

CONFLICT RESOLUTION PROGRAMMING FRAMEWORK

REPORT PREPARED FOR USAID/KENYA

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EXECUTIVE SUMMARY

USAID, in efforts to understand the potential for conflict resolution programming in Kenya and in the Greater Horn of Africa commissioned sixteen papers. Fifteen of them are subject specific. Among the subjects covered are traditional conflict resolution techniques, violence on women, electoral violence, state driven conflicts, urban settlements conflicts, conflicts between agriculturists and pastoralists, ethnic "clashes", conflict early warning indicators, community based conflict management practices, trade conflicts, land conflicts, pastoral cosmology, Islam related conflicts and the Greater Horn of Africa conflict system.

This paper was commissioned to review conflict resolution literature and to distill programming lessons from the literature and the fifteen papers. Towards that end, the author was requested to discuss how Kenya has managed to avoid the cataclysmic conflicts which have taken place in the region. Finally it was supposed to suggest areas which USAID/Kenya could consider in its programming.

Conflict resolution programming is a new concern in development programming. Consequently there are many questions on how it is to be integrated to the normal development programming concerns. The author did not identify any previous work specifically done along these lines. Methodologically then, this is, in more ways than one, a leap into the dark! Among programming people, there is also some confusion. Should conflict resolution be part and parcel of governance? Should it be a stand alone? Should it be part of all sectoral programmes? How does one define conflict? Are some conflicts outside the purview of donor intervention? Resolution of some of these questions would have led to a more elegant methodology.

Since the author did not find methodological models, he decided to lead the substantive portion of the paper with a discussion of the bifurcated source of conflict resolution thinking. This is found in chapter two after a brief introductory chapter describing the genesis of the consultancy.

Chapter two notes that conflict resolution thinking comes out of two traditions. One tradition emphasizes state to state interactions. Thus conflict resolution is in the realm of international relations. In the past, relations between states would be under the mandate of the Department of State and not USAID. However, some US Government programmes currently straddle the classic distinction between diplomacy and development. One such thrust is the Greater Horn of Africa Initiative whose mandate embraces working with the states of the region. Its initial strategy document emphasized food security. It could use state driven conflict resolution mechanisms to address this and many other issues.

The second school of conflict resolution does not see states as the only actors in conflict resolution for it emphasizes that conflict is anchored on intra-state cleavages. In this

arena individuals, communities, development organizations and the private sector are joint actors with the state, albeit unequal. Its major writings have concentrated on the methodology of resolving or transforming conflict. An underlying idea for this school is that for conflict to be resolved, change must come not only to individuals but to social institutions, including the state. Thus when state institutions interact with civil society institutions and development agencies to prevent or transform conflict, there is nurturing of democratization of state and society. This is so since the skills of participation, representation and policy generation are undertaken during the process. This school operates in the classic realm of development. Its concerns therefore fit the classic mandate of USAID.

Reviewing the literature of both schools identified two issues not adequately addressed. These are the problem of a people wanting to exit from already existing states and the role of expanding social, economic and political opportunities for conflict containment. The problem of exit has come to regional scholarship forcefully given the Somali, Eritrea and Great Lakes experiences. Exit from states is seen in some scholarship as part and parcel of resolving conflict. The expanding economic, social and political opportunities of the first years of Kenyan independence primarily explain why it avoided the chaos found in some of the countries in the region.

Chapter two also argues that the main driving force of conflict in Kenya is the absence or weakness of a framework and institutions for popular participation in rulership and the economy. This conclusion is central to all subsequent presentation.

The fifteen commissioned papers were assigned so as to use various methodologies of conflict identification. The key methodologies are socio-political analysis, conflict impact on social groups analysis and analysis of rapid change. They are not mutually exclusive. One should note that they are not the usual skills looked for in staffing development agencies. It follows then that those who need to staff conflict resolution programmes must re-train or hire staff with skills to do these analyses.

Conflicts are aided by state military peacekeeping, by new private corporate armies and by non-participatory emergency /relief activities just as mediators sometimes inadvertently do more harm than good.

Finally, most literature notes that conflict in the third world is generally structured around ethnicity. However, all should be wary of interpreting most conflict as ethnic for more often than not, ethnicity is a camouflage for other kinds of conflict.

Chapter three focuses on how Kenya has so far avoided the cataclysmic conflicts found in some of the states of the region. It is noted that conflict resolution writing does not make the point that expansion in the economic, social and

political arenas minimizes conflict. This was the Kenyan experience in the first two decades of independence.

The pre-independence populations who hoped that independence would lead to personal and familial improvement actually lived the improvements. There was minimum agreement about leadership by the people and the national elite. The takeover of Whitehighlands, acquisition of crown lands and acquisition of urban land and other assets led to economic expansion and improvements in the standards of living of many people. The pre-independence idea of majimbo did not lead to conflict for it was marginalised. Africanisation and deracialisation of public and private employment not only employed those coming on to the job market but sent positive messages to the African component of society which had suffered racial discrimination during the colonial period.

The expanding economy, during the first twenty years, ensured that individuals and families were acquiring assets and living better than before. Although the economy did not perform as spectacularly for the next thirteen years, there was a lag between the disaffection triggered by the shrinking opportunities. This again worked to contain conflict. It is not clear that the same can be said for the immediate future for there is no guarantee that economic performance will improve. Individual and social disillusion is let loose on the land.

Conflict resolution theory does not dwell on the impacts of education. Education has expanded spectacularly since independence. Sociological theory assumes that education leads to more open and tolerant society. One can thus posit that the educational expansion is good for Kenya. However, one must also present the experience of countries like Rwanda where mass media has been used to feed conflict. An educated population is not just mobilizable for democratic oriented behavior but can be mobilized for ethnic conflict ends. In any case, education is not seen now as the primary pathway to improvement for many educated are unemployed and the dictates of cost sharing are such that significant numbers are dropping out of schools. Access to education, especially at the post-secondary level is now ethnicised with some communities claiming that they are not getting their fair share. Issues of access to education have the potential for leading to conflicts in the future.

There also has been expansion of peoples' organizations outside the state and party structure. There are among others harambee groups, burial groups, clan organizations, churches and other religious organizations and perhaps most important cooperatives. These organizations have enabled people to learn new organizational skills. No doubt they had a role on scaling down some conflicts even under the single party state. Their experiences form a base for further development of peoples' initiatives, particularly for civil society institutions.

Lack of systemic conflict in Kenya to date cannot be explained only in terms of activities of the population. The Kenyan state organized itself for control fairly quickly after

independence. It created many institutions towards that end. Among these were the single party which managed political conflict. A dominant civil service assured depoliticisation and control. Specific laws like the Chiefs Act, the Preservation of Public Security Act and the Societies Act, limited assembly and free participation. They also helped keep the lid on conflicts for people could not organize openly.

The fact that there has not been many conflicts does not mean that it is posited that there will not be in the future. On the contrary. Conflicts are likely to increase and intensify for the population has exploded without equivalent economic expansion lately. Traditional social systems, providing economic cushions and conflict mediation are falling apart. The young do not recognize these traditions. Individualism is let loose on the land. The land is not able to carry the population at existing technology. There are ethnic conflicts over the land, usually masked under pastoral versus agricultural production systems. There is rural and urban landlessness for some of the poorest members of society. Hope for the future is a past nightmare. Ethnic entrepreneurs prowl the land protected by an extractive national elite. Systemic democratization is blocked by electoral violence and lack of tolerance at the state and individual levels.

In these circumstances it is to be expected that there will be significant conflicts in the future. Poverty is increasing with about 50% of the nation's population living below the poverty line. The future crisis is not just urban poverty but also shortage of natural resources to support rural populations.

Chapter Four summarizes the legacies of some of the major conflicts which took place between 1963 and 1997 for inspite of the state's attempt to keep a lid on conflict, there were some. More significant is the fact that their impacts endured. The key ones are the shifta war, land, livestock raiding, natural resources driven conflicts and ethnic violence. These have contributed to the brutalization of society as well as the genesis of popular violence.

The shifta war was a war for maintaining colonial boundaries and thereby keeping Somalis in Kenya despite their wanting to join their kinsmen in Greater Somalia. The legacy of the war has been marginalisation of the area and a public service which accepts brutalization of the public.

Freedom fighters who did not like the post-independence capitalist approach on land in Kenya reverted to the forest to fight. They were defeated militarily. Their agitation did not get linked to political parties and their options for a different land holding regime was extinguished. This put a lid on land conflict for a time. The lid has blown off now.

Livestock raids were significant sources of conflict after independence. They were important for intra-ethnic inter-generational capital formation and local level restocking. They have evolved into large scale militarized sources of wealth and patronage through national and cross-border trade. It is conceivable they will continue to threaten not only the

objectively. Media also informs. This role should be expanded to assist this society to image the future.

In the long term, democratic practices and tolerance should be part of the normal education of citizens. Introducing school curricula on these issues may be useful for the long term development of a more tolerant society.

If the issues immediately discussed refer to the internal Kenyan process, there are other issues which are regional in nature. Among these are the problems of cross border raiding which can only be resolved by both cross border community and state actions.

There exists potential conflict over the exploration and exploitation of both oil and mineral resources which appear to straddle borders.

Finally, refugees, as opposed to internal refugees, generate conflicts. Kenya has hosted refugees from many of the region's countries. Kenyans have very hostile attitudes towards some of them. Regionally, other countries are beginning to complain about refugees costs. Tackling attitudes on refugees and perhaps finding repatriation solutions should minimize this type of conflict.

CHAPTER 1: BACKGROUND

Since the end of the Cold War, the emerging world system has had to figure out how development and international relations are to be conducted in the new environment. During the Cold War era, its dictates dominated whatever else was being done in the international system. In rethinking of interactions among nations, Africa has featured for a variety of reasons. First, it is the poorest continent and continues to demand aid. Second, it has had many leaders propped up by the two Cold War camps. Now that they are not useful, they have been let loose to forage on their own. Their attempts to forage has triggered political and economic processes within their countries and on the continent in general which challenge their governance, the third major reason. Finally, current international thinking puts a premium on resolving conflicts so that they do not lead to wars.

USAID and other United States agencies are part and parcel of this post-Cold War environment. It has had to rethink how its development work can address the issues of conflict in the countries it is undertaking development work. Since policy for USAID to get involved in conflict resolution has been made, USAID country offices have to operationalise the policy concerns.

This paper forms part and parcel of USAID/Kenya's efforts to think through on how to operationalise conflict resolution. It is the integrating paper to a broad Conflict Resolution Consultancy. The objectives of the consultancy are detailed in Appendix 1.

USAID/Kenya in efforts to understand conflicts in Kenya specifically and the Greater Horn of Africa in general, not only commissioned this paper but another fifteen related papers by independent consultants. Of the eighteen authors, 6 are working in the NGOs sector, 8 are academics in Kenyan universities, 1 is an editor with a Kenyan business publication, 2 are full-time land valuation consultants in the region and one is a full-time consultant in development management. Of the eighteen authors, thirteen are Kenyans and four are Americans.

The coordinating consultant, guided by discussions with the relevant USAID/Kenya staff, identified contributors on the basis of their experience and academic background. The topics were assigned to assure coverage of issues which, in the opinion of the coordinating consultant, could assist USAID/Kenya develop a programme on conflict resolution.

Among these were:

1. To assess possibilities of conflict over land, forage and water resources, religion, trade, urban unplanned settlements, elections, and state authoritarianism.
2. To document and draw lessons from "ethnic" clashes in Kenya's recent past.
3. To document and assess the extent of violence on women.

4. To discuss and assess the applicability of traditional conflict resolution mechanisms.
5. To draw lessons from relevant current conflict resolution research on practices in the region and Kenya.
6. To cover the issue of early warning antennae, not just for possible inter-communal violence but also for regional inter-state conflicts.

This paper serves several purposes. First, it summarises conflict theory to provide a possible programming framework specific to Kenya. Second, it discusses how the Kenyan state has managed conflict - some would say dominated violence - since independence. Third, it offers a menu of possible programme activities. The paper is part and parcel of a report which incorporates the fifteen commissioned papers.

A. CONFLICT RESOLUTION THEORY FOR PROGRAMMING

A.1. TWO SOURCES OF CONFLICT RESOLUTION THEORY

At meta-theory (defined as theory on theories) level, conflict resolution has come into scholarship from two distinct traditions. Confusion reigns when some theoreticians try and merge the two traditions¹ without being clear that the end of the cold war has not terminated debate about the role of the state. State formation, or more accurately, state re-configuration, is still unfinished business in many places. So are issues of non-state agencies like NGOs and corporate armies acting in the state arena.

Paying attention to the nature of the state is important fact in designing programmes by both USAID and DOS, especially if such programming is to be coordinated across the traditional interests of the two agencies, namely, development and diplomacy.

Inter-State Conflict Resolution Meta-Theory

The first set of theories of conflict resolution addresses issues between states. A good example of this is the book by I. William Zartman, titled Ripe for Resolution: Conflict and Intervention in Africa.² This body of scholarship has exploded as practitioners of statecraft look for new theory and practice to inform operations of governments, UN, NGOs, regional bodies and corporate armies after the end of the Cold War. It, with twenty-twenty hind sight vision, calls to question old diplomacy which did not pay attention to preventing crises between states, forgetting that Cold War ideological diplomatic programming accepted war (the sharp end of conflict) as a tool to be used against ideological enemy states. Under the Cold War, development agencies followed the dictates of ideological diplomacy. War by other means was development!

This evaluative scholarship emphasises avoidance of war by state armies. It also conveniently forgets that the business of creating states, or, in the old the language, 'nation building', is still very much part and parcel of societal structural issues in as diverse places as Yugoslavia, Sudan, and Africa's Great Lakes region, to pick only a few examples. Finally, now that there are no clear ideological enemies, a rationale has to be found not only for the military, but also for the diplomatic and development industries of the developed world. This has to be done in the context of shrinking budgetary resources for aid in those countries.

This academic literature concentrates on conceptualising activities which hopefully solve problems between existing states. It does not address the issue of dismembering existing states and creating new states out of existing configurations, obviously an unfinished business in as diverse places as

states and creating new states out of existing configurations, obviously an unfinished business in as diverse places as former Yugoslavia and the Greater Horn Region, not to speak of the cauldron of Central Africa. It has nothing to say about classical development within states other than that military budgets eat into the resources which could be used for classical development investment.

The concept of preventive diplomacy is central to this body of literature. Preventive diplomacy is defined as activities which enable states to address and solve crises which if unattended will lead to overt conflict which in turn may lead to war. Such situations are to be avoided for the nexus of armed conflict and war, and the attendant violence, is politically and economically costly if undertaken by the armies of the West. Increasingly war cannot be sold to the populations of the developed world given that liberal democracy has "conquered" the other major ideologies and it may be the "end point of man's ideological evolution" and the "final form of government" thereby giving mankind the "end of history" as Fukiyama has argued.³ The populations would rather invest in the free market and technology which drive the expansion of liberal democracy rather than investing in conducting ideological or overt wars. That they might get desired mineral resources from Africa through corporate armies may be acceptable.

Of course there is intellectual dissent on whether the West, and the US in particular, can export liberal democracy⁴ but Fukiyama's point is that technology and the market do not leave room for other systems.

The main actors in preventive diplomacy are states, but the various theories seek to incorporate other institutions to act on the behalf of states. These can be the UN, regional organisations, development agencies, corporate armies or national civil institutions.

Some authors point out that in post-cold war Africa, the doctrine of non-interference in the internal affairs of states has been superseded by the need to settle conflicts using continental organs. The end of the doctrine of non-interference in the internal affairs of states, whose central pillar is the maintenance of the inherited colonial state boundaries as enshrined in the OAU charter, has enabled external interference in the internal affairs of some states, in support of the OAU conflict management activities. Among the developed states which have taken this opportunity are the US, France and, the UK, who also happen to have had the longest military-to-military relationships.⁵ Corporate armies, a throw back to the late nineteenth century colonisation, are also becoming key actors in Africa as exemplified by among others Executive Outcomes and Military Professional Resources.

Ironically, Cohen writes: "The devastating wars in Liberia and Rwanda ...were nurtured and fuelled from neighbouring countries...It is to be hoped that the wars in these two countries will serve as a deterrent to governments tempted to help insurgents overthrow "unsavoury" regimes next door".⁶ Such

comment points out that the doctrine of interference in the internal affairs of some states, as understood by practitioners like Cohen, is still not sensitive to the need to re-configure states, including the democratisation of state and society, historically central issues in state formation. Asefa shares the same confusion when he posits that traditional structures can become the carriers of consensus politics whilst expanding present day states to larger sovereignties.⁷

In any case, within this state driven theory of conflict resolution, there are programming activities geared to solve those conflicts which threaten international stability and are based on the "politics and relations of the countries".⁸ To the extent that some states are "defective" and/or "predatory"⁹ and thus threaten international stability, something needs to be done to contain them, the realm of preventive diplomacy¹⁰ and peacekeeping. Preventive diplomacy and peace keeping in this perspective is clearly in the realm of inter-state affairs. It is not in the development realm. It does not address internal democratisation of either the state or society.

Within this framework, it is still a relevant question how programming will address the process by which democratic systems can grow internally without encumbrances from within and without particularly when driven by external states. Are we to conclude that democratisation dictates allow states to interfere in the internal affairs of other states in the same way militarisation seems to suggest? Is this the lesson of Nguesso in Congo?

Intra-State Conflict Resolution Meta-Theory

The second distinct body of literature on conflict resolution concentrates on resolving armed conflict, internal conflicts or complex emergencies within particular states. In other words, conflict is essentially intra-national. A good example of this orientation is Lederach writings.¹¹

This body of literature assumes that the main actors in conflict management are state and societal institutions. Broadly speaking then, the conflicts which take place within a state, including activities of predatory states, complex emergencies, natural emergencies and internal wars, development wars and poverty¹², are seen as part and parcel of development and thus are objects of development planning, funding and implementation.

It can be argued, at the level of meta-theory, that this body of literature assumes democratisation of state and society through development for in solving conflicts the involved parties get to participate in rulership, get representation and, since most conflicts are about denial of natural resources and public services, participants get better access to natural resources and public services. This body of literature further argues that ultimate conflict, war, is antithetical to development. Thus there is an urgent programming need to inform all development actors of the need

to get into conflict resolution and to take into account conflict transformation even if only to ensure that sectoral activities do not generate or exacerbate conflicts. This is my interpretation of the meaning behind Lederach's statement that conflict resolution or transformative peacemaking is both systemic and personal.¹³ It is only through such that society begins to insure justice and democracy.

This body of literature insists that in programming, development actors (be they CBOs, national or international NGOs, bilaterals, multilaterals or states) respond to ideological, governance and authority, racial, environmental, gender and identity, (ethnic, religious, tribal or linguistic) differences.¹⁴ They must anticipate and address conflicts to assure development and social peace, the new "eternal twins"!¹⁵

Within this body of literature, the quest for early conflict warning indicators reminds one of the earlier efforts to identify early warning on drought and other natural disasters. Those efforts led to non-people oriented techno-fix solutions. It is to be hoped that as the development industry looks for early warning indicators on conflict, people will be put first, as Robert Chambers would put it.

In any case, the CIDA paper, just cited, makes an explicit argument that when there is open conflict and war, there cannot be development activities. This is the theatre of humanitarian aid.¹⁶ This position is under attack as a result of the fact that humanitarian aid at times supports conflict as we discuss below in the section, "Aiding Conflict". Development can only be during malaise, denied crisis and reconciliation and reconstruction phases in a continuum which sees conflict evolving over time and intensifying as shown graphically below. An interesting theoretical and programming question, not raised by this particular approach, is whether the pattern of conflict evolution is necessarily cyclical!

An underlying meta-theory assumption of this second school of conflict resolution is that when state institutions interact with civil society institutions and development agencies to prevent conflict, there is nurturing of democratisation of state and society for the skills of participation, representation and policy generation are undertaken during the process.

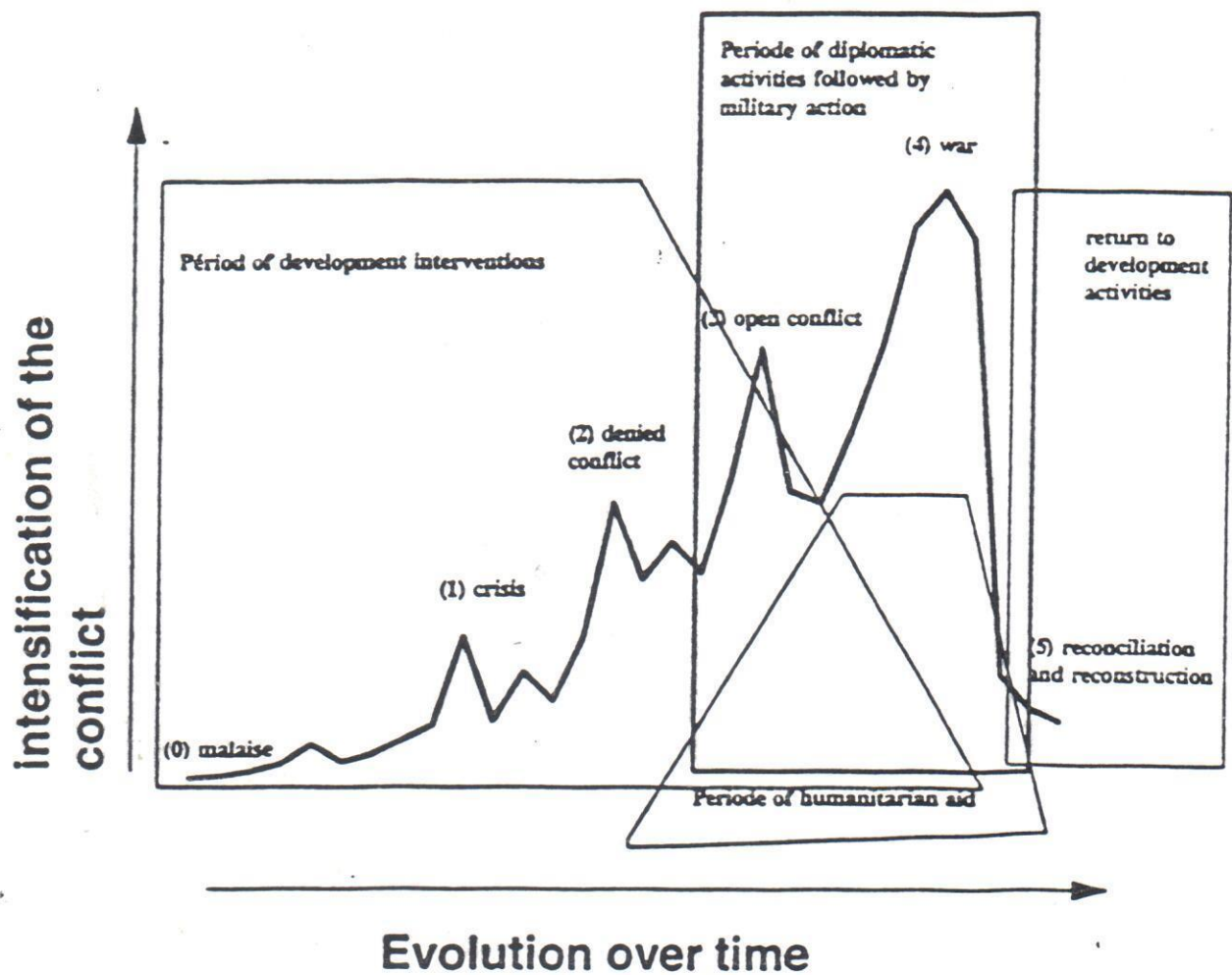
A.2. EXIT FROM A STATE AS CONFLICT RESOLUTION

The two schools of conflict resolution do not address a critical issue in the Greater Horn of Africa area, namely, what happens if particular ethnicities are marginalised, oppressed and are victims of systematic state violence - genocide. Ahmednasir¹⁷ makes a useful contribution to conflict resolution theory by bringing to the fore the issues of the nature of state to be created and what are the collective rights of nationalities within such a state.

He writes "Because of the failure of African states to develop ethnic-free values in the running of the affairs of the state,

it is only fair that all ethnic nationalities who want to form their own ethnic states should be allowed that right peacefully, otherwise they will resort to the use of force which they have all the moral right to use."¹⁸

Typology and graphic representation of the evolution of conflicts



This theoretical standpoint is useful, for it brings to conflict resolution thinking the issue of ethnic access and equity to state controlled resources, be it objective or ideological.

From an international relations point of view, it is important to raise it for the West, the dominant actor in international relations now, to allow for the reorganisation of states if particular ethnicities are systematically oppressed.

Ahmednasir elaborates as follows: "The withdrawal of superpower patronage will encourage disadvantaged members of society to reassert their rights and re-dress past grievances. This (together) with demands for democratisation from both western countries and the grassroots population, will reignite fundamental questions concerning the desirability of particular ethnic groups remaining in current nation states.....It is really tragic that in spite of the existence of a problem of such magnitude and such tragic consequences only one African country (Ethiopia) has in the last thirty years addressed the issue of peaceful constitutional secession."¹⁹

By approaching the problem of specific ethnicities being totally marginalised by the state and society, within the nation state, Ahmednasir shifts the argument away from just ethnicity to a problem of nation-building and thus collective rights of ethnicities within the framework of creating a nation. His argument is not that ethnicities have the right to bear arms and thus increase conflict and violence. Secession should be a collective constitutional right. The use of violence should be the last resort. The conditions under which secession should be exercised are specified by Ahmednasir as follows:

1. "When there is gross abuse of human rights directed against a particular ethnic nationality by the functionaries of the state....The abuse should be of such scale and ferocity that it is manifestly clear that it is sanctioned by the state and is execution of state policy."²⁰
2. "When the level of development is so low because the state deliberately suppresses the advancement of the community in all spheres of development."²¹
3. "When the members of the community are qualitatively and quantitatively under-represented in the institutions of power and the state."²²
4. "When the state has been engulfed in constant war as a result of ethnic rivalry between different nationalities".²³
5. "When a combination of the above problems have little or no prospect of internal corrective remedy".²⁴

Obviously, genocide should be added to these conditionalities.

Ahmednasir is not alone for one of the most respected American Africanist, Harvey Glickman, adds the caveat that exit must not be in the context of war. He writes:

"In certain circumstances politicised ethnicity challenges existing territorial boundaries, which remain perhaps among the most pernicious - albeit the strongest - legacies of

colonial rule in Africa. We might view what is happening in Africa today as part of the larger process of post-colonial re-allocation of political authority that was distorted by the Cold War, which allowed rationalising support for military and other forms of dictatorship in Africa as well as specious centralised control of African economies.....[M]ore open political systems and consent-based governance may consider peaceful partition, when democratically debated, as one end of a spectrum of policy alternatives in the face of protracted and intransigent conflict".²⁵

The option for exit for particular ethnicities is something worth paying attention to in the Greater Horn of Africa area. Where ethnicities are willing to fight, like the Eritreans and "Southern Sudanese" and others have reminded us in the recent past, it could be a useful option. No doubt other ethnicities will operationalise the concept of exit in the future if they are intolerably oppressed and if they cannot takeover the state to terminate the perceived oppression as the Banyamulenge and others have just done in former Zaire.

The potential programming idea out of the literature on exit is that developers ought to pay attention to those ethnicities who are marginalised with the hope that their getting a bit of the development cake could address their marginality thereby keeping the states intact.

Of specific interest in the Greater Horn of Africa are pastoralists who exist in the peripheries of agriculturalist dominated states.

B. KENYA SPECIFIC META-THEORY

In Conflict Management in Kenya²⁶, Weeks and Young define "[S]ome overall factors of possible instability (as) land, population pressure, social inequality, tensions of democratisation and influx of modern weapons. ...[T]he issue of ethnic conflict..... appears to us likely to define the contours of violence if it occurs, although not necessarily to "cause" disorder."²⁷ If this is an acceptable view in 1996, clearly it does not explain "when the rain began to beat us" as Chinua Achebe would put it.

At the meta-theory level, it can be argued that the main driving force for conflict, since the onset of Arab through Western colonization, is the absence or weakness of a framework and institutions for popular participation in system-wide politics, economy and the state. Denial of participation in rulership and the economy has always meant that societal cleavages are reinforced and the various species of the "state" remain authoritarian and extractive. Such cleavages then deny justice. It is only through participation that justice is assured. Justice, for individuals and ethnicities, perhaps more than representation, is the central ingredient in the evolution of democracy in the region. Development is no more than a method of assuring justice, political and economic, for individuals and ethnicities.

Participation of all would assure identification of socio-political demands from all parts of the society. Demands would

be aggregated and conflicts -including developmental conflicts -mediated. If demands are not so aggregated and dealt with, cleavages get reinforced and trigger events which may lead to violent conflicts, including development wars.

The Kenyan nation-state has yet to become the framework for participation by all.²⁸ Writing in the mid-seventies, Mutiso²⁹ argued that the politics of nationalism marginalised the majority non-asomi (literary unschooled), that the politics of post-independence Kenya maximised the power of the bureaucracy and, further, that post-independence politics depoliticised society. The attendant political process was non-participatory, for the single party itself was non-participatory and only concentrated on intra-asomi (literary schooled) competition for the opportunity to use the state for accumulation.

Pointing to the possibility of increasing ethnicisation, Mutiso wrote "...if the characteristics of the centre i.e., weak party, personalism and perception of sub-systems defined as tribe, and a lack of penetrative institutions continue, the political process and institutions of the periphery will consolidate themselves by attracting all the kinsmen into new organisational forms and the tribe will be consolidated politically perhaps more than it has even been."³⁰ It can be argued that this scenario, offered in 1975, has been actualised since then, for even the opportunities for multi-partism, since 1992, have led to no more than political organisations (sometimes called political parties wrongly) whose characteristics are essentially ethnic.

This ethnicization of politics, as well as the non-democratic behaviour of the state, is not just a Kenyan problem. Writing on Africa in general, in the nineties, Mamdani states "...[T]he fist of colonial power that was the local state was tightened and strengthened....(at independence)....[T]he more it centralised coercive authority in the name of development or revolution, the more it enforced and deepened the gulf between town and country (reinforcing a bifurcated state.)...The bifurcated state that was created with colonialism was (eventually) deracialised (at independence by Africanisation), but it was not democratised. If the two-pronged division that the colonial state enforced on the colonised - between town and country, and between ethnicities - was its dual legacy at independence, each of the two versions of the post colonial state tended to soften one part of the legacy while exacerbating the other.....In the process, both experiences reproduced one part of the dual legacy of the bifurcated state and created their own distinctive version of despotism."³¹

On civil society, Mamdani makes a useful contribution by pointing out that it, like other institutions on the continent, has had a chequered past and present. Because of this, it is not clear whether the current assumptions, by both African and Western development theoreticians and actors, about its programmatic ends is in the realm of the feasible. He writes: " The current Africanist discourse on civil society resembles an earlier discussion on socialism. It is more programmatic than analytical, more ideological than

historical. Central to it are two claims: civil society exists as a fully formed construct in Africa as in Europe, and the driving force of democratisation everywhere is contention between civil society and the state."³²

Reviewing the theoretical basis of civil society from Hegel, through Marx, Gramsci and his critics on the subject,³³ as well as the history of civil society during colonialism and post colonialism, Mamdani points out its different uses at different times. First, civil society evolved from the first moment of "the colonial state as protector of the society of colons".³⁴ Its second moment was "the moment of the anticolonial struggle, for the anticolonial struggle was at the same time a struggle of embryonic middle and working classes, the native strata in limbo, for entry into civil society".³⁵

Independence "tended to deracialise the state but not civil society. Instead, historically accumulated privilege, usually racial, was embedded and defended in civil society.... The key policy instrument in that struggle was what is today called affirmative action and what was then called Africanisation. The politics of Africanisation was simultaneously unifying and fragmenting as its first moment involved the dismantling of racially inherited privilege. The effect was to unify the victims of colonial racism. Not so the second moment, which turned around the question of redistribution and divided the majority along lines that reflected the actual process of redistribution, regional, ethnic and at times familial.... [The other side of the politics of affirmative action was the struggle of the beneficiaries of the colonial order - mainly colons in the settler colonies and immigrant minorities (from India and Lebanon) in non-settler colonies - to defend racial privilege.... Racial privilege not only receded into civil society, but defended itself in the language of civil rights of individuals and institutional autonomy.... To victims of racism the vocabulary of rights rang hollow, a lullaby for perpetuating racial privilege. Their demands were formulated in the language of nationalism and social justice. The result was a breach between the discourse on rights and one on justice, with the language of rights appearing as a fig leaf over privilege and power appearing as the guarantor of social justice and redress. This is the moment in history of actually existing society. This is the moment of the collapse of an embryonic indigenous civil society, of trade unions and autonomous civil organisations, and its absorption into political society..... It is the time when civil society-based social movements became demobilised and political movements statized".³⁶

African civil society, and by extension civil society in the Greater Horn, has thus not been able to deal with traditional despotism found within customary authority in the rural areas mainly.³⁷ Having been statised, it has not been able to deal with current state despotism. Neither has it been able to represent the majority. Many donor driven civil society institutions are no more than employment bureaus for the

politicised national elites based mainly in urban areas. They respond to the funding fashion of the moment. Their organisational reach, in Stein Rokkan sense, is strictly elitist and urban. They thus are not available for mass mobilisation for democratisation. This is so despite claims by some regimes that they are building civil society institutions to replace existing despotic rulership.

Democratisation is not just important for its own sake. It is an avenue to appropriate and sustainable development. The centrality of democratisation, to assure development, in widened state systems, is emphasised by Ki-Zerbo who writes: "In Africa today, it is an impossible task to try to build a micro-nation state in the absence of development, and therefore democracy; or in the absence of democracy because development is lacking. The only legitimate way forward for the African state today is to pursue fundamental and positive objectives through federalism and local grassroots power....What is required is not so much the abolition of the African nation states but their transformation into new institutions better suited to address the realities, interests and values of peoples."³⁸

Several conclusions for Africa, in general, and, the Greater Horn of Africa in particular, can be easily drawn from this meta-theory perspective on the centrality of participation by all to assure both democratisation and development.

First, funding activities which improve governance, for example, increasing state accountability, transparency and reduction of corruption, is a contribution to conflict resolution in the long term.

Second, creating system-wide popular (non-elitist) civil society institutions and increasing their advocacy role contributes to conflict resolution for many states have essentially been non-participatory. A caution is in order though. Too many of the civil society institutions, quickly baked by donors since the late eighties, are no more than new forms of enforcing the exploitation of the country by the town, as Mamdani would argue. Some get manipulated by the state, thereby blocking popular pressure for change, as Wamba-dia-Wamba's study of the Zaire National Conference among others shows.³⁹ These standpoints suggest that programming primacy ought to be put on community based civil society institutions which operate in the rural areas with little support or reference from their exploitative urban elitist cousins. Such organisations exist and are vibrant. An example of such an organisation in Kenya is the Utooni community which since 1977, decided that not many people or institutions were interested or were going to do anything meaningful in their development. As a result, it organised to transform its production processes, to rehabilitate the natural environment, to get relevant technical training for its youth, to implement family planning and health. Last year they built a police station to get security in the community!⁴⁰ The urban poor seem to be beyond the pale. Building institutions to service them must be a priority.

Further, it is not sufficient to only support the organisation of civil society institutions for in the final analysis, politics is organised by political interest groups and parties. Supporting these institutions is a critical issue, although problematic. It has been avoided by some donors on the basis of not wanting to interfere in the "internal affairs" of countries. Yet some donors, mainly Scandinavian countries and Germany, have creatively used the foundations affiliated to their major political parties to support emerging political parties and interest groups in an assortment of African countries without being charged as interfering.

Third, participating publics and individuals are the key to democratisation of state and society; therefore, enabling publics to get information, which in turn activates their participation in solving fundamental cleavages in state and society is a worthy development activity. Participating publics can be created by mass media. However, most regional media is generally controlled by the state. Even where it struggles to leave the deadly clutches of the state, there has been little support from donors. Few governance programmes have focused on the support of media.

Fourth, creating political structures, which are wider than the colonially derived nation states, is an important step towards development and democracy, for it minimises the ethnic reference point organisationally, over and above the usually known benefits of economy. In this context, consolidating and supporting regional bodies, including inventing the Greater Horn as an organisational idea, is worthy of support.

C. METHODOLOGIES OF IDENTIFYING CONFLICTS

Programmes for conflict resolution can only be developed if there is an acceptable methodology for identifying such conflicts. The literature gleaned shows three broad analytical approaches to identification of conflicts.

The first is historical-political analysis. It is argued that by analysing post-cold war politics one can identify conflicts based on colonial and cold-war legacies, defective states, predatory states, state-society conflicts, poverty and development wars.⁴¹ Clearly, its focus is to establish existing cleavages with a potential of triggering open conflict.

The second analytical approach centres on the impact of conflict on groups in society. It is particularly concerned about gender and different social groups. Therefore, it is only operational if conflict already exists. This methodology mainly concentrates on showing how the particular conflict impacts on the various sociological categories. The programming implication here is that those concerned about development do the analysis from a micro to macro level and then act to support those being negatively affected by the conflict. This is an offshoot of the emergency humanitarian tradition with its commitment to "working" for those needing relief.

The third analytical approach is to analyze change itself, particularly the velocity and turbulence of change⁴². The argument is that the actors in development, particularly NGOs, need to identify those turbulent changes which throw up conflicts leading to people needing assistance. Presumably, after such analysis, one would be in a position to identify which conflicts can be attended to.

In the case of USAID/Kenya, such determination will have to be made within the Democracy and Governance Strategic Plan and the Greater Horn of Africa Initiative plans. The former specifically states that the programme will have three primary concerns over the next five or so years, namely:

1. Seeking appropriate ways to encourage the free and fair conduct of the 1997 elections to make more likely a general acceptance of the outcome more legitimate;
2. Strengthening civil society structures, to reinforce the constituency for political liberalisation via constitutional reform, and open further avenues of participation; and
3. Helping assist conflict management mechanisms, and developing better early warning antennae for possible inter-communal violence.

A document titled Breaking the Cycle of Despair: President Clinton's Initiative on the Horn of Africa. Building a Foundation for Food Security and Crisis Prevention in the Greater Horn of Africa, Concept Paper for Discussion, November 1994, stresses that the focus might begin with:

1. Strengthening support for effective regional and national food security.
2. Increasing the capacity in the region for crisis prevention, response and conflict resolution.
3. Improving regional collaboration in promotion of sustainable economic growth and reducing population growth rates.
4. Implementing regional and national strategies to ensure the transition from crises to broad-based sustainable growth.

This was the initial major document. It is under revision as at the third quarter of 1997. Its main focus is food security but it is expected that subsequent policy documents will cover other issues too.

USAID/Kenya, seeking analysis to inform programming on conflicts in Kenya specifically and the Greater Horn of Africa in general, commissioned sixteen papers by independent consultants. Of the eighteen authors of sixteen papers, 6 are working in the NGOs sector, 8 are academics in Kenyan universities, 1 is an editor with a Kenyan business publication, 2 are fulltime land valuation consultants and 1 is a fulltime development management consultant. Of the eighteen, thirteen are Kenyans and four are Americans.

The coordinating consultant, guided by discussions with the relevant USAID/Kenya staff, identified contributors on the basis of their experience and academic background on the issues. The coordinating consultant ensured that the three

analytical schools of conflict identification were represented in the methodologies used by various writers. Further, the topics were assigned to assure coverage of important areas for future programming. Among these were:

1. To assess possibilities of conflict on land, forage and water resources, Islam, trade, and urban unplanned settlements, elections, and state authoritarianism.
2. To document and draw lessons from "ethnic" clashes in Kenya's recent past.
3. To document and assess the extent of violence on women.
4. To discuss and assess the applicability of traditional conflict resolution mechanisms.
5. To draw lessons from relevant current conflict resolution practices in the region and Kenya.
6. To cover the issue of early warning antennae, not just for possible inter-communal violence but also for regional inter-state conflicts.

Discussions on specification of conflict resolution analytical approach(es)", the need for empirical data and, perhaps most important, what programming lessons can be learned from the case studies were held with the authors. Various drafts were produced and discussed with the coordinating consultant and some staff in USAID/Kenya. Ultimately a three day in-house conference was held between the consultants and USAID/Kenya staff before the final papers were produced. Appendix 2 lists the eighteen papers.

D. AIDING CONFLICTS

In the literature on conflict resolution, there is a good deal of confusion on roles for the security forces, development agencies, and indeed, diplomacy, for it is recognised that most of these institutions have aided conflict, however inadvertently.

State Military Peace Keeping Aids Conflict

Earlier we noted that the military of the developed world is looking for new role in the post-Cold War period. This role is subsumed under the notion of peacekeeping, whether by the individual states or under the UN. Some NGOs argue that military peacekeeping not only supports one side in conflicts, thereby exacerbating them, but also draws resources from either humanitarian work or development into military related activities. In Somalia it is generally accepted that for each ten dollars spent on unsuccessful peace-keeping only one was spent on humanitarian aid. Significantly, community-based-conflict-resolution activities, proposed during UNISOM, were ignored as the dictates of the military option were operationalised. It was left to some countries to finance

countries to finance these activities when the UN forces pulled out. This author was involved in some of these efforts.

It should be noted that since 1980, there has been a shift in international aid away from development to relief activities. It is argued that fund raising for relief, especially by NGOs, is easier and more sellable than fund-raising for development. Relief activities are also easier to implement since they are techno-fixes as opposed to development which calls for detailed local knowledge. Further, humanitarian NGOs have recently operated in ways which seemed to defy state structures whilst drawing resources to parties involved in conflicts. The case of Eritrea is usually cited. The conclusion of these criticisms is that at times Kissinger's benign neglect is called for.

Private Corporate Armies (Mercenaries) Aid Conflict.

What used to be called mercenaries have now evolved into corporate armies organised into transnational companies and working as contractors to existing states. In this genesis, one needs to note that mercenaries were funded and used by Western countries during the Cold War to shore up regimes of interest to the West like Zaire or to fight regimes of no interest to the West like Angola. Cuba played the same role for Soviet Union in Angola and Ethiopia. Now that the Cold War is over, mercenaries, as corporate armies, have been recruited to prop up regimes in as diverse countries as Sierra Leone, Zaire and Congo Brazzaville.

The rise of corporate armies is in some ways a repeat of the old imperial trading companies private armies, whether they were Portuguese, Spanish, Dutch, British, French or German. These days the pattern also includes South Africans and Eastern Europeans. Private armies have also been used in American Cold War diplomacy in Asia since Dien Bien Phu in 1954 and in Latin America for much longer.

What is new about the corporate armies is first, that they are invited by African governments. Second, they are being touted as an alternative to sending the state armies of the democratic Western world to humiliating situations like happened in Somalia. Third, it is being argued that the use of such corporate armies would assure the West the minerals it needs from the African continent, without the need to use their regular armies. Such was the argument for their protecting mines in Zaire, oil installations in Angola, diamond mines in Sierra Leone and so forth. Fourth, they are being touted as a possible OAU force to assure security on the continent. Fifth, is their interlocking transnationality by sectors. Their companies are directly involved in fighting, training of armies, providing air transport, clearing of mines (which they at times were responsible for laying) building roads, harbours and pipelines as well as mining.

It should not take much imagination to see that these corporate armies, organised as business transnationals⁴³, are likely to become major actors in the determination of the rulership of some countries. This no doubt will work against

democratisation for the propped leaders are the least democratic. They also will work against the evolution of national and regional economies using their natural resources to develop sustainable businesses. It is obvious then that programming should oppose the use of corporate armies in all circumstances.

Non-Participatory Emergency/Relief Models Aid Conflict

As resources are drawn away from development to relief, it is clear that emergency (humanitarian) relief NGOs do not believe in participatory approaches to their work, for they are not only externally led, but also 'techno-fix' oriented and programmed to serve what they define as vulnerable groups. The notion that relief and development are ultimately about people and should be people led is totally missing in the stream of emergency/relief NGO activities. Refugees and the displaced are not people!

Arguments are being made that humanitarian aid supports conflict when it is used by combatants. Doctors Without Borders make this statement with respect to their work in the Rwanda refugee camps.⁴⁴ The same concerns have been raised by Catholic Relief Service, Save the Children, Care and World Vision.⁴⁵ Chester Crocker, former Assistant Secretary of State for Africa, is quoted as stating "When we intervene, even if it is with just food and medicine and blankets and so forth, we are in fact, affecting a balance of power."⁴⁶

Looking for political solutions should be given priority over emergency aid. This, incidentally, alludes to classical diplomacy as a precedent for emergency aid. This position seems to also be supported by the NGOs brought together by Action Aid to discuss the Great Lakes Crisis in Nairobi.⁴⁷ The primacy of politics, central in the intra-national conflict resolution model, seems to be the one supported by the NGOs meeting in Nairobi. It is articulated because of the dismal failure of all and sundry in the Great Lakes Crisis.

'Mediators Sometimes Do More Damage than Good'

An argument is being made that the role of mediation can be counterproductive. An example is Kuperman's⁴⁸ study of Rwanda where he shows that mediators used leverage in a conflict which was "ripe" for settlement but in the process triggered genocide, for they did not appreciate that an entrenched Hutu elite would be threatened by the settlement. The elite then pushed the country towards genocide to protect their interests. The importance of this study is to caution all and sundry about the romantic notion that there are conflicts which are ripe for settlement. It is also to remind us that: "A wild animal, when cornered, should be expected to attack".⁴⁹ In short, deep knowledge, about the possible actions of the major political actors, is called for before application of textbook mediation, as recommended by approaches of preventive diplomacy.

textbook mediation, as recommended by approaches of preventive diplomacy.

E. THE CENTRALITY OF ETHNICITY IN CONFLICTS

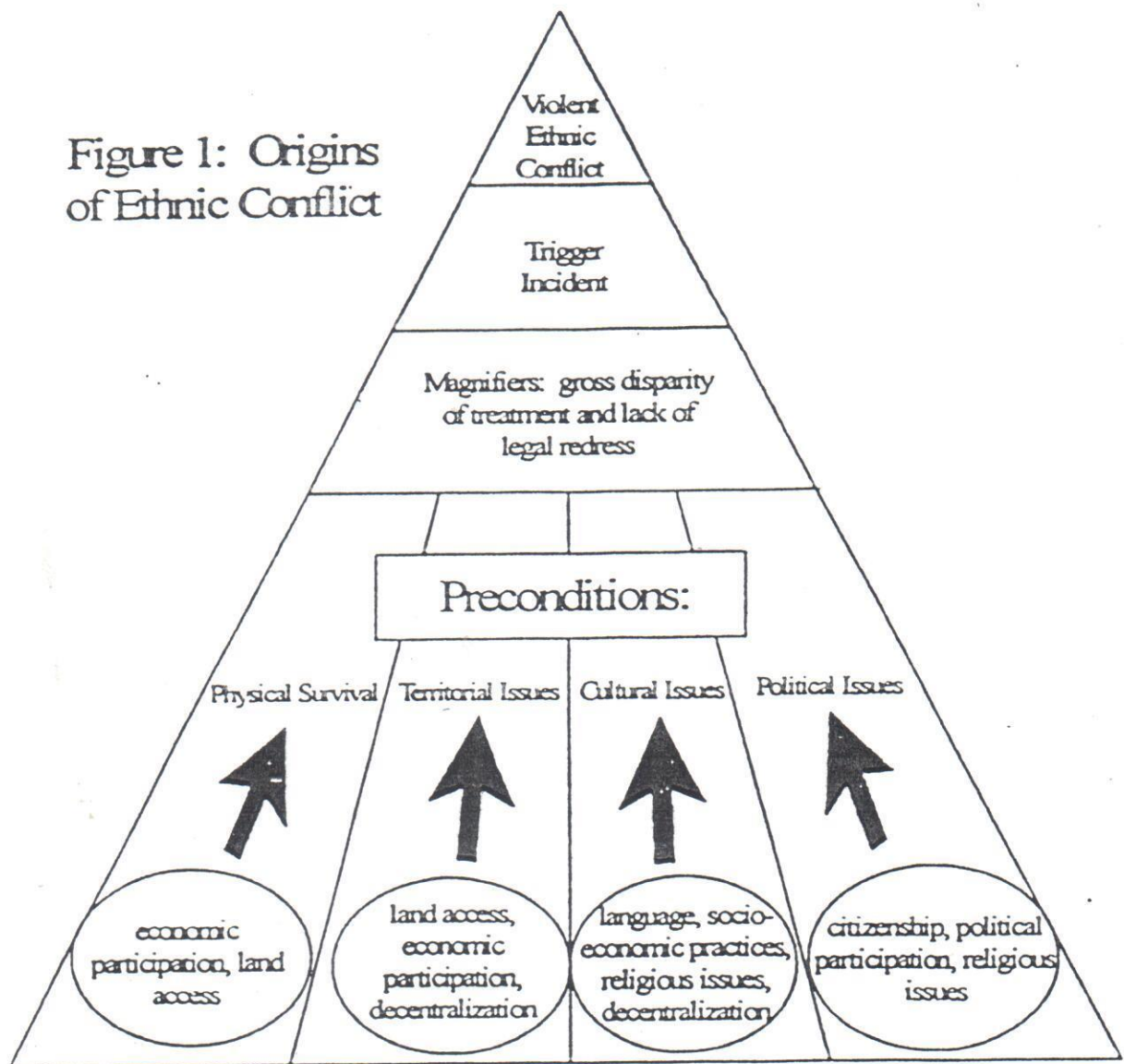
In most conflict writing, there is a persistent argument that most conflict, in the Third World in particular, is structured around ethnicity. We say "structured" for we want to emphasize that this argument assumes that the cause of conflict is ethnicity, although serious attempts to get to root causes would show that it is not necessarily so. However, since the ethnic organisational principle is known and used by a large body of people, conflicts which are not ethnic can be so masked. In Section C of this chapter, where we covered methods of analysing conflicts, it was pointed out that one of the objectives of the analysis should be to establish whether conflict is ethnic or ethnicity is simply being used by ethnic political/military entrepreneurs to mask other issues.

A review of USAID experience in ethnic conflict resolution concluded that, "The major potential areas for USAID ethnic conflict project activity are programs that focus on preventing ethnic conflict, programs that address existing ethnic conflicts,⁵⁰ and programs that focus on post conflict reconstruction." This document straddles the meta-theory problems of the inter-state and intra-state approaches to conflict resolution. One should note that the specific areas which are seen as the theatre for USAID development activities are pretty much the same as seen by the Canadians,⁵¹ that is, development can only be done during malaise, denied crisis and reconciliation and reconstruction phases in a continuum which sees conflict evolving over time and intensifying as shown graphically below. But unlike the Canadian model, which sees the period of open conflict and war as the period for humanitarian activities, the USAID review sees this period as one for diplomatic activities by the Department of State, Department of Defence, multilateral bodies and NGOs. The NGOs are present primarily for non-state channel mediation, whereas the others are there for formal international negotiation and peacekeeping.⁵²

This USAID review of ethnic conflict resolution experience is useful also for developing a hierarchy of the origins of ethnic conflict. In short, the hierarchy shows that the preconditions of ethnic conflict are physical survival variables, territorial issues, cultural issues and political issues. These are magnified by gross disparity of treatment, lack of justice and lack of legal redress. All that remains, if preconditions are so magnified, is a triggering incident which will lead to violent ethnic conflict.

This review of USAID experience is important for programming for a variety of reasons. One must point out that by including it one is not suggesting that all conflicts are ethnic. However, one can systematically argue that in analysing potential conflicts, one can use the hierarchy to determine whether ethnics are likely to generate violent conflicts by dis-aggregating the variables suggested.

Figure 1: Origins of Ethnic Conflict



In other words, it is imperative that one establishes preconditions to conflicts. The key ones are related to physical survival- defined as security and access to resources, territorial issues, cultural issues and political issues. These cannot be established if the histories of the areas are not taken into account.

It is a truism that programming for development puts little premium on histories of areas targeted for projects. The obvious conclusion is that those involved in developing programmes and projects to address conflicts must delve into the local histories significantly.

Programme and project planners normally do not have historical analysis skills. An obvious conclusion then is that those who are to plan programmes and projects in conflict resolution must acquire those skills or buy them from those who have them. One should further note that the useful history for conflict resolution programming is not formalistic history, which generally covers modern institutions, men, the educated rich and the urban, which is called for. What is needed is the living history. This is history as interpreted by the marginal actors among whom are the rural and urban poor, women and youth and pastoralists.

CHAPTER 3: HOW DID KENYA AVOID/MANAGE MAJOR CONFLICTS?

A. CONFLICT THEORY LIMITS: KENYA 1963-1997

In reviewing the writings on conflict in Africa, one is struck by the fact that all analyses ignore the variable of social, economic and political expansion as a limitation on conflicts developing to the violent level whether they are elite, factional, communal, mass or popular conflicts following Chazan as interpreted by Wolf.⁵³

At the meta-theory and meta-experience level, it can be hypothesised that the reason why Kenya avoided many conflicts developing into the violent stage was its social, economic and political expansion during the first twenty five years after independence. Social and political expansion is used here rather than just economic so as to include political and *IDEATATA*, defined as the objective reality with which human ideas are supposed to correspond.

This is not to argue that all the people of Kenya accept the idea that the post-colonial state is "a cash cow" to be milked as both colonial and post-colonial elites have assumed as is argued by Berkeley.⁵⁴ It is simply to argue that the coming of independence enabled many to expand their social, economic and political inter-action patterns. One would, however, agree with Berkeley that most Kenyans do not define politics or individual or familial socio-economic improvement in ethnic terms but rather in terms of bad governance. The present struggle then is for good governance rather than for fighting or eliminating some ethnic groups.

To this consultant, the explanation why Kenya has not fallen into the violent conflicts found elsewhere in the region can then be broken into the following: hopes generated by independence, the creation of the single party, land settlement, Africanisation, economic expansion, educational expansion, expanding organisational bases, and creation of state violence and conflict management instruments. These issues are discussed below *seriatim*.

B. ACHIEVING THE POLITICAL KINGDOM

To paraphrase Nkrumah, the primary objective of African nationalism was to get political independence. In Kenya, under this idea, most of the conflicts on the nature of leadership and participation were subsumed. So were class conflicts among Africans.⁵⁵ Of course, it is true that some political leaders were assassinated since they appeared to threaten the dominant ruling factions. Among them are Pio Pinto and Tom Mboya during the first ten years of independence, Ronald Ngala and J. M. Kariuki during the second decade, and Robert Ouko during the third. However, for the generation which had grown up during the colonial period, independence was an achievement which allowed them to paper-over conflicts which could have been

third. However, for the generation which had grown up during the colonial period, independence was an achievement which allowed them to paper-over conflicts which could have been pursued and involved large numbers of the population in violence.

This is such a simple idea that many analysts dismiss it. Yet when one discusses politics with the elderly, they keep coming back to it. In the first twenty years or so after 1963, there was "satisfaction" over both local and national leadership and conflict over leadership did not engender large scale violence. The political elite, fragmented into tribal units by the colonial state's practices, did appear to be unified in the commitment to independence. Save for the "Shifta" and the Land Freedom Army, discussed below, the bulk of their followers were also unified in accepting it. Non-elites also shared in the hope for a better future. After all, they had "their" government. They could go out and get land. They could send their children to school. They could even go to formerly closed districts. THEY DID NOT NEED A PASS TO GO TO NAIROBI OR MOMBASA. THEY COULD LIVE WEST OF GOVERNMENT ROAD (MOI AVENUE!). WHAT THEY COULD NOT DO, THEIR SONS COULD DO FOR **MBURI YI MBERE!**

This notion that one can also "make it" is best illustrated from the Kikuyu traditions although it is found among other ethnicities. When the traditional Kikuyu elite, *athamaki/andu a ngome*, "arrived" economically, they put rings on their fingers so that they could not use them. As they called drinking parties to entertain other rich men, some *ndungata* men; defined as very poor men who had nothing literally for they only sold their labour (*kutungata*); had to be around to hold the beer horns and to feed the *andu a ngome*. As the later sang about their riches (mainly wives, children, land and livestock) the poor kept quiet for they had no livestock, land or other property to sing about. However, as the poor were allowed to drink the dregs, they also got drunk and as they tramped to their hovels they sang that *mburi yi mberere*, literally the goat is ahead, but, philosophically meaning that as long as they had a penis, they could produce a son who in turn could acquire wealth.

This traditional phenomena was reincarnated during the coffee boom, in the late seventies, when the new *andu a ngome*, made rich by coffee smuggling and other state patronage, would go into bars and ask people drinking beer why they were drinking 'muddy water'. Of course, the 'clean water' was whisky or brandy bought by the case!

Socio-politically, it is important to note that to accept your current poverty and that your son will transcend it is to accept current inequality and not to raise conflicts to the violence level about it since your son will transcend it. It is also to accept that each person has the chance to accumulate and thus to maintain the peace for the accumulation process. As long as there is hope, there is order, however inequitable!⁵⁶

Muliro, Ngala, Angaine, Seroney or any of the others who at independence were the tribal political leaders. All were cut down to size later.

The culmination of the destruction of periphery machines within KANU has been suggested by Moi early in 1997. This was embodied in his proposal to replace the post of District chairman with sub-branch (constituency) chairman. No doubt this is targeted to political machines at the peripheries. This decimation was accepted by the party, through its parliamentary wing. Meeting in October, 1997, the KANU parliamentarians agreed to use the queue voting system to select parliamentary candidates. It was extensively reported that the point was to allow the President to have direct access to those who will come in rather than having to go through a district boss.

In any case, throughout the first decade of independence, the bulk of the population was busy expanding its land holdings and getting education for their children. These were seen as the key activities one did for posterity than worrying about ethnic politics. They were issues adjudicated by the state and not by periphery political machines.

D. "IN LAND WE TRUST"⁶¹

Takeover of the White-highlands

The question of the ultimate ownership of land, which the nationalists argued had been stolen by European settlers, was a central problem of independence government. It could have led to violent conflict. The Mau Mau war was essentially about re-capturing that land for Africans. The land problem was "solved" by constitutional provisions, taking over white-highlands, fighting Mau Mau reversionist, and kicking the major free land advocates out of KANU.

The independent Kenya Government accepted the notion of private property and entrenched property rights into the constitution in Chapter 2. 14. c. The government also initially got the British government to finance the buying of mixed farms from settlers for the so called Million Acre Settlement Scheme. By 1965, it had largely managed to get British funds for members of the elite to purchase their own mixed farms or other farms under cooperatives or limited liability companies. This way an emerging national elite was landed.

Between 1961 and 1970 the Million Acre Scheme and other less formal settlement schemes had settled more than 500,000 Africans (4% of the national population) on 1.5 million acres in one fifth of the former white-highlands. This was about 4% of the nation's agricultural land.⁶² At the same time, the government ensured that the emerging political and bureaucratic elite got land in the highlands, initially 2 plots, the plots zoned to include the farm house which were significantly bigger than the plots allocated to ordinary allottees, but later in other forms. Between 1965 and 1970,

significantly bigger than the plots allocated to ordinary allottees, but later in other forms. Between 1965 and 1970, another million acres was passed on to the elite as large scale farms. The elite therefore got about as much land as the poor allottees! By 1975 the remaining 40% of the European mixed farms would pass on to Africans as settlement schemes, but 60% would be passed on as large scale farms bought by the elite for themselves or as proxies for their poor!⁶³ By 1984, there still were 4,192 large scale farms covering 2,177,092 hectares (5,442,730 acres) according to the CBS.⁶⁴

Soon after independence in 1963, those ex-Mau Mau who did not like what was going on with regard to the land issue (the basic reason why they had fought) reverted to the forest. The key generals were Baimungi, Acholi and Mwariama. The Kenya Government, by fighting the Mau Mau who returned to the forest, clearly established that Mau Mau driven land agitation was over. By 1965 most of the forest Mau Mau had been beaten into submission and ex-Mau Mau were organised into land buying companies! Baimungi and Acholi died in the fighting. Mwariama was ultimately appointed a chief by the government in a settlement scheme in the former White Highlands!

Some political organising around the issue of free land had been attempted after independence. This agitation was within KANU and it led to some splintering of the party. APP was formed in 1962 over the issue of free distribution of the white-highlands. By reintegrating it into KANU in 1963, the agitation of Paul Ngei, who conceivably could have won a national following, was undercut. The agitation continued within KANU, led mainly by Kaggia and Odinga. It called for redistribution of land, establishment of land ceiling for individual owners and ownership only by citizens.⁶⁵

The amalgamation of KADU into KANU in 1964, minimised the policy influence of this radical group.⁶⁶ Since they continued their agitation, those politicians who took a hard line on land within KANU (Kaggia and Odinga and their followers) were thrown out of KANU in 1966. They formed the KPU in 1966. It was only to last three years for it was proscribed in 1969. By this time it was accepted within elite circles, recently landed, that private property, especially land, was sacrosanct. That no land would be given freely was entrenched in KANU ideology. J.M. Kariuki, the last major agitator on the issue of free land, was to pay the supreme price. He was assassinated in 1975.

By 1970, individual large scale buy-outs, and the land buying companies, controlled by the political elite, and, which were vehicles for political elite accumulation as they bought cheap, subdivided and sold dear to the poor, grew as vehicles for intermediation on land. The late seventies saw increased agitation, by the poor, for subdivision of land buying companies, mainly ranches. This agitation could have led to violence. However, in 1980, Moi ordered the immediate subdivision of all land-buying company land, further reducing the potential for violence over the White-Highlands. His popularity with the poor, who had bought into the land buying companies to get land, soared, survived the imperfect 1988

elections, and stayed until it was grounded by the ethnic clashes at the turn of the decade.

One should recall, however, that the main agitation on land was among the Kikuyu.⁶⁷ Further, the most contested parts of the White-highlands abutted Kikuyu and Kalenjin areas. It is also a fact that land in the districts of Nakuru, Nyandarua, Laikipia, Uasin Gishu and Trans Nzoia were initially contested mainly by these tribes. It is also a fact that the perceived political problem on land was seen as neutralising Kikuyu agitation. This view was shared by the departing British as well as by the Kenyan political and bureaucratic elite taking over during the first decade. Consequently, the settlement schemes almost exclusively settled Kikuyus, in Nyandarua and Nakuru initially, thereby setting the stage for the clashes in the nineties.

The exhausting of British funds to continue the settlements led to the evolution of the individual buyer and land buying companies within less than five years of independence. Again, these favoured the Kikuyu who, in general, had higher per capita income as a result of colonial monetisation of their areas. They also had access to state institutions and could therefore organise the financing of the buy-outs. The Kalenjin organised for buy-outs but they did not present a challenge to their Kikuyu counterparts. Their major buy-outs were in Trans Nzoia and Uasin Gishu, where the main competitors were Luhya. It is also true that in Nakuru there was competition between Kalenjin Enterprises and Ngwataniro, the main organised land buying operations of the Kalejin and Kikuyu respectively. As long as Kenyatta lived, the latter had muscle. In fact, the Ngwataniro system was used by the Change-the-Constitution group, which was in the opposition to Moi, in 1976. It sought to bar him from succeeding Kenyatta. This, perhaps, is why to date he pays special attention to Nakuru and Laikipia politics where the Ngwataniro "system" has continued to be a major actor in local level politics.

It should be further noted that explosion from the "native reserves" and into the Whitehighlands was not only confined to the Kikuyu and the Kalenjin. Other major tribes expanded out of their colonial boundaries. The Meru extended out towards Laikipia and Isiolo, thereby setting up the current (1997) land and grazing conflicts between the Meru and the Boran in Isiolo. The Kamba expanded to the areas between Machakos and Nairobi but met stiff competition from the Kikuyu on the Thika and Komarock sides. They also expanded towards Kajiado. The Nandi and Luhya moved into Trans Nzoia and Uasin Gishu. The Luo expanded into the Sugar Zone. The Kisii expanded towards the Kipsigis, who in turn were moving towards Nakuru. Very few of the other tribes moved into the former Whitehighlands in any significant numbers. Notably, the Maasai, who have historical claims to very large parts of the White-highlands, did not take part in the first ten years expansion to any significant extent.

Expansion into Native Reserves

Studies on land in Kenya have concentrated on the land in the Whitehighlands generally ignoring the expansion to the so-called Crown Lands which offered opportunities for some ethnic groups as discussed by Mbithi and Barnes⁶⁸. They show that between the 1962 and 1969 censuses, 13% of the national population moved. Central, Western and Eastern Provinces were undergoing net out-migration. The provinces with net immigration were Coast and Rift Valley.⁶⁹ For Coast Province, the bulk of migrants came from Machakos, Kitui, Kisumu, Kakamega and Siaya. Immigrants into Rift Valley were mainly from Kiambu, Nyeri, Muranga, Kakamega and Bungoma, Kisumu, Siaya, and Kisii.

These inter-district and inter-province flows were not the only migrations. Within districts there were major movements. The Kamba exploded out into Eastern Kitui,⁷⁰ Makueni and Yatta.⁷¹ The Embu expanded into Mbeere and Gachoka.⁷² The Meru moved towards Isiolo,⁷³ the Giriama into the areas north of the Sabaki⁷⁴, the Duruma towards Taita and the Digo towards Tanzania.⁷⁵ In the pastoral districts, areas which had been zoned to keep the Somali out of contact with the Boran, Bajuni, and Orma; Samburu out of contact with the Turkana, Eastern Pokot and Boran, were widely peopled.⁷⁶ As a consequence districts like Isiolo, Lamu and Tana River began to have conflicts over natural resources use in livestock production. Again within districts like Tana River, Somali encroached on the grazing areas of the Orma. Interior (Kikuyu) settlers were placed in Lake Kenyatta in Lamu. Other interior tribal coctails were placed in settlements along the Tana. The Turkana and the Pokot overlapped in their districts at different times. The Pokot lost some of their wetter areas to settlers from elsewhere, especially in Kapenguria division. So did the Maasai in areas like Mau, Transmara, Ngong and Loitoktok.

One should also note that some tribes did not really get a chance to expand significantly to their Crown Lands or the "white-highlands" abutting them. Among these are the Taita, whose "white-highlands" were privatised by members of the national elite from without and some ranches by local land buying companies dominated by some local elites. The bulk of their crown land (62%) had become Tsavo National Park in 1948.

Land in the Coastal Strip has presented a special problem since the colonial period. Kenya Government accepted the British colonial treaties which recognised that it belonged to the Sultan of Zanzibar despite the fact that specific ethnic groups claimed it. Some bits of it were part and parcel of the "white-highlands". To date the coastal ethnic groups have not made much headway in establishing their claim to these lands in either traditional, Islamic or modern law. They are treated as squatters when the land is given to others especially for the development of the tourism industry.

The Coastal area received substantial population from the interior. This is potentially an explosive issue now that there is systematic mobilisation on land in coastal local

level politics. The conflict potential is heightened by its being linked to religious differences for the immigrants are mainly Christian whilst the indigenous peoples are Muslim.

None of these movements and settlements have been adequately studied, for the district boundaries subsumed the crown lands. However, the point one wants to make is that the expansion into the white-highland and repossession of crown lands stemmed land hunger until the eighties when land again became a conflict-triggering issue. It was then a short step to the ethnic clashes of the 1990s. The latest version, at Likoni, has been permutated to a general agitation against interior land owners although it is clear it was initiated by KANU for electoral reasons.

The Urban Land Mess

A word on urban land. Colonial racist zoning laws, copied from South Africa, ensured that Africans did not own urban land, neither could they be domiciled there for extended periods.⁷⁷ Further, only labour, usually male, could be in the urban areas. These legal, economic and sociological strictures were to change quickly at independence.

Africans moved into urban centres for economic and other reasons. In 1948, the urban population was 276,000 and formed 5.1% of the population. In 1962 it was 671,000 and 7.8%. By 1969 urban population was 1,079,908 or 9.9%. By the 1979 census it had doubled to 2,308,194 or 15.1%. Ten years later it had practically doubled again to 3,877,444 or 18%.

This rapid rate of urbanisation has triggered conflicts in urban land use. It is estimated that about 60% to 80% of all urban population lives in illegal settlements, for the poor do not have legal access to urban land.

Several further points need to be made. First, the number of urban agglomerations has been growing, thereby creating urban problems all around the country. In 1948 there were only seventeen centres with more than 2,000 people. This number had doubled by the 1962 census. It grew to 47 by the 1969 census and doubled to 90 by the 1979 census. By 1979, the fast growing urban centres had high potential hinterlands with already high densities. Among these were Machakos, Meru, Bungoma, Kakamega, Kisii, Kisumu, Embu and Nyeri. By the 1989 census 139 centres had more than 2,000 people.

Second, although Nairobi accounted for about half (47.2%) of the country's urban population in 1969, by 1979 it was losing ground for it accounted for 35% which was reduced to 34% by the 1989 census. Third, and perhaps most important, sixty percent of the urban population in the 1989 census was under 20. So the towns will be growing as this population builds families even if there is no rural-urban migration, which is unlikely. Fourth, it is estimated that 60 to 80% of the urban population lives in informal settlements, without any rights to the land. In Nairobi, informal settlements carry 60-80% of the population on less than 5% of the urban land. If experience in other rapidly urbanising countries is anything

to go by, one would expect vicious conflicts as already are beginning to happen as the Soweto and Mukuru slum fights of 1996 show. Property owners are using both private and public security organisations to evict the poor. The political elite is privatising the public lands used by squatters rapidly thereby increasing and intensifying the conflicts.

The Population Explosion Driving Land Hunger

State-building structures, political elite-building processes, and individual and community land acquisition processes and educational initiatives masked the issue of land hunger during the first two and a half decades of independence. By the third decade, the issue could not be so easily mediated, for the population had exploded and the new families needed land. They, like their parents from the pre-independence generations, still craved land for physical and psychological reproduction. Traditionally, among many Kenya communities, the very definition of become a human being is also being situated on some land. No man or woman is a complete human being if they do not have land. This traditional value is obviously no longer tenable for many people.

In 1948, Kenya's population was 5,405,966. In 1962, it was 8,636,263 and grew to 10,942,705 by 1969. By 1979, it was 15,327,061 and by 1989 it was 21,443,636.⁷⁸ Given that: "Only about 20% of Kenya's land is considered to have high or medium potential for farming or intensive livestock production ... Kenya has one of the highest agricultural population densities in the world when its agro-climatic potential is taken into consideration."⁷⁹ The problem is not just overall densities but also that the high densities in the high potential areas have led to landlessness, and further that population has spilled over from the high density areas to marginal lands so much that 25% of the national population is currently in fragile ASALs.⁸⁰ Further, given that most of the population is rural (90.1 % in 1969, 84.9% in 1979 and 82% in 1989)⁸¹ and depends on agriculture, clearly acquiring land for economic survival as well as ontological reasons was already a problem in the eighties.

The need for land and the fact that it is not equitably distributed has a bearing on conflict. There still are very large land holdings controlled by the political elite and/or their international allies. The latest data shows land holding is from the mid eighties.

Table 1: Agricultural Holdings: Size and District, 1984

Hectares	>19	20-49	50-99	100-199	200-299	300-399	400-499	500-999	1000-1999	2000-3999	4000-19999	20000-<	Total
Bungoma	-	11	-	2	-	-	-	-	-	-	1	-	5
Kakamega	1	-	1	-	-	-	1	-	-	-	1	-	4
Kisumu	1	29	25	16	7	1	2	1	3	2	-	-	87
Kisii	1	1	3	-	2	1	1	2	-	3	-	-	14
Baringo	1	-	1	1	-	-	1	-	-	-	1	-	7
Kericho	13	40	32	15	12	14	12	22	12	2	1	-	175
T.Nzoia	229	209	76	62	63	42	25	55	26	3	2	-	792
Laikipia	50	5	10	12	6	3	3	18	16	14	28	8	193
Nakuru	169	186	64	79	59	61	42	113	36	25	8	8	842
Nandi	3	10	4	11	8	3	2	20	8	4	1	-	74
U.Gishu	106	317	87	82	82	47	54	89	32	2	5	-	903
Nairobi	34	20	12	3	3	4	3	2	5	-	1	-	87
Kiambu	122	64	72	53	29	18	6	10	2	2	3	-	381
Nyandarua	11	79	18	6	6	7	4	15	4	2	4	-	156
Nyeri	58	51	20	15	6	1	5	10	10	3	2	-	814
Muranga	33	2	4	20	18	6	2	9	5	2	1	-	102
Machakos	54	4	11	4	4	2	4	10	9	12	17	1	132
Meru	1	-	1	1	1	1	1	2	1	4	6	-	19
Kilifi	-	4	3	3	1	2	-	3	1	2	1	-	20
Kwale	4	1	1	1	3	1	1	-	1	-	1	-	14
T.Taveta	-	-	-	-	-	-	-	-	-	2	2	-	5
Total	891	1043	446	384	312	214	169	383	171	84	86	10	4192

Source: CBS. Agricultural Census of Large Farms, 1984.

The data shown in Table 1: Agricultural Holdings by Size of Holding and District, 1984 refers. Introducing this report, CBS notes that there were 4,192 large-scale farms in 1984 which covered 2.17 million hectares (5,425,000 acres).⁸² CBS also points out that it is expected that the farms will continue to be subdivided. It is not feasible to establish what the status of these large scale farms is in 1997 since no clearance for such work has been approved and the CBS has not conducted any surveys on the same recently.

Land Hunger and "Ethnic" Clashes

It should be noted, though, that the ex-whitehighlands districts with the largest number of large scale farms, namely Uasin Gishu (903), Nakuru (842) and Trans Nzoia (792) have experienced ethnic clashes.

It is not surprising, then, that the decade of the nineties is full of land conflicts, both in the ex-whitehighlands rural and urban areas. It is this consideration which leads the consultant to posit that land-driven conflicts in contested interface areas will take an increasingly violent character in the future.

A substantive programming issue then is what is feasible in terms of conflict resolution over land? The option of formal return to original ethnic areas, however disproportionate in ethno-regional terms the expansion in the past thirty years, seems to me would entail unacceptable threat to social peace. It follows, then, that the conflict resolution programmes are desirable not only in the crop agricultural areas which form 20% of the country but also in the 80% of the country which forms

the pastoral areas. In the former areas the primary issues are individual equitable access and protection of private property land rights. In the later the central issue is community access and rights to natural resources. In the urban areas the issues are conflict over private and public rights to land and the serious problem of landless urban squatters.

E. FROM MAJIMBO TO A CENTRALISED DOMINATING STATE

In the run-up to independence, there was an argument made by KADU that the preferred form of government was federal, majimbo in Kiswahili. The argument was that by having regional governments, the interests of the smaller tribes would be taken into account. It is important to stress that this argument was not made in terms of a regional government being nearer to the people and that it would be more democratic. The argument was made by the tribal elites to serve their political leadership interests which are not the same as the peoples interests. In any case the majimbo idea had a very limited life for, by 1964 the KADU proponents of the idea had voluntarily crossed the floor and joined KANU, in service of their interests. They were rewarded by ministerial posts as well as the other patronage (mainly land and later businesses) which emanated from the state.⁸³ By absorbing the KADU political elite, the KANU government was able to "dilute" the agitation of small tribes leaders from becoming a conflict which would lead to violence. It did not address the idea that local government could be more democratic.

From a conflict resolution point of view, it may well be that there is a case for revisiting majimbo albeit from a democratisation perspective. A government which is closer to the people is likely to encourage participation. However, in the opinion of the consultant, there is a clear and present danger that creating regional/local governments can get the country onto the escalator to ethnic fragmentation. Many would be tempted to actualise such government in the name of ethnicity. Many might seek to relocate those from other areas back to their home regions as the "ethnic" clashes experience has shown us. This also has been the thesis of the vocal majimboists like William ole Ntimama since 1992. In the last quarter of 1997, as the country prepares for national elections, there are many threats to those outside their ethnic areas to go back home. Many of them know no other homes other tahn where they are currently.

F. AFRICANISATION AS EMPLOYMENT AND DERACIALISATION

The initial fifteen years of independence were important in deracialising the public and private sector.⁸⁴ Table 2: Employment in 1964, shows the racial nature of employment where Europeans were the professionals and managers, Asians the technicians and semi-professionals and the Africans mainly sub-professionals. It should also be noted that the numbers of

the employed both in the public and private sectors were not large as shown in the table.

Table 2: Employment in 1964

	European	Asian	African	Total
1. Professionals/ Top Management	3267(50.4%)	1745(26.9%)	1476(22.7%)	6488
2. Technical/Semi Professionals	1890(14.7%)	1229(9.6%)	9696(75.7%)	12815
3. Skilled Office Middle & Lower Management	5546(17.3%)	13270(41.4%)	13170(41.3%)	31986
4. Highly Skilled Manual	1112(8.5%)	4570(35%)	7389(56.5%)	13071
5. Other Qualified Artisans	97(2 %)	796(16.5%)	3937(81.5%)	4830
Total	11912(17.2%)	21610(31.2%)	35668(51.6%)	69190

Source: Republic of Kenya, Ministry of Economic Planning and Development. High Level Manpower Requirements and Resources in Kenya., 1964-1970. Nairobi: East Africa Institute Press. May 1965. Quoted in Gavin, Robert. Correcting Racial Imbalance in Employment in Kenya. International Labour Review. Volume 95 No. 1 and 2, January-February, 1967 p. 74.

Table 3: Public Sector Employment: Selected Years

Date	Established	%1961	%Afric.	Actual	%Annual
July	Posts	Posts	Employed	Growth	
1961	83,016	100%	-	-	0
1962	66,601	80%	-	-	-20%
1963	60,686	73%	-	-	-10%
1964	60,300	72%	92.5%	-	-6%
1965	41,555	50%	-	-	-45%
1966	63,585	76%	-	-	+65%
1967	66,045	79%	-	-	+4%
1968	74,340	89%	94.1%	-	+12%
1969	77,870	93%	-	-	+5%
1970	83,824	100%	-	-	+8%
1971	98,566	118%	96.3%	267,500	+219%
1972	-	96.4%	-	-	-
1974	-	98.3%	-	-	-
1976	-	-	-	356,400	+33%
1981	-	-	-	484,200	+36%
1982	-	-	-	506,600	+5%
1983	-	-	-	527,800	+4%
1984	-	-	-	541,500	+3%
1985	-	-	-	574,600	+6%
1986	-	-	-	599,800	+4%
1987	-	-	-	627,400	+5%
1988	-	-	-	660,400	+5%
1989	-	-	-	685,600	+4%
1990	-	-	-	699,800	+2%
1991	-	-	-	715,100	+2%
1992	-	-	-	698,700	-3%
1993	-	-	-	727,000	+4%
1996	-	-	-	732,000	+6%

Sources: Economic Survey (various), Development Plan, 1989-1993 and 1994-1996. Economic Management for Renewed Growth 1996, Working Party on Government Expenditures 1982 (Ndegwa Commission Report) Report of the Training Review Committee 1971-72 (Wamalwa Report) 1972. G. K. Ikiara and T. Killick. 'The Performance of the Economy Since Independence. Table 7:

Efforts towards Africanisation had positive implications for minimizing conflict. Given the expanding economy, the first twenty years were important in generating employment for most of the educated who reached the working age.

Table 3: Public Sector Employment Selected Years, shows public sector employment for selective dates since July, 1961. Although data is not available for all the years, we can use the limited data to make several points. First, expatriates who had dominated the public service left the service as independence was mooted, and they continued to do so through the mid- sixties, leaving civil service jobs for Kenyan Africans. In fact, the KANU government made a big issue about Africanisation, initially in the public service and later in the private sector, especially after 1967 when the Trade Licensing Act was passed. The objective of the act was to get Asians out of rural trade, and to restrict distribution trade to the new African elite.⁸⁵ It is clear that the crux of the Africanisation issue was not the absolute numbers but rather the identity of those commanding heights.⁸⁶ This was the patronage for the new African bureaucrats.

Second, Africanisation was not as a hot issue in the public sector as in the private sector where both the numbers and stakes were higher. Africanising the private sector was the supreme reward for the African national elite. Philip Ndegwa, a member of the elite was to argue, in 1972, that having built the civil service it was then time to build the private sector. The Ndegwa Commission Report was to be the justification for allowing civil servants to own businesses. This is the beginning of the endemic corruption which created not only the rent seeking civil service existing to date, but also inefficient but protected businesses so characteristic of the national practice.⁸⁷

Africanisation could have led to conflicts if the minority races chose to challenge the emerging African elite. However, the minority racial groups chose to embrace the African elite into their privileged economic status. This postponed the potential racial conflict. There could also have been ethnic conflict but most of the ethnic groups had few elite members to challenge the Kikuyu. True it was argued that Kikuyus were being favored in public sector recruitment, but studies of the civil service in the first decade conclude that there was no overt tribalization of the service up to 1970.

There are at least three studies which focused on this issue, one at the beginning of the sixties, another ten years later, and the final one in the eighties. These are Wilson,⁸⁸ who presents survey data collected for the 'Who is Who in East Africa 1963-64' by Marco Surveys. Leonard, presents the government data for 1964, 1968 and 1969⁸⁹, and Nellis, presents government data collected in 1972.⁹⁰ Writing in 1991 and synthesizing the available data, Leonard refers to charges of Kikuyu favoritism that were made in the press and parliament in the sixties, and notes that although Kikuyus were over-represented compared to the other groups, "at least in the

1960s, this seems largely to have been a function of variations in educational opportunity, which arose out of differential exposure to the colonial economy and mission proselytizing." ⁹¹ And further; "By and large, there is no evidence of ethnic discrimination nor of supervisory favoritism along ethnic lines" ⁹². The point is simply that there were jobs for any educated African.

Africanisation needs to be seen both in terms of rewarding indigenous elites as well as deracialising the state. Table 4: Racial Percentages: Public and Private Sectors, 1954-1974, compares Africanisation in the public service and the private sector for selective years.

	1954	1964	1968	1972	1974
PRIVATE SECTOR					
African	81.9	80.9	84.7	88.6	92.1
Asian	12.9	14.1	11.1	7.9	5.8
European	5.3	5.0	4.2	2.5	2.1
PUBLIC SECTOR					
African	87.9	92.5	94.1	96.4	98.3
Asian	6.8	4.8	3.6	2.2	1.0
European	5.3	2.7	2.3	1.4	0.7

Source: G. K. Ikiara and T. Killick. 'The Performance of the Economy Since Independence'.

Table 7: Percentage Share of Recorded Employment, By Race, Selected Years. in Killick, Tony, ed. Papers on the Kenya Economy. Nairobi: HEB, 1981, pp. 12.

Second, we should note, out of the Table 3: Public Sector Employment: Selected Years, that the creation of established posts picked up soon after the limiting of KANU's radical wing in 1966. This seems to be tied to the imposition of bureaucratic control and the attendant de-politicization which came about soon after the Limuru Conference. Third, the phenomenon of expanding public employment speeded up tremendously during the seventies. At the same time, such expansion increasingly occurred outside formal posts established by the Public Service Commission as the political elite used public employment for patronage. The Commission was increasingly bypassed by the Permanent Secretaries in Ministries in employment and promotion decisions. This phenomenon continued in the eighties. Fourth, even though SAPS have called for reduction in the size of the public service, since the mid-eighties, the data shows that it has continued to expand. Fifth, in the absence of readily published civil service lists, it is impossible to give a determination of its ethnic composition currently.

However, public opinion still argues that there is unfair distribution of jobs by ethnicity, since 1979, not of Kikuyu domination but of Kalenjin domination. Significantly some of the most vocal critics of so called Kalenjin domination are Kikuyu.

The ethnicity of public servants is a salient development issue for good governance demands that staffing be matched with output and not just be a source of ethnic patronage which

is a potential trigger for conflict. There is need to not only to diffuse public employment by publishing the lists on annual basis as in the sixties but also to show its salience to long term development of the country. Doing so would assist in debating the ethnic composition of the service rather than acting on rumors which conceivably could trigger conflict. Further, given that the service is a significant employer, regions and ethnic communities should be equitably or proportionally represented if for no other reason to get their fair economic return out of the employment.

Why do we dwell on public service employment? It is a significant employer. In 1971 it constituted 38.7% of all modern sector employment. By 1976 it was 41.65%, and 47.3% in 1981, 49.4% in 1987, 49.9% in 1989, 49.3% in 1990, 47.8% in 1992, 46.5% in 1993 according to various Economic Surveys. It has therefore been a major source of patronage especially since the seventies. Again since the seventies, public service salaries have taken more than 60% of the government budget leaving little for operations and maintenance, let alone development. This raises grave questions about its utility.

The last eighteen years have been characterized by limited employment opportunities which have not kept up with the entrants to the Labour market. On general employment, let us quote the Eighth National Development Plan. "Despite the Government's efforts in this area, the country has been unable to generate adequate employment opportunities as evidenced by the low growth of wage employment. Between 1964 and 1973, wage employment grew by an average 3.6 percent per year. There was a slight improvement for the period 1974 to 1979 when a growth rate of 4.2 per cent per year was achieved. Thereafter, however, the average annual growth rate declined to 3.5 percent in 1980s and to 1.9 per cent per year in the early 1990s. RECENT RATES HAVE BEEN FAR BELOW THE POPULATION GROWTH RATE AND THEY HAVE LED TO AN ACCUMULATION OF LARGE NUMBERS OF (TRAINED) OPENLY UNEMPLOYED PEOPLE." ⁹³ (emphasis added).

G. EXPANDING ECONOMY

Although the 'political kingdom' was first sought by nationalism, part of what was to be added was a growing economy. KANU avowed this in its document, 'What KANU Offers You' ⁹⁴, which clearly stated that the objective of independence was to fight ignorance, disease and poverty. Whether its policies resulted in growth or not, it is a fact that the first years of independence saw significant growth.

The current development plan states"during the first decade of independence....per capita incomes (were) growing at 2.6 percent per year.....Between 1980 and 1989, the average growth rate of per capita income was only 0.4 percent and between 1990 and 1995 the rate was a negative 0.3 per cent per year. RAPID AND SUSTAINED PER CAPITA INCOME GROWTH HAS REMAINED AN ELUSIVE TARGET....SINCE 1980 THERE HAS BEEN VIRTUALLY NO CHANGE IN THE LIVING STANDARDS OF KENYANS." ⁹⁵ (emphasis added.)

The use of GDP is controversial for it masks many inequities. However, we present the GDP data, as shown in Table 5: GDP Growth Rate and Annual Inflation Rate: Selected Years, to make a simple point that the economy was expanding during the initial years and stagnated in the later periods. Ikiara and Killick point out that from independence to 1978, the constant price GDP was growing at the average rate of 6% annually, and further, that given that the average population growth for the period was 3.5%, the per capita growth rate was 2.0%.⁹⁶ There are studies showing growing regional inequity even as early as the first decade of independence.⁹⁷ However, Ikiara and Killick concluded that for the first fifteen years despite the inequities building up, conditions in most rural areas the rural areas were still improving.⁹⁸

If the first fifteen years showed a growing economy, the next eighteen are dismal. Part of the dismal performance can be traced to two variables in the late seventies. The first is government deficits, primarily driven by the expansion in the public service employment (as discussed above), and the second oil shock, and second, the 'coffee boom', a euphemism for the smuggled Uganda coffee when that country was in chaos in the late seventies. These two variables were also coupled with the expenditures by KANU political factions related to succession. The 1982 coup attempt can be understood as a continuation of these faction-based struggles.

The GDP growth rate was 5.0% in 1979, Moi's first year of rule, but it dropped to 3.9% in 1980, rising to 6.0% in 1981 and dropping to 0.8% in 1984. It was 5.5% in 1986. By 1990 it was 4.3%, 2.3% in 1991, 0.5% in 1992, 0.2% in 1993, 3.0% in 1994 and 4.9% in 1995.

Table 5. GDP Growth Rate and Annual Inflation: Selected Years

Year	GDP Growth Rate	Annual Inflation Rate
1964-1971	6.5%	n/a
1972	6.8%	2.60%
1973	4.1%	9.18%
1974	3.1%	17.01%
1975	3.1%	19.06%
1976	4.2%	10.74%
1977	8.2%	14.08%
1978	7.9%	15.47%
1979	5.0%	7.74%
1980	3.9%	13.40%
1981	6.0%	12.12%
1982	4.8%	21.54%
1983	2.3%	12.30%
1984	0.8%	9.88%
1985	4.8%	12.61%
1986	5.5%	4.73%
1987	4.9%	8.71%
1988	5.1%	12.34%
1989	5.0%	13.46%
1990	4.3%	15.68%
1991	2.1%	19.62%
1992	0.5%	27.50%
1993	0.1%	45.60%
1994	3.0%	28.80%
1995	4.9%	1.60%

Sources: 1. Development Plan 1989-1993 Table 1.1. Growth Rates of Real Gross Domestic Product (GDP) 1964-1987. p.5 2. Development Plan 1994-1996 Table 1.1. Growth Rates of Real Gross Domestic Product, 1964-92. p. 2. and Table 1.2. Inflation Trends, 1972-1992. 3. East African , December 30, 1996. 4. Development Plan 1997-2001. Table 1.1. Average Annual Growth Rates of Real Gross Domestic Product, 1964-1995 (Percentages) p. 3.

In the eighteen year period, double digit inflation initially peaked at 22% in 1982. It did not drop to the previous 14 year low level of 4.73% until 1986. It climbed to 8.71% in 1987, 12.34% in 1988, 13.46% in 1989, 15.68 in 1990, 19.62 in 1991, 27% in 1992 and 46% in 1993, 28.8% in 1994, and dropped to 1.6% in 1995. Growth has been a pipe dream for interest rates have been above 30% for most of the nineties.

Given that the annual population growth rate is still nearly 3%, the decade of the nineties reflects a decaying economy and a deteriorating standard of living for most Kenyans.

However, the point is simply that economic growth in the first fifteen years of independence mitigated resource and economic conflicts. This option of peace was jettisoned by the inflationary public deficits of the late seventies with the attendant smuggling. Such growth, as a lid on conflicts, was not available in the nineties. Deliberate policy shifts into deficit financing and the self inflicted damage of inflation stemming out of the political expenditures of the 1992 election, have worked against growth to date. These have had many negative consequences, among which is rural poverty.

Presenting 1992 data, Mukui writes: "The overall prevalence of rural absolute poverty was 46.4% by adult equivalent and 41.6% by households.....When rural households were ranked by economic status, the highest prevalence of hard-core poverty was among subsistence farmers (52.3%), compared with informal workers (41.4%), and was lowest for public sector workers (21.2%).⁹⁹ This rural poverty will increasingly lead to conflicts over natural resources, the most important of which is land.

Causality in economic growth and decline of agriculturally based economies, with exploding populations is problematic to say the least¹⁰⁰ but it is clear that the bulk of the Kenyan population, living in rural areas is faced with declining standard of living. The land resource is not only shrinking but deteriorating. The dismal performance of the economy over the past eighteen years has eroded the savings and assets of rural populations. Farm inputs are expensive. The arid and semi-arid lands, which currently carry more than 25% of the national population, are particularly hard hit as lands suitable for livestock production have been tilled for more than two decades now.

As rural poverty grows, there is migration to the urban slums. This in turn increase conflicts in the urban areas for there are few jobs. The towns on their part export raiding crime to the rural areas.

In these dismal economic circumstances, there is need for conflict resolution programming. There is need to monitor both intra-ethnic conflicts and violence driven by economic factors especially resource uses. It is also relevant to monitor inter-ethnic conflicts driven by access to land as well as training involved communities in conflict resolution. At the macro-level, it is useful to invest in policy dialogue to get improved terms of trade for farmers (both crop and livestock) to be improved. Key issues are still credit,

appropriate tools (including organizational tools) and sustainability of natural resources (broad area of sustainable land use technologies). Of course all these will never pay off unless the population growth rate is slowed by expanding family planning programmes in rural areas where coverage is still patchy and developing the urban slum areas.

H. HAS EDUCATION BECOME FOOL'S GOLD?

Eradication of ignorance, through expansion of formal education, was one of the objectives of the first independence government. This objective was also shared by the population who not only funds raised to send a lot of students for higher education overseas but built a lot of schools during the first decade. The population believed that education was the pathway to family and community economic status improvement. After all there was reinforcement of this idea in daily life. The educated were taking over jobs which had been for the colonizers.

According to the Eighth Development Plan¹⁰¹, for the period 1963 to 1995, primary school enrollment grew by 5.7% annually. Secondary school enrollment annual growth on average was 9.5% and university enrollment on average grew by 13.6% annually. The averages mask some important details.

As shown in Table 6: Number of Primary and Secondary Schools- Selected Years, there was explosive growth in numbers of schools during the first decade of independence. Primary schools increased more than seven-fold. Secondary schools increased thirty two-fold. This growth is not repeated in the subsequent decades.

Table 6: Number of Primary and Secondary Schools: Selected Years.

YEAR	PRIMARY	SECONDARY
1963	892	30
1972	6657	949
1976	8544	1280
1982	11497	2149
1984	12539	2396
1985	12936	2413
1986	13392	2485
1987	13849	2592
1988	14288	2717
1989	14691	2654
1990	14864	2678
1991	15196	2647
1992	15465	2632
1993	15804	2639

Source: Various Economic Surveys

Table 7. Primary, Secondary, Technical Training and University Enrollment: Selected Years, shows that primary school enrollment has increased slightly over six-fold between 1963 and 1995. Enrollment in secondary schools has increased

twenty- fold and university enrollment has increased one hundred and fifty fold!

Whereas these are spectacular growths, lately there has been a drop in the age cohorts attending school especially after the hyper-inflation triggered by the deviant fiscal and monetary practices related to the 1992 elections. The subsequent economic down turn has made education unattainable for significant numbers. The 1997 Human Development Report states that the age cohort primary school enrollment in 1997 is only 55%. Only 29% of the age cohort for secondary school are enrolled. Only 47% of standard one enrollment complete standard eight ¹⁰².

Table 7: Primary, Secondary, Technical and University Enrollment: Selected Years

YEAR	PRIMARY	SECONDARY	TECHNICAL	UNIVERSITY
1953	365600	8400	0	0
1963	891600	31100	571	300
1968	1209700	101400	2000	1200
1974	2734400	195800	3700	4600
1978	2977700	362000	6300	7500
1982	4120000	438400	?	9455
1984	4380300	?	?	?
1985	4702400	437207	?	9147
1986	4843500	458712	?	12097
1987	5031400	522261	?	18448
1988	5123600	540192	?	?
1989	5389300	640735	?	27572
1990	5392300	618461	?	39723
1991	5456100	621443	?	41694
1992	5530200	621443	?	40748
1993	5428600	517577	?	39571
1995	5545000	632000	?	44910

Source: Various Economic Surveys and Eighth National Development Plan

During the first decade of independence, education seemed to be the pathway not only to employment but also to improving the standard of living of families. Although the state invested in the expansion of education, the overall expansion process was iniquitous, for the more developed areas could establish more Harambee schools as David Court discusses. ¹⁰³ Some currently argue that education has now become fool's gold, first because of the cost and second since many educated people cannot get jobs.

By the third decade of independence, access to education is conflictual as different "ethnic " areas claim to be discriminated against. At the same time the population is disillusioned about the utility of education for significant numbers of the educated do not get formal jobs, particularly in state structures. This is explained in ethnic terms although objectively the economy has not been expanding fast enough to absorb all educated into formal jobs. It is difficult to establish statistics on the educated unemployed. However, many stories are told of university graduates staying unemployed for years. So do high school students.

Several points are worth emphasizing. First, if the bulk of the population was illiterate at independence, the population is now highly literate and thus open for mobilization or manipulation through mass media. The 1989 census reports literacy as 73.4%¹⁰⁴. The figure has improved to 77% in 1997¹⁰⁵. The second point is that educational opportunities were availed to the wider public for the first and second decades and this was part of the hope for a better life. This is no longer so. As a result, access to education, especially national high schools and post-high school institutions is contested. It is handled as patronage by state bureaucrats, including university administrators. Witness the squabbles about the district rankings on primary school results, reported in all media at the beginning of 1997.

The third point is that educational enrollment growth rates have also slowed in the recent past, again due to the dismal economic performance. As cost sharing bites, access to education will be denied the poor.

The disillusion with education is all pervasive. It is a significant plank in the opposition parties' platforms. Although there is no solid evidence that lack of access to it or lack of employment has led to violence or conflict, agitation for access for particular ethnicities may become a trigger to violence in the future.

In the literature on conflict surveyed, it is not clear what the impact of education is in terms of either generating or reducing conflict and the attendant violence. In the literature on development, it is generally argued that an educated public contributes to development, not just as labour, but also as a thinking and participating public. The assumptions are that educated people break away from primordial prejudices and can interact with "strangers" comfortably and thus contribute to nation-building and democratization. In this framework, education minimizes potential for conflict against the "strangers" for it encourages tolerance. However, given the fact that the literate are also more mobilisable by mass media, it is conceivable that they mobilized by ethnic demagogues. State controlled media can also be used to mobilize sections of the population against others. Some argue that this happened during the ethnic clashes related to the 1992 elections. Witness how the radio was used for ethnic cleansing in Rwanda. Education therefore seems to be a double edged sword as far as conflict containment is concerned.

Given these standpoints it may be worthwhile to introduce specific curricula to cover democratization at all levels of the education system. It is also important that access to education, be made more transparent especially with regard to post-high school institutions. Here again, there is a case to be made for identifying the ethnicity of whoever gets into these institutions. It is also most important that access to primary and secondary education be made available to disadvantaged communities especially pastoralists.

I. EXPANDING ORGANIZATIONAL BASES FOR PUBLICS

Since independence, there has been an expansion in peoples' organizational skills over and above state controls. These skills have been operationalised in as wide a variety of organizations as Harambee groups, cooperatives, schools' parent/teacher associations, burial organizations, clan organizations and religious bodies. Unfortunately there is no systematic data on all of these to enable the consultant to present their contribution over time.

Harambee groups are diverse by membership and activity. They are also very hard to programme for since they are task specific and rise and die as the participants wish. It is almost impossible to programme for them.

Burial and clan organizations are multi-task although they have the primary objective of either burial or clan development interests. Although they enjoy greater longevity more than harambee groups, they are also not easy to programme for since they are extremely scattered and are not under umbrella organizations.

Parent-teacher organizations, which are task specific, are found in every community which builds a school. They have not been studied from the point of view of introducing new organizational forms.

Similarly, religious organizations have not been studied from the point of view of introducing complex organizations to communities.

Below we present the available data on cooperatives, possibly the largest people managed system after religious bodies.

Table 8. Number of Cooperatives, Societies and Unions, 1981-1995

YEAR	AGRICULTURAL	NON-AGRICULTURAL	SACCOS	UNIONS*
1981	1316	263	797	54
1982	1182	454	928	54
1983	1471	279	1088	63
1984	1515	299	1187	63
1985	1557	340	1352	65
1986	1619	377	1462	66
1987	1716	419	1608	66
1988	1791	452	1723	67
1989	2286	686	2141	70
1990	2351	722	2251	76
1991	2416	763	2339	76
1992	2496	779	2470	76
1993	2647	818	2616	76
1994	2683	848	2668	77
1995	3080	896	2810	81

* Includes Countrywide Cooperatives

Sources: Economic Survey 1986 p.112; Economic Survey 1994 p.130 and Eighth Development Plan p. 53.

Cooperatives have been an important organizational base for people as well as conflict avoiding institutions. They are mechanisms for mediating the commercial conflict between

foreigners or local private sector operators and ordinary people.

There has been limited research on cooperatives, especially the Savings and Credit Cooperatives (saccos). However, at independence there was only a handful of cooperatives. The first cooperatives were cash crop producer cooperatives. They still dominate the production and marketing of coffee, sugar cane, pyrethrum, cotton and dairy products. Their contribution to gross farm revenue between 1981 and 1993 was 54%, 62%, 63%, 75%, 68%, 71%, 60%, 59%, 60%, and 59%¹⁰⁶. They are thus key in farm production which supports the bulk of the population. This was underscored by the Minister of Finance in his budget Speech on 19/6/97 when he stated that there are 7,356 cooperatives currently with 2.5 million members and controlling assets of Ksh. 21 billion. The sector is targeted for liberalization. "The government will initiate reforms to establish a new role which will be distinctly different from the paternalistic approach of the past. Reforms anticipated in 1997/98 will seek to: 1. reduce government involvement in the day to day operations of the societies 2. liberalize the cooperative movement 3. enhance its efficiency in delivery of services to the members; 4. facilitate the movement to consolidate its current activities to be more competitive in agricultural production and marketing; and 5. finally, improve its competitiveness in harnessing savings through Savings and Credit Societies." ¹⁰⁷

If the original cooperatives were producer/farmer oriented, the fastest growing sector of the cooperative movement has been the Savings and Credit Cooperatives. In terms of types, agricultural societies slightly outnumber savings and credit cooperatives (Saccos) as shown in Table 8: Number of Cooperatives, Societies and Unions, 1981-1995. The members of the agricultural cooperatives are mainly farmers, but the members of the "saccos" are mainly the employed. Members of the non-agricultural cooperatives are mainly urban informal sector worker/business owners. The sector is evolving in dynamic ways and is an important contributor to the national economy. It also is an important training ground for peoples management.

Over the past fifteen years, this consultant has discussed the role of cooperatives with many USAID/Kenya staff. The impression one got was that there was policy within USAID not to fund cooperatives or make them objects of development assistance. Other than funding a housing cooperative, the consultant has not established that USAID/Kenya funded other cooperatives. This practice is a missed opportunity in the consultant's opinion. If it is policy, in the consultant's opinion, it is time it is reviewed.

The main problem within the cooperative sector has been managerial. The Ministry of Cooperatives and its field staff have grossly interfered with the management of cooperatives in the past. Most in the movement attribute the endemic corruption to this interference. Competition within the cooperatives for selection to management committees, coupled with the corrupt bureaucratic sponsorship of individuals for

some of the committees, is seen by many as the source of the perennial intra-cooperative conflicts. It should not blind us to the wider perspective where cooperatives mediate against commercial conflict. It has been argued that they have played a major role in supporting poor and middle class families through the economic down turn of the past few years.

The cooperative sector should be considered for training in conflict resolution specifically tied to managing public resources especially now that the state will have less role in the sector according to proposals for the revision of the Cooperatives Act. Such training will hopefully have a spillover effect on public affairs in general for members are also important players in other organizations.

Other peoples' organization need to be enabled to handle conflict by training in conflict resolution if the practice is to become sustainable as opposed to NGOs providing the service as specialized organizations. Since they are so diverse the prudent programming approach maybe to utilize religious organizations and cooperatives as the service providers for they have formal structures in all parts which enable programming. In any case developing conflict resolution activities through these two sectors will reach the bulk of the populations in both urban and rural areas.

J. STATE VIOLENCE AND CONFLICT MANAGEMENT

De facto/De Jure One Party State

Creation of the one party state is important in thinking about conflict for it limited the political arena. We have discussed how the nationalist movement was split into KANU and KADU just before independence and how KADU and APP were absorbed into KANU by 1964. We also noted that the policy differences within KANU led to the throwing out of the radical wing which created KPU in 1966 after initially requiring them to resign from parliament and stand for election even though the term had not ended. This necessitated a change in the Constitution. It was speedily effected since KANU had a two thirds majority. In the Little General Election of the year; of the 29 contested seats, KANU won 21 and KPU 7 (6 in Nyanza and one in Machakos) and Independents 1 (in Laikipia). Changes in the Societies Act in 1968 limited registration for political purposes.

KPU was banned in 1969. The detention of KPU leaders, and other dissidents was instituted to further limit political activity.

The Tripartite agreement, between organized labour, business and the government, limiting strikes, was passed the same year. Trade unions were reorganized into COTU giving the President powers to appoint the Secretary General. This practise, initially targetted at Tom Mboya and his supporters in the movement, is still in the books. Earlier that year, Mboya, the organizer of the 1965 and 1966 purges of KANU radicals, was assassinated. The same year also saw the extensive oathing of the Kikuyu to ensure that rulership did

not leave the "house of Mumbi" the mythical female ancestor of the Kikuyu.

1969 is a significant year in Kenya's political development for from then on, there was a de facto one party state. That Moi was to make it de jure after taking over is a detail. The point is simply that Kenyans were not allowed to conduct politics in formal organizations outside KANU. This meant that any one perceived as questioning what the clique controlling KANU was interested in could be marginalised economically, politically and socially. This practice was applied to politicians, bureaucrats, businessmen, intellectuals as well as to labour. It still is alive and well.

Total control over political organizing meant that conflicts which could be settled in the political arena were essentially bottled up. Such domination of the political arena was not enforced through KANU party process but rather by factions close to the country's presidents. This is the explanation of the authoritarian decisionmaking within the party to date. The implications of this faction led authoritarianism for ideology and policy is that there was little discussion of either. Up to the death of President Kenyatta, the controlling clique consisted primarily of the Kiambu section of the Kikuyu. It controlled both party, public service, the emerging local commerce¹⁰⁸ as well as being allied with international corporations operating in the country.¹⁰⁹ When Moi took over, the clique strategists were Kalenjin. As he sought control over the bureaucracy, party and international corporations, he recruited Kikuyu representatives from Kiambu, Nyeri and Kirinyaga into his Kalenjin operational clique. However by 1982, they were all thrown out and the core rulership clique controlling the key civil service, party and international corporations was Kalenjin. By the middle of 1997, some media would report that the core group is not just Kalenjin but Tugen¹¹⁰.

Thus the creation of a one party state can be seen as the consolidation of ethnicisation of the key control positions in the public and private realm without alternative political organizational pathways. It therefore can be argued that ethnicity, was not a major factor in the political calculus of individuals until the creation of a single party state. It remains so to date as no alternative parties are yet in a position to challenge the KANU dominance. Thus the creation of a single party state explains the ethnicisation of the opposition after opposition parties and civic groups were allowed to form in 1992 in a perverse sense! The programming implication of this is that supporting policies which lead to creation of political parties and interest groups which systematically attempt to operate cross ethnically is worthwhile.

Dominant Civil Service

As the single party state was being created, simultaneously, the civil service was getting power over issues which could have been settled in the political arena, by either parties or parliament. The creation of a unicameral parliament and the strengthening of provincial administration as well as the creation of the economic development bureaucracy were used to solidify the control role of the civil service. This was in contradistinction to maximizing participation by encouraging the growth of the political process by allowing interest groups and political parties to grow and flower.

A constitutional Amendment Bill of 1966 creating a unicameral house limited specific ethno-regional representation envisaged in the Independence constitution. It thus took out ethnic representation from the political calculus, restricting the raising ethnic questions to formal legislative representation.

Positioning the Provincial Administration for control in peripheries, as opposed to local government structures, was pretty much complete by the mid-sixties. At independence, three of the significant development activities of the local areas were undertaken by local authorities. These were education, roads, and health. The authorities were chaired by the Provincial Administration during the colonial period and their powers were advisory with executive power remaining with the District Commissioners. At independence, they were allowed their own chairs and given executive power including tax collection.

Significantly local authorities were effectively emasculated in 1969 by denying them revenue-raising opportunities and taking over their responsibilities in education, roads and health. Diminution of their role is the inverse of the growth of central government control of the periphery by Provincial Administration.

The three key offices in Provincial Administration have always been the Chief, the District Officer and the District Commissioner. There had been attempts to democratize the former since Mau Mau by asking local populations to "elect" Chiefs by queuing (this was the origin of the queuing practice by KANU in 1983 elections). This was abolished in 1965 for political reasons. It was argued that making them permanent civil servants would professionalise the post. Unstated was the fact that Odinga had employed very many, who then had deep personal loyalty to him as Vice President and Minister for Home Affairs. As he fell from grace, they not only had to be eliminated from the service, but their supervision moved to the Office of the President.

In a memorandum by the Office of the President in May, 1966, the role of Provincial Administration is justified as follows: "The majority of these people pursue their traditional way of life untouched by the professional institutions and apparatus of modern government. They look to the Government for personal protection, and also with a definite hope for a better future for themselves and, more particularly, for their children. Government to them is a simple concept of benevolent

authority.....To meet the needs of these people effectively, Government must be personalized in one individual who is easily accessible, sympathetic, understanding and authoritative. Their greatest need is for someone to listen to and help alleviate their grievances and arbitrate their disputes. It is this concept of the role of Government which the Provincial Administration is designed to satisfy." ¹¹¹ Chiefs were to become autocrats practicing silacracy- rule by the stick.

This document was targeted to the pressure to expand local government for it was presented to the commission reviewing local government by the bureaucrats in Office of the President. It clearly shows that the emergent state had no faith in people. They were children to be mothered and fathered. It was written by Kenyan African bureaucrats, not colonial bureaucrats! To date it is one of the best statements denigrating the people.

By 1967, the Head of the Civil Service, G. K. Kariithi, was to argue that Central Government, through Provincial Administration"...ensures that its authority and its services reach and are accepted by the people in rural areas." ¹¹²

The point is simply that participation in local government was to be substituted by administrative guidance and control. The situation obtains to date, although some will argue that the current phase shows administrative dictatorship.

Policed State

If Provincial Administration was to mother and father people, considering them as 'children', the state utilized it to deny political organizing. It created the institution of detention for perceived dissidents and generally limited creation of non-controlled political institutions.

Continuation of the Chiefs Act after Independence.

Chiefs were seen by anti-colonial nationalists as the ultimate oppressors. In attempting to humanize the post, the colonial government, as part and parcel of the counter-insurgency strategy, started getting them elected by queuing round 1954. This was later discontinued as Provincial Administration was built up a substitute for both local governance and political control.

The powers of the Chiefs' Act are undemocratic. A chief limits political assembly, demands labour, and compels people to do all sorts of activities without recourse to law. His role is today contested by many civil society institutions for it is the most visible encapsulation of the authoritarianism of the state.

Institution of Detention

The Preservation of Public Security Act of 1966 gave the executive detention powers. It was immediately used to detain 13 people who were either in KPU or Trade Unions. Since then many have been detained. Some were politicians, trade unionists, academics and even ordinary folk who ran afoul of the single party state. The struggle against detention caught the imagination of the public during the agitation against the single party in 1991.

Most modern democratic thinkers use detention as the ultimate litmus test as to whether a state is democratic. To be detained without trial is the ultimate denial of human rights. It demeans the individual by denying his basic humanity. The Kenyan state still fails this democratic test.

Limiting Interest Groups/ Civil Society Role

The Societies' Act of 1968, provided that all societies had to be registered, meaning any society not registered is unlawful. Thus the formal association of citizens for whatever reason was denied and criminalised, as the act provided that licences were mandatory for meetings. It was the officers of the Attorney General's chamber who were to decide when, why and which citizens could assemble. Chiefs, Provincial Administrators and police were the actual gatekeepers. Licences meant that the political ruling cliques could monitor and control who met.

Given that the single party state was in place, the policed state impact was that political organizing to debate and solve problems by either participating in local government, interest groups (civil society institutions) or even creating political parties was not possible.

It can then be concluded that the institution of these laws limiting interest groups emerging and challenging the state functionaries and the single party was, first, an affirmation of the argument that one needed to create a strong central state, and second, a reaction to the political conflicts of the sixties where the regime was convinced that the radicals were interested in creating an alternative state. By the second regime, under Moi, it can also be argued that the two concerns are still operative from his perspective.

Political agitation, since 1990, called for recognition of civil society and political parties. Significantly, it has not focused on the need for effective local government. Such a focus could bring government closer to the people and at the same time assist in training them to participate more for local issues are more likely to trigger people's involvement.

The conclusions from the data on this section are that there is need to support the revision of basic laws which by their provisions militate directly against participation. Among these are the Societies Act, the Preservation of Public Security Act and the Chiefs' Act as has been highlighted by many civil society institutions over the past six years. The justification is simply that citizens are entitled to

associate without some bureaucrat deciding for them when, why and how to assemble and discuss their business - a fundamental human right. To limit association is to limit discussion of conflicts which ultimately can lead to violence for there are no avenues for ventilating them. By enforcing these laws, the state explicitly shows that it does not accept the fundamental democratic idea that rulership emanates from the people.

It is also worth noting that support to thinking about changing the laws which limit free association, especially with respect to restructuring local government is worthwhile. The rationale is simply that until the citizenry is free to associate and pressurize government at the local level, there is little prospect for first, encouraging participation and second, enforcing accountability by the rulers. As the laws limiting association stay in the books, it is the state functionaries at the local level who terrorize the citizenry. Further, very few civic society institutions discuss democratization through instituting meaningful local governance although it can be argued that they address this issue indirectly when they attack the current role of chiefs. This is an area needing not only policy research but sensitizing even the civil society institutions on the problem of local organizing for making state functionaries accountable.

An aspect of mobilizing large populations for participation in politics is to focus on local issues. If local governance is so reorganized, general political science theory argues that one is more likely to institute democratic behavior in the wide system for interests, including conflicts, will be negotiated by the relevant parties.

CHAPTER 4: LEGACIES OF KENYA'S ENDURING CONFLICTS

That the state created violence and conflict suppression institutions, as discussed in chapter three above, should not be used to argue that there were no conflicts. Indeed, some of the conflicts which emerged were not solved, for their structural base were not addressed. Consequently, there is fear of violent conflict breaking out given the persistent legacies of these conflicts. Some of the major conflicts in this period emanated from the structural problems of colonial and post-colonial society. Others were exacerbated or generated by the post-colonial government given its commitment to non-participatory rulership and power acquisition dictates. Others are generated by the cultural traditions being high-jacked by ethnic entrepreneurs for their own political ends.

The experience of unresolved conflicts of the past thirty year is the driving force behind both ethnic and popular violence which are now part and parcel of the Kenyan polity and society. Consequently, the following sequence/hierarchy of topics is offered also to suggest the genesis of current violence actualized in ethnic and popular violence. A subsidiary hypothesis is that failure in resolving each of the discussed conflicts contributed to deepening of the others over time.

A. LAND FREEDOM ARMY, SECOND MAU MAU WAR AND LAND

Land has driven some of the most enduring conflicts in Kenya. Between 1960 and 1962 agitation by squatters and the unemployed in Nakuru and Laikipia was manipulated by the state and settlers to become competition by the various ethnicities encapsulated into KANU and KADU. Ultimately the Kenya Land Freedom Army (Kiama Kia Mwingi) began to agitate for the direct takeover of European farms especially in Nakuru and Laikipia. It took over the local branches of KANU after 1961.¹¹³ The colonial government played the ethnicity game and concentrated on eliminating the KANU radicals at the local branches. This did not stem illegal squatting for the squatters seemed to believe that their last chance of getting some land was to assert themselves during the final days of colonial rule. As Wassermann shows,¹¹⁴ it is some of these assertive squatters who were to be settled. That, however, did not end the agitation. It intensified when settlement schemes included members of the elite to provide stability from the point of view of the independent government. This way the violence was initially turned inward to the Kikuyu community for it was primarily Kikuyu elites who were settled to give social stability to the settlement schemes.

It is significant, though, that the agitation in Nakuru and Laikipia was not allowed by either the colonial government in its last days or the independent government in its first years to develop into a large movement spilling into Central Province. Furedi¹¹⁵ discusses how police and administration machinery was used to contain the agitation in Rift Valley.

There were those who, at independence, in 1963, did not like the capitalist approach to land. They reverted to the forest to fight. The key generals were Baimungi, Acholi and Mwariama. We do not know how many followers they had in the forest. The post-colonial army was sent to the forest to fight them and within two years the so-called second Mau Mau war was finished. At organized fighting level that was the end of the matter. This fighting over land could not be linked to policy or party organizational initiatives by the radical KANU wing during the first years of independence. The agitation on land was contained in KANU by 1965. When KANU's radical wing transformed itself into KPU, it was decimated by 1969. Opposition to a capitalist land system was ended then for all practical purposes.

Ethnicised land conflict was to be introduced in the early nineties by ethnic entrepreneurs protected by the party and state.¹¹⁶

B. RESOURCE DRIVEN CONFLICT

Resource driven conflict has increased tremendously over the past ten years. The key resource of course is land. Conflict is primarily among pastoralists, between pastoralists and agriculturists, and between squatters and land owners. Conflict zones are, in sequence, pastoral areas, semiarid areas and urban areas.

Although conflicts over water resources have not yet become significant we are already seeing the beginnings of such conflicts in the Ewaso Nyiro North Basin, Ewaso Nyiro South Basin, Yala Basin, and the Athi and Tana River Basins. It is hypothesized that the next ten years will lead to direct clashes over water rights.

Conflict over grazing rights is intensifying and is usually masked under "raiding". In northwestern, northeastern and southeastern Kenya, local populations move to neighboring countries in search of grazing. When the current drought in the northeast and southeastern areas ends, it is hypothesized that Kenyans will raid the neighbors to restock as they collapse back to their normal grazing lands. Similar raiding took place after the droughts of the seventies and eighties.

There are serious conflicts between pastoralists and agriculturists in all the main river basins passing through pastoral lands. Probably the most acute is on the Tana where there also is conflict among different pastoralists and between pastoralists and agriculturists. As large scale development projects like the Tana Delta Irrigation Project and delta fish farming come on stream, conflicts will increase. On rivers like the Ewaso Nyiro North, the down stream pastoralists are not getting water which is being utilized for irrigation upstream.

In the urban areas the key resources are land and services.¹¹⁷ Squatters in unplanned settlements, more than 60% of urban populations, are increasingly being brutalized by state functionaries and land owners. As the rural economy continues

to deteriorate, it is hypothesized that more people will come to the slums thereby increasing conflict.

To deflect triggering and intensification of water based conflicts there is need to support community based planning of water resources on basin basis. So far, the water resources studies and development plans have been from the top with little participation by local communities let alone bringing basin stakeholders together to deliberate on use conflicts.¹¹⁸

In the past there has been little training of communities on in conflict resolution on land issues. Some start has been made by some NGOs in the ethnic clash areas but more needs to be done particularly in areas of recurring conflicts.¹¹⁹ The strategy should be to assist existing locality based organizations, mainly churches, to help those communities build up their capacities.

Some of the land conflicts between communities, families and the landless can be ameliorated if not solved by finalizing the adjudication of land in the agricultural areas. The problem why land is not adjudicated is technically lack of maps. This can be addressed in a straight forward manner by some donors supporting the adjudication process. As far as this consultant knows, there has never been a donor development project supporting adjudication.¹²⁰

In pastoral areas, where it has been argued that adjudication or even group titles are not the solution, support for finding ways of formalizing traditional ownership and use rights of land is an area needing research and support.

C. LIVESTOCK RAIDING

One the major sources of violent conflict was stock thefts among various ethnic groups especially in North-eastern, Rift Valley, Coast and Eastern Provinces. Up to the end of the sixties large sections of tribes would mobilize, especially to raid livestock from other tribes. Significantly, by the decade of the seventies, there were few occasions where large sections of tribes mobilized because of stock theft for the instruments of state security were brought to bear overwhelmingly onto the raiding parties. During the first decade, most of the raiding was inter-tribal with occasional intra-tribal raiding. Rarely were whole tribes mobilized. The raiding technology was still traditional: spears, bows and arrows with an occasional 303 rifle.

In the last two decades the violence associated with raiding has increased not because large sections of tribes are mobilized in toto but because raiding armies are very well armed with modern guns and are supported or financed by local and national elites, some of whom are major national politicians. Livestock is not raided for keeping or bridewealth as anthropologists tell us. It is raided for selling in national and regional markets by national elites.¹²¹ It is big business now and has been since the middle of the seventies. The raiding armies can easily recruit participants from the unemployed in the local towns. Expertise is provided

for by the sacked or retired people of the areas who were very well trained in the armed or police forces.

Tribal sections raid wherever they can get away with it, both within their tribes and away from them. Sections of tribes, very well armed, prey on kinsmen and stranger alike. The AK 47 is the preferred gun. It can be purchased easily in open air markets in most pastoral districts and at Eastleigh in Nairobi.

Raiding has been dramatically brought to the national psyche by the raids which have repeatedly closed road contact with Lamu from Malindi, Mwingi to Garissa, Isiolo to Marsabit, Kainuk-Kapendo-Maralal axis, within Northeastern Province, within Turkana, within Pokot, within Baringo and within Samburu and Isiolo.

The recent raiding incidents in December 1996 in Suguta Marmar, Samburu, and Chesogon, Keio, in April/May 1997, where a lot of people have been killed, dramatizes the enormity of the problem. The raiding armies' firepower now supersedes the Stock Theft Unit and the GSU fire power. Not only are AK 47s easily available but the more deadly rocket propelled grenades and other weapons, thanks to the regional wars which generate the arms trade. There are locally based trained personnel capable of using the available hardware. In turn their leaders, members of the national political elite, are willing and able to protect raiders in national fora. Consequently, the GSU and the Army Air Calvary are now drawn into the fighting. The economic costs are high. The solutions not easy for it is clear that the raiders are not within the traditional controls where traditional structures can be used for mediation.

There is evidence that most of the really brutal raids are inspired by ethnic entrepreneur politicians, particularly in this election year. The recent raids in Samburu seem to have got political support from some of the leaders of the Samburu, the Turkana and the Toposa. Similar support has been given Pokot and Somali raiders in recent past. Obviously then, a solution to these very violent conflicts will have to involve the highest political leaders.

Cross border raids in Turkana, Pokot, Marsabit, Wajir, Mandera, Garissa, Tana River and Lamu are endemic problems. In Northwestern Kenya, current raiding seems to be related to the need to supply livestock for the Southern Sudanese war. In the Northeast and Southeast, raiding is related to livestock supply to Somalia for the Middle-east market. These problems can only be tackled regionally.

There is need to begin to identify in detail the basis and structure of livestock raiding and to seek solutions within the pastoral communities and regionally.¹²² It is also important to accelerate sustainable development of the areas to generate alternative sources of livelihood for the populations of the areas. It is doubtful that the populations of the pastoral areas can get livelihoods out of the existing pastoral production systems.¹²³

Ultimately, the state has to protect pastoralists from raiding. It is the democratic right of every pastoralists to seek state protection. Only by assuring this can the development rights of pastoralists be assured. Finally, there is need to get communities involved in raiding conflict resolution as the Wajir Case study shows¹²⁴. Such efforts must involve the community leaders, state bureaucrats and politicians who increasingly seem to be the key agitators.

Of course unless systematic cross-border discussions on raiding at the state level as well as cross-border community based conflict resolution on the same are initiated, the problem will continue to bedevil the region for the structural base of raiding is regional rather than national.¹²⁵ It should be an enforced rule by the states and donors that any politician involved in financing raiding or disposal of raided stock should be forced to forfeit political leadership positions for life over and beyond being prosecuted.

D. SHIFTA WAR

One of the major conflict during the period is the so called Shifta war in the North Eastern Province. Its legacy is still with us. The background to the war is that the colonial government isolated Somalis from the rest of the Kenya population. The area was administered as a closed district. Its population could not go to other parts of Kenya without formal administrative authority, neither could other populations come into the area without permission. Very little development was done in the area. The area was zoned into clan grazing areas, generally resented by the population, which ironically survive today as parliamentary constituencies!

The trigger cause of this war was the conception of how the Kenyan independent state was to be formed. In brief, significant numbers of Somalis, the bulk of the population of the area, sought to join their brothers in the so-called Greater Somalia. It can be argued that this conflict was not only triggered but encouraged by the activities of the colonial government and the Somali Government whose ideology emphasized the inclusion of the Somali-speaking areas of both Kenya and Ethiopia.

On its part, the Kenyatta regime subscribed to the OAU Charter position that the inherited boundaries were inviolate. It is possible that the regime saw Somali secession as the first operationalisation of the KADU position on 'majimbo' in contradistinction to KANU's interest in creating a unified national government.

Militarily, this war, which brutalized large sections of the population of Northeastern Province, seemed to reach a stalemate until the Somali state got into internal problems which allowed for a conclusion of peace between Kenya and Somalia, in 1969. The collapse of the Somali state in the eighties ultimately solved the structural problem of creating a Pan Somali state.

Legacies of this war were first, the training of the state civilian and security forces in population brutalization. In turn, those who practiced the violence were themselves also brutalised as they internalized the violence as Hannah Arendt argues happened in colonizing occupation forces discussed in **The Origins of Totalitarianism** and **Eichmann in Jerusalem: The Banality of Evil**. The second major legacy was marginalisation of the Northeastern Province in terms of development and politics as pointed out by Ahmednasir M. Abdullahi.¹²⁶ Although the formal fighting ceased in the sixties, state functionaries practice extensive violence on the population. It is the tradition. In 1984, 400 people died in a temporary camp. In 1991, the population was required to get a second identity card, the only ethnic group so discriminated against. The irony is that the idea of the "Somali" identity card is traceable to one of the most powerful members of the community who is in Provincial Administration! The area was ruled under a state of emergency rules until 1992!!

Since communication is poor, the activities of the security forces and other state functionaries are rarely reported. Like during the colonial period, the potential for conflict arising out of the marginalisation, use of state violence and clan conflict over resources can lead to violence. Further, an argument is made that since the population is totally ignored by the state it should exit and fend for itself. However, there is no constitutional framework for their doing so peacefully.

Ahmednasir writes "The withdrawal of superpower patronage will encourage disadvantaged members of society to reassert their rights and re-dress past grievances. This with demands for democratization from both western countries and the grassroots population, will reignite fundamental questions concerning the desirability of particular ethnic groups remaining in current nation states.....It is really tragic that in spite of the existence of a problem of such magnitude and such tragic consequences only one African country (Ethiopia) has in the last thirty years addressed the issue of peaceful constitutional secession."¹²⁷

E. ELECTORAL VIOLENCE

As is extensively discussed by Chris Mulei, electoral violence is endemic to Kenya¹²⁸. It is not just found in the elections of councilors, members of parliament but also in peoples organizations like trade unions, cooperatives, football clubs and the like.

The quest for KANU was started by all sorts of organized "parties" battling each other all over Nairobi and into Kiambu, the venue for its founding, since Nairobi was too hot! During the campaigns of the early sixties, KANU, KADU, APP and other fringe parties fought. During the Little General Election of the mid-sixties, the KANU radicals and conservatives fought. The violence did not get abated during the hey day of the single party state. If anything it was taken to higher levels. Statistics are rare for when such

violence is sanctioned by the mighty and powerful, policemen and journalists know not to take notes. We await the opening of intelligence files to get a glimpse at the numbers involved.

Trade union elections have been characterized by violence at times. So are significant numbers of peoples' organizations. Again statistics are not systematically collected since it is expected and not part of the **Utumishi Kwa Wote** priorities.

Electoral violence is not just brute force. It is psychological with the use of oaths and witchcraft to deny opponents chances of either standing or winning as attested by all the successful election petitions. Since there are many believers on the efficacy of witchcraft, the field for psychological warfare would make the Green Berets blush.

Electoral violence costs to society are not just the obvious ones of denying some individuals the chance to get into leadership positions but also the fact that it appears to make most people keep away from participating. This does not augur well for the democratization of both society and state. It should be clear then that monitoring electoral violence, specifically violence which is unleashed during the lead up to campaign period, the campaign period and polling days; seeking dialogue with all parties and the state to minimize it; should concern donors.

In the past many donors have campaigned against electoral violence. However, it is not clear that they focused on violence leading to the campaign period. It is now recognized that monitoring of violence should perhaps start at least a year before elections for the maneuvering period is more violent than the campaign and polling times. It is during that time that those who would stand get intimidated from offering themselves. It also is the time when communities are threatened with sanctions.

F. ETHNIC CLASHES=POLITICAL VIOLENCE

Leading up to the 1992 elections, major violence took place mainly in Rift Valley Province and areas adjacent to it.¹²⁹ It has continued sporadically in the same areas. Its economic cost is still being debated. There is some evidence that significant numbers of Kikuyu, Luo and Luhya businessmen have relocated away from the clash areas. Land owners have not farmed their land. In towns like Kapenguria, trade has collapsed as Pokots try to replace other ethnicities who used to control trade. In districts like Transmara, many teachers have left and have not been replaced.

Its political cost for the country as a whole is clear, though unquantified. It can be argued that up to the clashes, ethnicity had not been openly operationalised as a system of getting political power and allocating national resources. Ethnicity is not only politicized, but widely operationalised for national resource allocation. Consequently, it is part and parcel of political calculus. Witness ethnic entrepreneurs, politicians and cabinet ministers included, talking publicly about what ethnicities they are to chase from "their" ethnic

areas. Such is found in all newspapers and public controlled electronic media.

The political violence has reduced the possibility of creating alternative parties based on either ideology or policy alternatives, for the calculus demands that all interpretation of how people are acting politically be reduced to ethnicity. Thus, to challenge KANU is no longer to challenge a party but to challenge the Kalenjin who have a party president. Forget that he is also the President of the country!

Accelerated by the ethnicisation of the political violence is the idea that those in power should loot as much as possible for they do not know when they will have another turn. It is also assumed that those in power are looting whether they are or not and thus the objective is to get power so that one and one's ethnicity can have a turn to loot.

Further, there is now a clear belief, even among very sober Kenyans, that there ought to be specific things which are defined ethnically. The first is land.¹³⁰ The second is national organizations in some specific ethnic areas. A parastatal leader in the Coast, for example, has told the author that a Coast based parastatal is only interested in employing people of the Coast. Similar arguments were being made by people of Rift Valley in the eighties but nobody paid them much attention. Now the argument is nationalized. Witness the argument that sugar and molasses should be controlled by the Luo.

The ethnicisation of political debate and the allocation of resources is a high price to pay, for it distracts the country from debating and acting on the design of an equitable, integrating and democratizing national future.

The only way to deal with the ethnicisation of political life is to demystify the contested issues. Therefore there is need to begin to make transparent data on public service employment (including security forces), promotions, loans and development programmes on a national basis so that the truth can be debated openly. Granted there is a risk in this but objective data are better than rumors. As long as people operate on rumors, the country continues on a disintegration path.

Mass media can fan ethnic grievances. Therefore there is need for mass media personnel and leaders to be educated on the dangers of interpretation of phenomena purely on ethnic basis for data so offered can be misused. It is shouting fire in a crowded theater. Civil society institutions need to take a lead on this.

It has been argued that some ethnic groups are over-represented not only in public life but also in civil society. It may be useful to research this and publicize the data on public institutions, political parties and civil society organizations. This issue should be brought to the attention for those organizations funded by donors. Affirmative action should be demanded by donors, for it is not good enough to support institutions which are stalking horses for particular

ethnicities as was the case in Rwanda and Burundi. This only increases conflict in the long term.

Finally, the idea that leaders have no business becoming ethnic entrepreneurs should become part of the national efforts towards democratisation. Any leader who openly agitates should be sanctioned by media, civil society, individuals and even parties. This should be written into all the codes of conduct for parties and other public bodies.

G. POPULAR VIOLENCE

Popular violence is defined as spontaneous violence which is unleashed upon some people be they perceived thieves, security persons guarding private plots contested by squatters, or perceived deviants, witches etc. Mass media reports too many mob justice killings. This is a relatively new phenomena which is found both in rural and urban areas.

General sociological theory argues that such violence increases as populations, stressed by economic or social pressures, displace their aggression. No wonder then such violence has increased given the shrinking resource bases and the attendant decline of economic performance and therefore hope for a better life. Perhaps mob justice incorporates some aspects of social banditry for Kenya has evolved to be one of the most unequal societies. Close to 50% of the population live below the poverty line. Mob justice is undemocratic over and above being criminal.

A sub-set of popular violence is violence on women. This is an insidious problem for it is primarily trapped in cultural patterns. It is not well documented since the normal social and state institutions which should document it are trapped in the cultural milieu which keeps it in the closet. Occasionally media reports on female battering. Nobody seems to collect the data on it systematically. Courts report on it rarely. Chiefs do not even consider it worthy of recording. In the rural areas taboos keep it from the public area. Research on it is problematic.

Value changes are necessary if issues of popular violence are to be addressed. Institutions which can play a role are the educational system, mass media, community institutions and religious organizations. All need to be networked on the problem. Such networks could become major sources information on the extent of popular violence and what is being done about it by the state and communities. Over and above educating the public it is also important that the police and court systems act against perpetrators of mob justice and violence on women by prosecuting the perpetrators. This may call for special police and family courts.

CHAPTER 5: POSSIBLE PROGRAMMING AREAS

A. CONFLICT OVER ESTABLISHING A DEMOCRATIC FRAMEWORK

Out of the reviewed meta theory and theory, Kenya's experience in "controlling" violence, enduring conflicts which have resulted in the increase in popular violence, the basic thesis of this summary chapter is that the primary cause of conflict is the lack of a democratic framework to adjudicate between individuals and the state. This conclusion is supported by the various papers and the discussions of the conference which documented various aspects of lack of systematic channels for participation and various forms of violence perpetuated by the non-democratic state. Consequently, the primary issue to be addressed by conflict resolution programming is the creation of a democratic framework by reducing the powers of the non-democratic state.

Sociological theory holds that as people perceive inequity, they will struggle to solve it. Conflict is part of the struggle for solutions. Although conflict related to the creation of a democratic framework might increase in the short term, it is part of the hypothesis that processes set afoot by multi-partism will lead to less salience of tribe or (less tribalism), a non-predatory state; limits on leadership based on divide and rule¹³¹; increase in tolerance and the limiting of ethnic entrepreneurs involvement in politics at all levels in the long term. However, this type of conflict will increase if participation channels continue to be blocked. This is the message of the *Seventh Saba Saba* protests of 7/7/97.

Therefore, programming for conflict resolution should assist the society to solidify structural changes of the state to create a state which supports a democratic society. Although such a state will still have monopoly on violence, as in all other states, such violence will not be directed on citizens.

What is to be done from a programming point of view? Where the state physically and psychologically brutalizes people petitioning it to increase participation channels, the programming need is for other states to speak for the limitation of state violence and the changes in laws which limit participation.

As extensively reported in local and international media, the American state has spoken forcefully through both the Ambassador in Kenya and the State Department in support of processes which would improve good governance. More significantly, there has been more donor coordination on the need for the state to conduct dialogue with those seeking change than was shown in the period before the 1992 elections. This type of intervention is not usually seen as part of conflict resolution but in the future it will become an important technique as states are forced by internal forces to create democratic frameworks for their own societies.

The other major element of programme support for creating a democratic framework is to support civic education. USAID/Kenya and a significant number of donors have contributed to

this effort especially as it relates to elections. Whereas elections are primary in terms of democratizing the state and society, it is important that civic education be widened to encompass issues of human rights, participation in the generation of policies on access to state services, fair economic distribution, fair returns on economic activity, policing of environmental pollution by industries, human pollution by drugs unacceptable elsewhere, creation of local government and so forth. All these are issues which the state needs to begin to operationalise if it and the powerful are not to continue to abuse citizens physically and psychologically.

If creating a democratizing framework is the top priority, in the opinion of the consultant, the following are, in descending order, areas meriting consideration.

B. URBAN INFORMAL SETTLEMENTS

Urban areas, especially the slums, do not have many CBOs. There also is a tendency for existing CBOs to be basically ethnic oriented since their main purpose is to keep their members connected to the communities of origin. This is the general practice of burial and clan organizations. There are not many harambee groups. There is an increasing number of micro-enterprise organizations, especially cooperatives which are either production or savings oriented. There are few community or neighborhood associations pressing for specific services. All of them need development support since building viable communities with vibrant economic activities may reduce conflict in the long term. Federating such community organizations may give them the weight to lobby for their interests and to assure urban communities participation in the democratization and development processes. It is only by federating that slum people can get policy clout.

In the urban areas, there is need to create more function specific CBOs. They can be residential, business, professional and recreational. Again the strategy may be to federate them so as to give their voice weight.

C. AGRICULTURISTS AND PASTORALISTS INTERFACES

The interface between primarily agricultural areas and pastoral areas generates conflicts based on resource use. The key conflictual areas are to be found in Tana River District where the riverine areas are contested (Hemsinger 1992), Kajiado, Narok and Transmara, (Kituyi 1990) Turkana, (Helland 1987) Kitui/ Mwingi, (O'Leary 1984) West Pokot, Elgeyo Marakwet, Baringo (ASAL Policy 1993) Samburu, (Wamba ASAL Development Project 1987) Isiolo, Laikipia, Garissa and Marsabit (Gauff 1996). These are all arid and semi-arid lands. The key resources are land, water and access to forage.

USAID/Kenya supported the first study of ASAL areas in 1977. It subsequently funded Kitui ASAL which was a dismal failure because of the contracting mode. It has not paid much attention to the development of the arid and semi-arid lands.

It should do so as part of its commitment to conflict resolution.

D. AREAS OF DECOMPOSING LIVELIHOODS

In explaining conflict in Somalia, Samatar has argued that where "reciprocal modes of historical livelihood" are decomposing, primarily because of population explosion, conflict is generated both within communities and exported to others as part of attempts to solve the livelihood problem.¹³² This argument is found in all documents presenting the case for the development of the arid and semiarid lands in Kenya since the mid 1970s.¹³³ Although some studies argue that ASAL areas have in the past adapted to higher populations in environmentally sustainable ways¹³⁴, it is doubtful that these rural areas far removed from national and external markets can sustain the current and projected populations. Given that rural areas lag in family planning¹³⁵ - total fertility rate for rural Kenya was 7 and 4.5 for urban Kenya between 1979 and 1989 - the future portends serious conflicts over all resources. Thus an area of focus is all the ASAL districts again.

A second geographic area of decomposing livelihoods is the high density areas where rural populations cannot get enough land to use. Districts like Kisii (517) Kakamega (411) Kiambu (352), Muranga (340), Kisumu (320) and pockets several of other districts need to be included particularly with regard to youth who no longer have access to land to generate for them a mode of livelihood given the densities per square kilometer shown in brackets.

E. LAND REGISTRATION

Completion of land registration in high potential areas would reduce conflict in those communities. It is hampered by lack of maps and conflicts in adjudicating ownership of particular pieces by the community committees. This may be one area where a technological fix - satellite mapping- may produce immediate results. Group conflict resolution techniques should be taught to the adjudication committees which more often than not delay the process by hearing cases endlessly at fantastic cost to the individuals of these communities.

F. CROSS ETHNIC AREA MINING

There is some evidence that significant gemstone deposits exist in areas contested by different ethnic groups. Some of the key interface areas are in Mwingi, Kuria/South Nyanza, Pokot/Turkana, Keio-Marakwet, Kwale /Taita, Northeastern Province etc. Although mining is not yet a major activity, there are incursions into the sector which will lead to major activities in the near future. It is conceivable these mineral resources can trigger major conflicts as the people of the areas are not the major miners. Recently there were in the press petitions by Pokots that they were being marginalised by the large scale mining operations in their areas where they

allege, security is provided by South African mercenaries and not even the state security structure. The strategy in these areas is to support the rights of local populations to their natural resources and to employment.

G. INTER-GENERATIONAL = 'BECOMING KENYANS CONFLICTS'¹³⁶

There exists conflict over pastoral resources, livestock and land, controlled by the old but contested by a more educated younger generation among pastoralists. This has been called "Becoming Kenyans". Other communities did make this inter-generational transition in the colonial period and the early period of independence with cushions provided by wage labour, squatting and the expansion of cultivation and sedentary animal husbandry. These options are not available for most pastoralists now.

The problem of transition has been studied among the Maasai and Samburu where it is essentially encapsulated in the fighting over group ranches which brings the two resources together. This inter-generational conflict has the potential for exploding. It can be shown that ethnicising the land issue in these communities just masks the real issue, control over resources and traditional decision-making, in these societies. Conflict within these ethnicities are likely to be more violent under the guise of clan initiatives as recent fighting in Narok and Transmara show.

It also is feasible that inter-generational conflict exists among the other pastoralists. Goldsmith's³⁷ paper alludes to this when it argues that the recruits to the raiding armies sell their cattle and further that the young do not have access to the miraa fields. There is need to solve the generational conflict for resources - farm land, group ranches or grazing lands and access to waterpoints- by creating other sources of livelihood for the young in these communities through development activities. This may then unmask the so-called clan and ethnic conflicts of the pastoral districts. It is clear also that the pastoral production system cannot support all the existing populations.

The arena for development activities will inter alia have to include livestock, education, infrastructure, health, trade and, most problematic, attitude changes.

H. TRANSFORMING PUBLIC INFORMATION

In some sense, a key to systemic conflict resolution is to improve governance for better resource allocation, improved participation and democratization. Funding transparency and anti-corruption efforts makes public issues more widely circulated and understood. It may initially increase conflict but in the long term it creates more responsible governing structures. By supporting media - by buying space, special issue editions etc.; special mass lobby groups- e.g. consumer associations; party organization -to increase reach and internal democratization; and particularly financing

electronic media especvially radio, to date dominated by the state, one would not only be supporting democratization of society but also enabling politics to become more issue oriented.

I. TRANSFORMING THE STATE

Support to local government reorganization and programmes to mobilize the public on service issues is critical for some of the conflicts are driven not only by bad national and local government decision-making but by the distance between governing institutions and the public. Support to local governance capacity building to give residents specific services would address the issue of distance. Support for more democratic practices, constitutional revisions, elections, accountability and good governance at national level is important for the state structures are contested now. Failure to address the contested issues will mean that more and more people will be alienated and ultimately resort to non-democratic forms of changing the state.

J. TRAINING OF JOURNALISTS

The Rwanda experience shows that media can fan ethnic conflict. Kenya media, especially state controlled media, did not cover equitably the points of view of the all the victims of ethnic clashes. Consequently the impression was created that there never were Kalenjin victims of the clashes. It is important that media be trained in the need for thinking on conflict resolution whilst reporting. The institutional framework for this should be the trade organization, namely, the Kenya Union of Journalists.

K. DEMOCRATIC PRACTICE/TOLERANCE TRAINING IN SCHOOLS

In the Kenyan school system, there has not been any systematic curricula on democratization. At Kenyatta University, some professors are interested in developing a curriculum on the problem of democratization. They are interested in developing a teacher oriented curriculum initially. It would focus on teaching issues of tolerance and justice, for the two make a major contribution to democratic behaviors of individuals and, by extension, society. To the extent such efforts could ultimately become part of national curricula, it may be wise to fund these early efforts.

L. ISLAM AND CHRISTIANITY DIALOGUE

Initiating dialogue between Christianity and Islam at local level and national level should help in mediating some of the conflicts defined in religious terms although they may be about other issues. At national level NCCCK, Catholic Secretariat and Supreme Muslim Council dialogue should be initiated. In Coast Province, Northeastern, Marsabit and Isiolo, dialogue at the community level should be initiated.

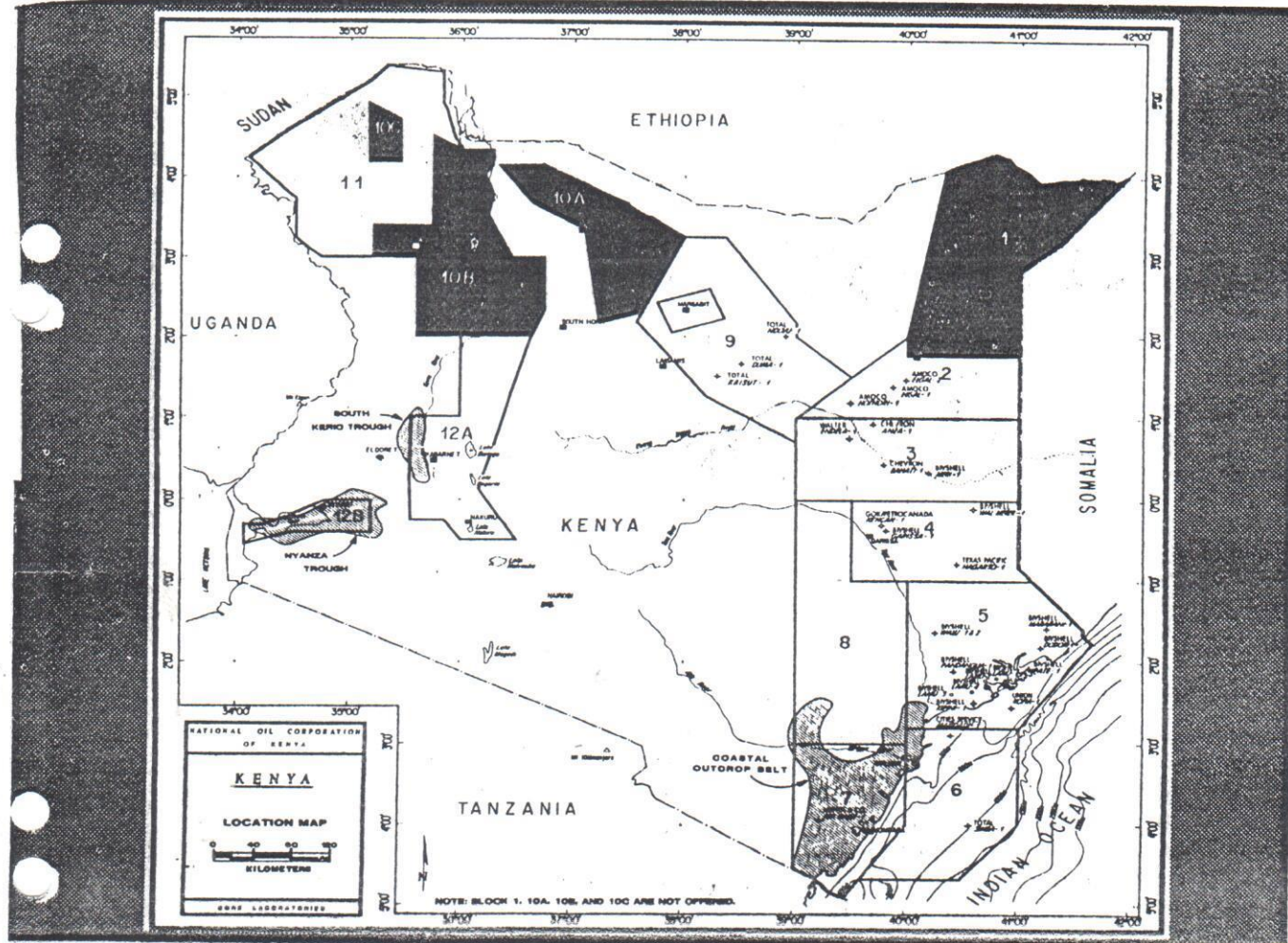
M. POTENTIAL INTERSTATE CONFLICTS

Cross Border Raiding

This type of raiding has been particularly vicious in Turkana, West Pokot, Marsabit, Wajir, Mandera, Lamu, Tana River and Garissa. Although in the past state structures have been involved in settling this type of conflict, perhaps cross-border community conflict resolution practices, of course with the participation of the states of the region should be the strategy. This is so even though the Kenyan state position, as the attack on the Pastoral Forum at the beginning of June, 1997, shows, does not encourage interaction of cross border communities.

Elemi Triangle

The Elemi Triangle area has the potential of being contested by Uganda, Sudan and Ethiopia particularly over oil exploration in Blocs 10A, 10B, 10C and 11.¹³⁸ This problem is officially recognized, and in some senses explains why Kenya supports some elements in Southern Sudan. The problem of the Elemi Triangle may need inter-state mediation where the potential conflicts are anticipated now and mediated.



The blocks that the Government has identified for oil exploration: Recent data shows more areas with oil potential have been discovered. (Source: Ministry of Energy)

Other Oil Resources Driven Potential Conflicts

Exploration Bloc 1 abuts both Ethiopia and Somalia. Exploration Blocs 2, 3, 4, and 5, abut Somalia. Indeed some argue that they are all part and parcel of the same oilfield.

Given the past and current problems of these borders, it may well be that there is a need to set up mechanisms now for managing possible conflict in the future. It is argued by some that part of Kenya's diplomacy for the past twenty years towards Somalia can be explained by the concern over these oilfields, among other interests. Bloc 6 extends to the ocean and has the potential for conflict over the zone of economic interest of Tanzania. Bloc 7 touches on the Tanzania border.

There has been limited oil exploration in the region to date. Exploration and exploitation is potentially explosive if the oilfields cross borders. In the Somalia border areas there may be serious problems given that the border areas where the oil exists is also contested on the Somali side by fundamentalists who also contest the Somali state. The strategy may be to initiate regional negotiations to set up exploration and exploitation modalities now.

Cross Border Mineral Resources Mining

Over the past few years, the mining of precious minerals, essentially gemstones, has expanded in both West Pokot and Turkana. The fields are not completely mapped geologically. Extensive mapping is currently taking place in parts of Northern Uganda. Some geologists, extrapolating on data from reconnaissance geology maps, suggest that the areas where gemstones are found both on the Kenya and Uganda side may become contested. Other possible contestations are on the Ethiopia and Tanzania borders. Setting community and commercial companies discussions across the boundaries may be useful.

Cross Border Refugees

"Kenya ... has been a magnet for refugees from neighboring countries in pursuit of a better future"¹³⁹. Refugees have come from Sudan, Eritrea, Ethiopia, Uganda, Burundi, Rwanda and Somalia. Over and above reported abuses of both internal and external refugees, by putting them in insecure settings, sometimes expelling external refugees¹⁴⁰ by the state and its functionaries, Somali refugees have triggered fantastic hostility in the population towards refugees in Kenya, perhaps because part of the Kenya population is also Somali. The issues are both attitudinal and the local populations feeling that refugees are favored in development support whilst local populations are not much better off than the refugees. This is particularly so in the very arid districts where some of the refugee camps are located. Refugees exploit the natural environment in ways which a detrimental to the well-being of the local populations. The locals cannot usually access services like schools, hospitals, shops and waterpoints, intended for refugees. Infrastructure and services put up is

usually uprooted when refugees leave. Nobody rehabilitates the natural environment destroyed by the camps. The other extreme is the paradox of the refugee elites of some of the neighboring countries bidding up real estate and commercial buildings and businesses in the towns beyond the reach of ordinary Kenyans in the urban environments. The state has had to relocate refugee camps to less-populated areas because of hostility which led to open clashes. This was the case in the Somali Refugee camps located in Coast Province. They had to be relocated to Garissa District in the arid northeast.

Tanzania has also hosted many refugees from the region. Its population seems to also be wary of refugees currently¹⁴¹. Even the Tanzanian state is beginning to be wary. There are efforts to repatriate Rwandese and Burundians forcefully according to development workers from the lake region.

Areas needing monitoring are along the borders for it is in the border communities, who have borne the brunt of the invasion, where attitudes are strongest against refugees. Clearly there is need for refugee benefits, particularly infrastructure, to be passed to the local populations. There will be need to change the attitudes of the UN and NGO organizations who primarily handle refugees towards local populations and development. Local populations ought to become targets of development by these organizations. To date most refugee oriented organizations claim to be in the relief and not the development arena. Perhaps USAID as one of the major financiers of some of these organizations can begin to have policy impact on their approach to servicing refugees and local communities in ways which will contribute to the well-being of both -sustainable development. This is an issue which the Greater Horn of Africa Initiative could lead on.

There also is need for public education not only in Kenya but also in the region, on refugees and refugee rights. Perhaps this can be achieved through mass media and systematic training of officials so as to handle refugees better.

Ironically the long-term solution to the refugee problem in the region is to solve the systemic conflicts in the region which generate the refugees! Since most of the refugees are generated by bad governance, rather than natural calamities again the solution to the regional refugee problem lies within the realm of introducing good governance in the region. Again the arena of GHAI.

APPENDIX 1. OBJECTIVES OF THE CONSULTANCY

1. *Ultimate Objective*

The ultimate objective of the consultancy is to assist the Democracy and Governance Programme of USAID/Kenya to develop intervention activities in the area of conflict management and identify those organizations capable of doing so.

2. *Intermediate Objectives*

The intermediate objectives are:

- a. To provide an analytical framework to enable diverse paper producers to document past conflicts and solutions to them.
- b. To document empirically the underlying causes of various types of conflicts which have or potentially could lead to violence.
- c. To identify those conflicts which are amenable to interventions by 1. Donors 2. The State 3. Civic Society 4. Regional institutions 5. Combinations of the above.
- d. To identify existing organizations/mechanisms for conflict resolution and prevention within 1. Donors 2. The State 3. Civic Society 4. Regional institutions or 5. Combinations of the above.
- e. To identify limitations and constraints on existing conflict resolution institutions or any possible new ones which may arise.

C. OUTPUTS OF THE CONSULTANCY

Muticon, will produce a report for USAID which will include:

1. Programming Framework Paper on Conflict Resolution.
2. Recommendations on Programming Strategies.
3. Edited Case Study Papers.

APPENDIX 2. LIST OF PAPERS

1. *Indigenous Social Mechanism of Conflict Resolution in Kenya.*

Katama Mkangi

This paper discusses traditional conflict resolution mechanisms and evaluates their relevance today and in the future concluding that they have a place.

2. *Wajir Community Based Conflict Management*

Dhekah Ibrahim and Janice Jenner

Wajir has built a strong community based initiative which handles conflicts on governance and traditional competition on resources. This paper discusses this experience and shows that the effectiveness was predicated on the agreement and incorporation of key state bureaucrats into the organization. The organization was also institutionalized into the government local administrative structures.

3. *Violence on Women.*

Winnie Mitullah

This paper documents forms of violence practiced on women in general even when there are no societal conflicts. It makes a basic contribution by showing that there is no systematic documentation of violence on women either in the courts, administrative structures or even communal organs. The challenge is to find ways of documenting the extent of the problem before solutions, particularly to domestic violence are found.

4. *Electoral Violence in Conflict and Conflict Management in the Greater Horn of Africa.*

Chris Mulei

With special emphasis on Kenya, this paper traces the data on electoral violence which can act as a trigger to subsequent conflicts. It concludes that electoral violence is endemic driven by the authoritarian state. The challenge seen is the democratization of governance and society.

5. *The Impact of Past and Potential Ethnic Conflict on Kenya's Stability and Development*

Barasa Kundu Nyukuri

This paper documents the ethnic violence which took place over the past five years and analyses the positions taken by government, donors, ngos and others in the "settlement" of the clashes. It concludes that there is danger of perpetual "ethnic" conflict since the ruling party and the opposition have ineffective leadership and the population lacks of civic education on ethnic peaceful co-existence.

6. *Conflict in the Rift Valley and Western Kenya: Towards Early Warning Indicator Identification.*

Bertha K. Amisi.

This paper explicates the "ethnic" conflicts which have taken place in Kenya since 1991 to draw lessons for the generation of early warning indicators. It emphasizes that the key indicator is the pronouncements of powerful politicians (ethnic entrepreneurs) agitating on ethnic lines.

7. *Resource Utilization and Conflict in Pastoral Areas of Kenya*

Abdi Umar

Limited natural resources, encroachment by agriculturists, neglect by the state and limited local capacities are some of the problems which intensify conflict in the pastoral areas. Given that pastoralists are heavily armed, the state continues to marginalise them at its own peril.

8. *Trade, Conflict and Conflict Resolution on Northern Kenya's Highland Lowland Interface*

Paul Goldsmith

This paper argues that liberalization of markets has triggered more conflict at the interface of crop agriculture and pastoral production. Expanding trade is for guns, livestock and qhat (a narcotic leaf). The paper concludes that trade triggers and reinforces mechanisms for resolving some conflicts. However, there is still need for state initiated security to limit social banditry and allow trade to grow into wider regional networks able to support the populations of the pastoral areas.

9. *Pastoralist Cosmology: The Organizing Framework of Indigenous Conflict Resolution in the Horn of Africa.*

Hadley H. Jenner.

Using three case studies this paper argues that pastoral cosmology facilitates survival in the harsh environment and is suited to conflict resolution. This is ignored by current non-pastoralist power holders and development actors to the detriment of both pastoral and national development.

10. *Coast Land Conflicts.*

Saad Yahya and Yakub O. Ibrahim

The historic land ownership system at the Kenya coast, settlement by interior people who are also not islamised, foreign investment in the tourism industry and lack of state protection of sacred lands has led to serious conflicts at the family, community and national level which is set to intensify if redress is not found, argues this paper.

11. *Interior Land Related Conflict and Violence.*

John Githongo

This paper argues that there is conflict over traditional and modern land ownership systems, operationalisation of the concept of tribal lands, inter-generational competition over control of land. Consequently land is used by various elites not just as patronage but as a political mobilizing (organizing) principle. Land is thus a trigger for conflicts.

12. *Islam and the Religious Dimension of Conflict in Kenya.*

David Sperling

Given "ethnic Islam", prospects for radical Islamist movements are not likely. However, this paper argues that some conflicts are being expressed in religious terms although their core is not religious. Such conflicts are economic, political, social, racial, ethnic and secular ideological. It is failure to solve such conflicts which operationalises religious conflict in the long term.

13. *Conflict in Urban Settlements in Kenya: Access to Land and Services in Unplanned Settlements.*

Joyce Malombe

This paper argues that urban conflicts are likely to increase and intensify since sixty to eighty percent of the populations of urban areas live in unplanned settlements without legal access to land or services and without the state or society solving these basic access problems. Such conflicts are more explosive and have higher costs to society given their destructiveness than almost all other conflicts in the Kenyan society.

14. *State Driven Conflicts in the Greater Horn of Africa*

Peter Wanyande

This paper argues that the key conflicts in the region are state driven basically because the states practice bad governance. Resolution of such conflicts therefore demands that governance be improved rather than treating the symptoms which among others include ethnicity, clannism, religion or even regional issues.

15. *Greater Horn of Africa Conflict System: Conflict Patterns and Practices*

Makumi Mwangiru

This paper argues that the Greater Horn of Africa belongs to a conflict system whose epicenter is Sudan. Attempts to resolve the conflicts in the system have included regional and external actors with different success rates. Success in resolution and settlement will be based on involvement of state and non-state actors and not just one of the two.

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