum voters are about to elect representatives from their own ranks, rather than just selling their votes to outsiders. Thus, slum youth are beginning to see themselves as leaders and actors in local development - including providing solutions to slum-based violence and neglect.

4.2.6 Reforms so far secured after the promulgation of the constitution

Other gains made after the promulgation of the new constitution could also help to assure free, fair and peaceful elections in the Nairobi slums. Slum residents are very impressed with the reforms in the judiciary since the appointment of Dr. Willy Mutunga as Chief Justice. They believe the courts have become more independent and less corrupt. Consequently, the courts can now be relied upon to administer justice – including arbitration of any emerging electoral conflicts without resort to violence.

The residents are particularly impressed by the Kerubo Case which led to the suspension of Deputy Chief Justice – Nancy Barasa – after she allegedly harassed and intimidated Kerubo while on her guard duties in City Market. They believe Kerubo could have been any one of them who eke out a living as a guard. Justice to Kerubo is justice to the poor, they believe. Further, slum dwellers are impressed by a recent court ruling which nullified the presidential appointment of County Officers. For the first time, the small man in the slum is witnessing a revival of what they believe is rule of law. Faith in the judiciary will therefore act as a form of deterrence to options for violence and revenge among parties disappointed either with the elections results or the manner in which the elections has been conducted. In a nutshell, the new constitution ushers in a new era of hope in the slums.

Chapter 5



Summary, Conclusions and Recommendations

5.0 Summary

'Taking Stock of Socio-Economic Challenges in the Nairobi Slums' is an attempt to provide some insight into what is going on in the slums of Nairobi looked at from a bird's eye view whose span covers the period between January 2008 and November 2012. The insight comes from approximately five years of interactive sessions with representatives of Nairobi slums within the framework of The Nairobi Slums Leaders Assembly (NASLA), a project of Citizens Against Violence (CAVi) which has enjoyed the support of Friedrich-Ebert-Stiftung (FES), Nairobi. The period (January 2008 – November 2012) is significant because it represents the term of office of Kenya's first coalition government based on a bilateral negotiated deal between PNU and ODM, whose disagreement over the results of a presidential election drove Kenya to its first real possibility of a civil war.

The post-2007 elections violence erupted at a time when Kenya had made major strides toward democratic advancement. The consequences of the violence went beyond simply undermining the

democratic gains made after the peaceful transfer of political power from KANU to National Rainbow Coalition (NARC). Indeed, the violence also reversed Kenya's economic growth, aggravating the inflationary situation from which the country is yet to recover.

The effects of the violence in Nairobi were felt most severely in the Nairobi slums, where the violence led to ethnic killings, displacement of people and destruction of property. As demonstrated in the foregoing chapters, poor socio-economic conditions in the slums fueled and sustained the ethnic violence for about two months. Following the official cessation of hostilities by the end of February 2008 after the National Accord was signed to legitimize a power-sharing arrangement between ODM and PNU, the slums have been on a slow but steady recovery track. Landlord-tenant relations have improved in most slums except some villages in Kibera where the problem of illegal tenancy persists. Ethnic militias and vigilantes have also reduced their operations in the slums save for isolated cases. Further, inter-ethnic interactions have resumed and ethnic boundaries formed at the height of the violence have since disappeared.

The gains so far made towards normalizing inter-ethnic relations in the slums of Nairobi are, however, currently threatened by the tensions associated with the forthcoming general elections slated for March 2013. Since some issues that either informed, or resulted from, post-2007 elections violence were not resolved, the majority of the residents suspect that another round of ethnic violence is unavoidable during the forthcoming elections. Evidently, landlord-tenant relations have begun to deteriorate as early as four months to the polls. Militias and vigilantes have begun to mobilize themselves to avoid being caught unprepared, and some residents are arming themselves for the anticipated violence while others are planning to relocate to their rural homes or to safer neighborhoods until after the elections.

The pessimism runs counter to the ongoing developments in the management of the elections, which seems to indicate that there is a high prospect of free, fair and peaceful elections. These developments

include increased involvement of the civil society, the government and external agencies in the slums primarily to create psychological and physical conditions conducive to the maintenance of peace during the forthcoming polls and beyond. Still, some analysts hope that the sad experiences of the 2007/2008 violence will discourage its recurrence in 2013. They cite the fact that elections will be held against a background of ICC involvement in Kenya, which will likely serve to deter acts of impunity by politicians. More importantly, the Constitution of Kenya 2010 provides a solid foundation for the containment of electoral violence. It also provides ground for addressing social, economic and political injustices, which contribute to the volatility of the slums.

Unlike the old constitution, the Constitution of Kenya 2010 has set up and empowered credible agencies which will hopefully respond to and deal with electoral disputes and offenses. The increasing faith in the Kenyan judiciary and in the competence of the Independent Electoral and Boundaries Commission to conduct free, fair and credible elections seem to eliminate fears about the prospect of violence in 2013. The steady increase of police presence in the slums ahead of the March 2013 polls, and the palliative effects of the talk about police reforms, are positive developments that all act to minimize fears of violence.

In a nutshell, there is a mixture of hopes and fears about the prospect of electoral violence during Kenya's 2013 general elections. Whereas it is too early to judge which side could be right, it is important to exercise precaution by not over-investing on the faith and trust of optimists. In any event, it is always safe to err on the side of precaution than to develop last minute interventions when poll violence will have already taken its heavy toll on innocent people like it did in 2007.

5.1 Conclusions

We accordingly draw some ten conclusions from our analysis of the issues and conditions in the Nairobi slums between January 2008 and November 2012.

- There is an evident positive correlation between poverty and violence in the slums. The slums registered a higher magnitude of violence than affluent neighborhoods due to the high levels of poverty and social problems that exist in these neighborhoods.
- There is also a positive correlation between poverty and the inclination to take risks in pursuit of political ideology/agenda. The poor ODM and PNU youth were more willing to sacrifice their lives in the course of fighting ethnic opponents so that their presidential favorites prevailed in the polls. The youth population in affluent neighborhoods of Nairobi was less affected because their relative economic comfort discouraged them from taking risk.
- The government's belated and apparently partisan response to the post-election crisis in the slums deprived it of slum residents' trust. Since the distrust obtains into the 2013 general elections, it is safe to conclude that it will take time for the slums residents to renew trust in the government after the disappointing performance notwithstanding evident gains and reforms secured so far.
- The Nairobi slum residents are actually unsure whether the 2013 poll will be peaceful or violent. However, the majority do not want to take chances because the cost of such a move could be unbearable according to the lessons learned in 2007/2008. This explains why some are arming while others plan to relocate. Landlords cannot equally take chances with their structure because they can't predict with certainty whether the slums will remain peaceful before or after the polls.
- The government, civil society organizations and local slum residents have made good progress towards restoring normalcy in the Nairobi slums. However, the gains made are as yet insufficient to restore residents' trust that there will be no breakdown of law and order during the 2013 polls.

- The material socio-economic conditions still prevalent in the Nairobi slums present a challenge to the management of electoral violence in 2013. By and large, the police will have to rely on residents' goodwill and cooperation in the maintenance of law and order. The desired good will cannot be assured.
- Owing to widespread poverty in the Nairobi slums, breakdown of law and order affects business more than any other thing. Massive looting which took place in the slums as well as tenants refusal to pay rent were all cases of people trying to exploit disorder to make pecuniary gains.
- Security is critical to the survival of the slum community. Lack of state security in the slums has influenced the residents to form and even contribute for the sustenance of vigilante and militia groups. These groups have become a substitute to the police since they play an important role in the protection and defense of the community when emergency situations arise.
- In as much as political violence negatively affects the majority of households, it did benefit a section of slum residents who always look forward to another situation to loot and rape. Such groups can create tension and even provoke violence to create the opportunities conducive to commit crime.
- Elections are important and indispensable phenomena in a democracy. However, they can be very dangerous if poorly managed. In the slums of Nairobi, the mismanagement of the polls by ECK led to severe socio-economic dislocations which residents will take many years to recover from.
- Public faith in key government institutions such as the judiciary is very critical for the restoration of normalcy in the slums to avoid situations similar to the post-2007 poll crisis. But in order for it to be effective, reforms in the judiciary must go in tandem with other reforms such as in the police force. It must

also be accompanied by attitudinal changes in the candidates' and electorates' perception of an election process.

5.2 Recommendations

A number of recommendations have emerged from the CAVi-FES interventions in regard to what can be done to manage recurrent violent conflicts in the slums and specifically to forestall violence during the forthcoming polls. The first part of this section specifies desirable interventions to be made by the government and other agencies in order to make the forthcoming polls free, fair and peaceful. The second part provides general recommendations which aim to improve the situation in the slums in the long-term.

5.2.1 *Part I: Interventions aimed at making the 2013 polls free, fair and peaceful*

- The Kenya government and the police in particular should spare no effort to contain the reactivation of hitherto dormant ethnic militias in the Nairobi slums. This will require that the police act tough on the militias that still operate with impunity because their persistence creates fear and suspicion which consequently inspires the re-emergence of other ethnic militia outfits. In the meantime, the police must monitor the activities of the militias very closely because their involvement in any violent activity could create counter-reactions which could eventually affect the stability in the slums ahead of the March 2013 polls.
- Landlord-tenant relations is crucial to the stability in the slums ahead of the March 2013 polls. Consequently, the police should closely monitor the relations so as to contain possible eruption of violence between the two parties. In particular, the police should bring the law to bear on the landlords who use illegal means to evict their tenants. Equally the tenants who refuse to remit rent should be dealt with according to the law.

- The police must:
 - do everything within their legal powers to ensure that the problem of illegal tenancy which still exists in some sections of Kibera is resolved before elections are held. The tenants who displaced the landlords should be dealt with according to the law so as to revert the structures to their legitimate owners soonest.
 - increase their physical presence in the slums ahead of the March 2013 polls. The increased police presence must go in sync with the police's ability to contain crime and to monitor and act on cases of political incitement widely expected as various candidates compete to win party tickets during the nominations.
 - provide security in all slum villages in order to eliminate the fears which make the militias and vigilantes indispensable.

- IEBC, civil society and international agencies interested in monitoring the fairness of the forthcoming polls should include in their monitoring team representatives of the local community who know all sections of particular slum villages and other relevant issues that inform the prospects of violence.

- Local and international donor agencies should support independent election monitoring in the 10 slums of Nairobi, which account for about 85% of Nairobi's slums population. The process of election monitoring should be launched early enough (not later than December 2012) to enable detection and development of interventions around specific issues that could affect the credibility and fairness the March polls.

- The government should roll-out a massive programme of assisting young people who have attained the age of the majority to obtain national identity cards before the end of December. Such a move will enable a large number of youth to register as voters before IEBC voter registration exercise closes down.

The move may require elimination of bureaucratic bottlenecks so as to make the process fast and efficient and devoid of corruption. The majority of the youth who have so far applied for national identification cards have complained to CAVi that they have been waiting for over five months and are worried the time for voter registration could end before they get the IDs.

- Anxiety is rising over the lateness of voter registration, with doubts being expressed as to whether the process will cater for all the voters when it starts. There is a general concern among slum residents that the IEBC might not have enough time for the exercise considering the high number of voters who will want to register within a short time. In other words, the process should have begun much earlier so as to ensure that all potential voters are registered on time.
- The government should employ every legal means to mop-up illegal firearms feared to be circulating in the slums before the polls are held. The illegal firearms pose a security threat because they could be used against opponent groups during the electioneering period or even after it should conflict erupt over poll results. The illegal firearms also undermine the capacity of the police to respond to crime in the slums.
- The Constitution of Kenya 2010 holds the key to the future of economic development as well as the management of recurrent ethnic and political violence in the Nairobi slums. Civil society organizations should intensify civic education (around the constitution) in the slums ahead of the March polls. The civic education should aim to empower the residents to manage potential violence. It should also seek to sensitize the population to use the Constitution to demand better service delivery in the slums from the government and the yet to be constituted Nairobi County Government.

5.2.2 *Part II: Interventions that generally seek to create stability in the slums*

- The police should either recognize vigilante groups as part and parcel of community police organizations or out rightly disband them because they pose a security threat in the long run. If the vigilantes must be recognized, the government should stipulate rules and regulations which will guide their operations. In the meantime, the police must monitor very closely the operations of the vigilantes.
- The government and civil society organizations should organize joint landlord-tenant meetings to sensitize both groups on their rights and obligations to each other and the legal process to pursue in the event either of the parties feels aggrieved. The Kenya Rent Tribunal Commission should make early interventions to highlight the rules and regulations that govern tenancy as well as the legal implications. Such a move could drastically reduce the prospects of violent conflicts between both parties which largely result from ignorance of the law.
- Further, the government must:
 - take a firm position on the issue of protecting public lands that lie in the Nairobi slums so as to reduce the spate of land-based conflicts. Illegal titles on public land should be revoked and those who assisted in the processing of those titles be prosecuted.
 - as a way of protecting rights, let slum residents who occupy government land beware that they are (temporary) squatters and they could be asked to move out when the government decides to develop those lands. conceptualize and implement slums upgrading programmes in a manner that is sensitive to the rights of the poor and consistent with the provisions of the Constitution of Kenya 2010.

- increase service delivery in the slums. The Ministry of Education should monitor the standards and quality of education in hundreds of private schools that have mushroomed in the slums. The Ministry of Medical Services should increase the number of dispensaries and improve quality of medical services in the existing health institutions.
- The Nairobi City Council should:
 - undertake regular garbage collections and increase the connection of piped water and sewage services.
 - resolve the controversial issue of Dandora dumping site which was proposed for relocation to Ruai over ten years ago, but nothing has been done. The dumping site is a health risk to the population that resides around it.



Friedrich-Ebert-Stiftung

Peponi Plaza, 1st Floor, D2, Mwanzi Road off Peponi Road, Westlands

P.O Box 14932-00800 Nairobi, Kenya

Phone: 254-20-3748338, Fax: 254-20-3746992

E-Mail: info@fes.or.ke

www.fes-kenya.org