

CONSTRUCTING A “NEW KENYA”: NATIONAL UNITY AND RECONCILIATION IN
THE WAKE OF KENYA’S 2007/2008 POST-ELECTION VIOLENCE

By

Lindsay Harroff

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Dave Tell

Chairperson Dr. Dave Tell

Jay Childers

Dr. Jay Childers

Robert C. Rowland

Dr. Robert C. Rowland

Elizabeth MacGonagle

Dr. Elizabeth MacGonagle

Date Defended: July 21, 2014

The Thesis Committee for Lindsay Harroff

certifies that this is the approved version of the following thesis:

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Dave Tell

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Abstract

On December 30, 2007, moments after Kenya's electoral commission announced incumbent President Mwai Kibaki won the presidential election, violence erupted across Kenya in response to perceptions the election was rigged. Within weeks, 1,133 people were killed and more than 350,000 displaced. Although immediately sparked by the contested election, the violence resulted from and revealed longstanding social divisions and political injustices. In addition to destroying thousands of human lives, the crisis shattered Kenya's imagined national identity as an island of peace and a model democracy. In an address to the National Assembly, newly elected president Mwai Kibaki identified the crisis as a "turning point" and called for the construction of a "new Kenya." This thesis works towards understanding rhetoric's potential contribution to national unity and reconciliation as the basis of constructing a political community, especially when ethnicity is irreducible. Ultimately, I argue that the potential for reconciliation and national unity lies in a particular form of rhetorical performance: a form that Kenya's Truth, Justice, and Reconciliation Commission calls "truth telling." By cultivating an enlarged collective understanding, truth telling fosters identification across differences and is attentive to the sources of social divisions and tensions, grounding the potential to transform them.

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*“The written word, no matter how poetic cannot convey . . .”*¹

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¹ Truth, Justice and Reconciliation Commission, *Report of the Truth, Justice and Reconciliation Commission*, V. I (Nairobi: Truth Justice and Reconciliation Commission, Kenya, 2013): iii. http://www.tjrkenya.org/index.php?option=com_content&view=article&id=573&Itemid=238.

Table of Contents

	Page
Abstract.....	iii
Acknowledgements.....	iv
Table of Contents.....	v
Chapter 1: A Rationale for Studying the Construction of a New Kenya.....	1
Chapter 2: The Development and Destruction of Kenya’s Reputation of Peace and Stability.....	20
Chapter 3: Ethnicity and Politics in Rhetorics of the Post-Election Violence	49
Chapter 4: Truth Telling: A Rhetorical Performance of National Unity and Reconciliation.....	86
Chapter 5: Conclusion.....	119

Chapter 1

A Rationale for Studying the Construction of a New Kenya

On December 30, 2007, moments after Kenya's electoral commission announced incumbent President Mwai Kibaki won the presidential election, violent riots and protests erupted across Kenya in response to perceptions the election was rigged. The initial protests soon evolved into organized violence, primarily between ethnic groups affiliated with the major political parties, and evidence emerged that political elites had a hand in organizing the violence, even prior to the election. Within weeks of the election, 1,133 people were killed and more than 350,000 displaced.¹ Although outbreaks of violence had occurred in the past, the scale of the 2007-2008 post-election violence was unprecedented. In addition to destroying thousands of human lives, the crisis shattered Kenya's imagined national identity—held both by Kenyans and the international community—as an island of peace and a model democracy in East Africa. Michael Chege, an advisor on international development policy in Kenya's Ministry of State for Planning and Development, describes the dominant perception of Kenya as “East Africa's economic powerhouse, normally considered a stable, peaceful haven on an otherwise troubled continent.”² Although the contested election results immediately incited the violence, the crisis both resulted from and revealed longstanding social divisions and political corruption that undermined Kenya's image as a peaceful and stable model democracy.

The social divisions and political injustices revealed by the post-election crisis demonstrate that a historical absence of large-scale violence does not preclude undercurrents of hostility, or—from the opposite perspective—the existence of violence does not preclude an image to the contrary. Furthermore, the existence of traditional democratic structures and

institutions does not ensure the realization of Western liberal democratic norms and values. Following Benedict Anderson's claim that every nation is "an imagined political community," numerous rhetorical scholars recognize that the people, institutions, and boundaries that constitute a nation gain meaning through rhetoric.³ As such, political norms and national identity are formed and can be transformed through rhetorical invention. Kenya's post-election violence created a unique historical moment for such rhetorical invention, as indicated by President Kibaki, who, in an address to Kenya's National Assembly marking the opening session of Parliament after the violence, identified the crisis as a "crucial turning point."⁴ The "turning point" emerged as the central theme of the speech in reports by domestic and international news media.⁵ Kibaki claimed that Kenyans emerged from the crisis determined "to realize our collective vision of a free, just and prosperous nation," and he established constructing a "new Kenya" as the National Assembly's primary task.⁶ Additionally, the significant violence and historic grievances between ethnic groups the crisis laid bare presented a need to transform antagonistic relationships between various ethnic, political, and social groups.⁷ Kibaki recognized very early in the crisis, in his presidential acceptance speech, that it was "a time for healing and reconciliation among all Kenyans" and there was a "need to heal the differences that have been created among us."⁸ The hope for national unity, as expressed in the desire "to realize our collective vision," and reconciliation emerged as central themes in the wake of the 2007/2008 post-election violence and were integral to the construction of a "new Kenya."⁹

In this thesis I examine three critical cases, each drawn from the construction of a "new Kenya," for understanding the role of rhetoric in the construction and maintenance of national unity and reconciliation as part of nation building. The cases are (1) the origin, development, and

disruption of Kenya's image as a peaceful, model democracy, (2) differential rhetorics about ethnicity and genocide in the post-election violence, and (3) the pursuit of national unity and reconciliation by the Truth, Justice, and Reconciliation Commission. Each of these case studies harbors lessons about the relationships among rhetoric, politics, and ethnicity. They teach us about the limitations of Western liberal democracy, especially when imported by or imposed on foreign contexts; the irreducibility of ethnicity; the importance of openly addressing violence and its sources; and the sheer power of the spoken word. Ultimately, I argue that the potential for reconciliation and national unity lies in a particular form of rhetorical performance: a form that Kenya's Truth, Justice, and Reconciliation Commission calls "truth-telling." Bearing remarkable resemblance to the performance that John Durham Peters calls "witnessing" and combining features of the communicative acts Iris Marion Young calls "narrative" and "rhetoric," this rhetorical performance cultivates an enlarged collective understanding that fosters identification across differences and is attentive to social divisions and their causes, grounding the potential to transform them.¹⁰

In the remainder of this chapter I set up this argument by first explaining the theoretical framework that informs it, as well as its theoretical contribution. Then I describe the methodological approach of my analysis and provide a brief overview of the chapters to follow.

Theoretical Framework and Contribution

The post-election violence prompted a desire to secure a sense of nationhood and what it means to be Kenyan and simultaneously to transform the political community to construct a "new Kenya" that was a "free, just and prosperous nation."¹¹ Thus, an analysis of responses to the post-election violence, especially those directed towards constructing a "new Kenya,"

bridges theory on reconciliation and nation building, calling for a new understanding of how rhetoric functions in the intersection. Further, the intimate relationship between ethnicity and politics in Kenya problematizes norms of Western liberal democracy and civic nationalism, as well as rhetorical theories based on them.

Nearly half a century ago, Charles Taylor, writing about Quebecois separatism claimed, “The basis of the new nationalism . . . is not the defence of anything existing but the creation of something new.”¹² The decline of the Cold War prompted a surge in scholarship on nation building and nationalism, especially in the states that emerged after the fall of the Soviet Union.¹³ Additionally, numerous scholars have contributed to understanding the role of rhetoric in constructing identity and community.¹⁴ Despite this emphasis on *constituting* identity and nationhood and the interest in newly emerging states after the Cold War, much of the rhetorical scholarship focuses on relatively stable Western societies and a correspondingly narrow perception of national unity and the type of rhetoric that constitutes and sustains it.¹⁵ Assuming the pre-existence of shared values and beliefs, James Boyd White explains that rhetoric calls identity into being by reflecting on shared values and beliefs.¹⁶ Additionally, Vanessa Beasley studies “ways that presidential discourse subtly reinforces the audience’s presumed collective identity as national subjects.”¹⁷ Jay Childers studies moments of domestic trauma, understood as “an important transitional time,” which he argues present “an opportune moment through which rhetoric can weave articulations meant to hold the collective together.”¹⁸ However, in Childers’s analysis within the context of the United States, the response relied heavily upon “well-established cultural arguments.” Childers explains, “America’s intellectual and political leaders used the instruments and methods they already knew to suture the nation’s wound.”¹⁹ Even at

this time of “transition,” assumptions about community and democracy are assumed to already exist, and a response recognizing the need to repair a particular political problem would operate within this community and those norms. Operating within the potential for transformation, however, reconciliation requires holding existing values, beliefs, norms, and identities in flux. Doxtader warns, “Appeals to such goods as collective interest, constitutionalism, justice, and natural rights may indicate that theorists have presupposed precisely that which they seek to explain.”²⁰

In addition to relying on existing beliefs, rhetorical scholarship also privileges the construction of political communities through a rational attachment to a set of shared political practices and values that tends to bracket differences. For example, Beasley contends that American presidents “have repeatedly stated in their speeches that American national identity is based on certain shared beliefs” and “promised that anyone who holds these beliefs is fit to be an American.”²¹ Michael Ignatieff distinguishes between civic nationalism, defined by a “rational attachment” that closely resembles the model favored by rhetorical scholars, and ethnic nationalism, defined by a “passionate attachment.”²² Civic nationalism “envisages the nation as a community of equal, rights-bearing citizens, united in patriotic attachment to a shared set of political practices and values.”²³ According to Ignatieff, as those groups originally excluded from the nation defined in terms of civic nationalism—workers, women, indigenous peoples, and ethnic minorities—successfully struggled for civic inclusion, common citizenship became the norm by which Western nation-states have come to define nationhood.²⁴ Consistent with their focus on the modern Western world, rhetorical theories on national unity are based on the shared beliefs and rational attachment that characterize the civic nationalist model.

As opposed to the “rational attachment” of civic nationalism, Ignatieff describes ethnic nationalism as founded on a “passionate attachment,” a sense of home and belonging that undergirds the violent impulses of ethnic nationalism.²⁵ Ignatieff poignantly explains that the sentimentality inspired by ethnic nationalism implies “that one is in the grip of a love greater than reason, stronger than will, a love akin to fate and destiny.”²⁶ Yet, this love is also associated with nationalism’s dark underbelly represented in the horrors of the Holocaust and violent clashes in the former Soviet republics. Ethnic nationalism can justify violence by establishing itself as the “overridingly important form of belonging” that provides the protection necessary for all others—family, work, and friends.²⁷

Yet, the case of Kenya disrupts the dichotomy between civic and ethnic nationalism, requiring new notions of nationalism or national unity and its rhetorical construction. Kenya’s National Assembly established the Truth, Justice, and Reconciliation Commission (TJRC) in October 2008 in part to build “a democratic society based on the rule of law”²⁸ and to resolve divisions between ethnic groups, as well as other issues, that “have eroded a sense of belonging, nationhood, and public trust in political and governance institutions” and create a unifying national identity.²⁹ In this way, Kenya expresses a clear desire for civic nationalism and to integrate its diverse ethnic communities within the nation. However, Bruce Berman, Dickson Eyoh, and Will Kymlicka explain of African countries generally:

However constructed, transformed, and instrumentalized politically, ethnicity is always or nearly always metaphoric kinship. For the vast majority of contemporary Africans, the metaphorical kinship of ethnicity remains crucial to securing basic security, and similar to the ‘horizontal kinship’ of nationalism of peoples all over their world, to their

conceptions of selfhood and belonging. It is, thus, the durability of kinship as the most fundamental unit of social trust that ultimately grounds the vitality of ethnicity as the idiom of political identity in post-colonial Africa.

John Lonsdale suggests that ethnic identification can provide an important source of social solidarity. “Their [Kenyans’] imaginations of ethnicity, too often destructive, can nonetheless be among their most fruitful sources of nationally active citizenship.”³⁰ He explains that in Kenya “moral ethnicity”—a “process of ‘ourselves-ing’” that “arises out of internal discourses of social responsibility comparable, in all but their lack of demand for a state of their own, to those of European nationalism”—predated “political tribalism,” the negative process of “othering” that creates ethnic divisions.³¹ Additionally, determinations of who receives the benefits, protections, and resources of citizenship are inextricably bound to ethnic identity in Kenya. Jeffrey Steeves explains, “Politics in Africa is ‘life-giving,’ that is, politics intrudes deeply into the lives of people. . . . Having political power opens up the opportunity to gain access to and distribute State resources. Hence, the frequent reference in African politics to ethnic groups asserting that it is ‘our turn to eat’.”³² Like Berman, Eyoh, and Kymlicka, Steeves also recognizes, “The individual in Africa is defined by one’s ethnic community and thus one’s loyalty and actions are framed within an ethnic identity.”³³ In Kenya ethnicity provides the sense of belonging and protection Ignatieff associates with ethnic nationalism, but only through the political system. Thus, ethnic attachment and civic attachment are both prominent and entwined in Kenya.

Additionally, Ignatieff observes that the ideal of civic nationalism “was made easier to realize in practice because the societies of the Enlightenment were ethnically homogenous or

behaved as if they were.”³⁴ Although there are many different views of Western liberal democracy, they commonly include norms of egalitarianism, rational consensus, and the common good that require bracketing differences, or at least attempt to do so.³⁵ Michael Walzer explains of the United States, “If the manyness of America is cultural, its oneness is political, and it may be the case that men and women who are free from non-American cultures will commit themselves more fully to the American political system.”³⁶ The bracketing of difference required for civic nationalism makes this model untenable for the construction of a new political community in Kenya, where vast ethnic diversity and a close relationship between ethnic and political identities presents unique challenges for constructing national unity. The mobilization of ethnic identity for political purposes is a common and openly acknowledged political tactic in Kenya. Additionally, ethnic differences are also directly related to historic land grievances and material inequality. Addressing underlying causes of division and conflict in Kenya such as political corruption, land grievances, and economic marginalization would not be possible without also accounting for ethnic differences and vice-versa. Reconciliation is also given to establishing unity in difference and, according to Doxtader, occurs through disagreements to determine what needs to be reconciled and how to do so.³⁷

The challenge of unifying a nation within political boundaries that do not correspond with ethnic or cultural boundaries is common under the nation-state paradigm, especially among post-colonial states. Alfred Nhema explains:

In an ideal situation, *national* loyalty is expected to blend with state loyalty, giving rise to an environment in which the state acquires legitimacy and political authority across all national or ethnic groups. Cultural, linguistic and political barriers that accentuate

differences are supposed to have been resolved at that stage. However, history shows that multi-ethnic states of Africa can hardly be defined as cohesive nation states in which the inhabitants have developed solidarity on the basis of shared customs and values. This situation tends to create an environment in some countries where some disaffected citizens owe a greater allegiance to their ethnic group than their state.³⁸

As Ignatieff observes, civic nationalism has become the dominant basis of national unity for the modern nation-state. Kenya, however, lacked many of the inventional resources of civic nationalism. As I will explain later, a divisive memory and willful forgetting of Kenya's liberation struggle and independence did not provide the national heroes, such as Nelson Mandela in South Africa, or national ideology, such as the idea of American exceptionalism that emerged from the American Revolution, that assist the formation of national unity through civic nationalism. Additionally, the structures and policies of the state, police force, and military in post-independence Kenya continue to resemble those that were in place during colonial rule as part of Britain's divide and rule policy. Kenya's TJRC writes in the executive summary of its final report, "It [independence] was supposed to be the beginning of political and economic emancipation; the start of respect for the rule of law, human rights and dignity and the laying down of the foundations and tenets of democracy. Many envisioned a newly invigorated, united nation. These expectations never materialized."³⁹ Political practices and values continued to divide more than unify.

Throughout history rhetoric has had to be defended against its feared potential to incite the passions and overcome reason. In the case of nationalism, passion and emotion have also become feared for their the association with nationalism's dark side. Thus, it comes as not

surprise that rhetorical scholars clearly privilege civic nationalism and the idea that political communities are held together by rational attachment to civic ideals and shared values. Since most theories on the rhetorical construction of national identity and political community are based in the context of modern Western nations, where—as Ignatieff argues—civic nationalism is the norm, this narrow perspective has been largely unchallenged. Paul Zeleza writes, “Struggles for democracy have to be accompanied by a profound and constant questioning, and in some cases even dismantling, of the old totalizing constructions and binary oppositions between nationality and ethnicity, collective and individual rights, and tradition and modernity.”⁴⁰ Along with particular contextual factors in Kenya, this creates unique challenges that exclude the possibility of applying a ready-made model of nation building.

Methodology and Overview

In each of the following chapters I study a critical case in the construction of a “new Kenya” for understanding rhetoric’s role in the construction and maintenance of national unity and reconciliation, as well as what these concepts mean within a context of social and political transformation and when ethnicity is irreducible. I chose each case based on its importance for understanding the meanings of, challenges to, and role of rhetoric in national unity, reconciliation, and the construction of a “new Kenya.” Similarly, I selected the texts I analyze in each case because they offer the most insight for understanding these concepts. Furthermore, I contextualize each case within the relevant historical, social, and political conditions in Kenya. By doing so I analyze the rhetoric following the post-election violence in Kenya on its own terms, rather than simply applying Western ideas and models of rhetoric, while still reflecting on

the Western rhetorical tradition to develop a more refined understanding of both the particular cases I analyze here and rhetorical theory more generally.⁴¹

By tracing the origin, development, and disruption of Kenya's reputation in Chapter 2, I work towards understanding how Kenya's new political community can be constructed through a negative approach, by establishing first what would not work. More specifically, Chapter 2 demonstrates that a political community established primarily through deliberate forgetting and supported by the mere existence of democratic structures, rather than political practices and norms, can foster willful ignorance of social divisions and political injustices and is an untenable foundation for constructing a "new Kenya." Forgetting of and blindness to divisions and corrupt political practices allows those divisions to remain unaddressed and continue to threaten the stability of the political community. The immense violence in response to the contested 2007 election results, which broke along ethnic lines, laid bare the divisions ignored and forgotten by Kenya's ideology, as well as the dangers of an ideology crafted in such a way. Yet, the widespread shock commentators expressed that such violence could occur in Kenya, East Africa's supposed model of peace and stability, also demonstrates the power of such an ideology. Chapter 2 speaks to the power of rhetoric to construct political communities and refines our understanding by suggesting that communities can be of different degrees and kinds of imaginability. Further, it warns against the dangers of a community imagined through willful forgetting and ignorance of social divisions and corrupt political practices.

In Chapter 3 I study the disparate ways in which the role of ethnicity in the post-election violence and, particularly, whether or not it qualified as genocide was discussed during and immediately following the crisis. To do so, I analyze a variety of texts, including news articles

about the crisis, official and press statements by politicians in Kenya and the United States, and two U.S. congressional debates on the crisis in Kenya. Chapter 3 demonstrates the necessity of recognizing ethnic differences within Kenya's political community. The news media, particularly in the West, sensationalized the image of another African country degenerating into tribal conflict, as scholars of African and post-colonialism studies have come to expect. The burning alive of approximately 30 Kikuyus, members of Kibaki's ethnic community, provided a particularly macabre spectacle for the media to sensationalize, especially through comparisons to the Rwandan genocide and speculations that the post-election violence in Kenya also amounted to genocide. Conversely, U.S. politicians rhetorically distanced themselves from the incident of the burning church and denied the possibility that the crisis could be considered genocide on the grounds that it was political and, therefore, not ethnic. In opposing ways, both discourses grossly simplified the conflict, ignoring its numerous and historical complexities. Conversely, Kenyan public officials described an intimate relationship between ethnicity and politics in Kenya. Furthermore, Kenyan politicians used the burning church for political leverage by accusing their political opponents of orchestrating genocide. Kenyan politicians, therefore, not only recognized the relationship between ethnicity and politics in Kenya but also demonstrated the practice of mobilizing ethnic differences for political gain that has historically been and continues to be the source of many divisions and injustices in Kenya's political community. Chapter 3 demonstrates that transforming political practices to reconcile divisions in Kenya's national community requires acknowledging the relevance of ethnic differences in the political community.

Chapter 4 builds on the findings in the previous two chapters to better understand rhetoric's potential to promote national unity and reconciliation. Towards this end, I analyze how

the Truth, Justice and Reconciliation Commission conceptualized these objectives and its ability to contribute to them in its final report. The Commission was challenged with constructing a comprehensive historical account of ethnic and political conflicts and human rights abuses throughout Kenya's history as an independent nation and, furthermore, presenting this narrative as the foundation for national unity and reconciliation. The report clearly demonstrates the centrality of truth telling to the Commission's work. As a mode of historical recall, truth telling contributes to the construction of a comprehensive historical account and national unity and reconciliation. Truth telling does not simply contribute to national unity and reconciliation, however. Rather, it works between them and productively refigures both to offer a tenable foundation for the construction of a "new Kenya." As a mode of historical recall that works through memory, truth telling allows the Commission to incorporate multiple perspectives of the past within its historical narrative. In addition to creating a more comprehensive account, the inclusion of multiple truths fosters understanding among differences and establishes an enlarged social knowledge that could identify social divisions and corrupt political practices and, thus, grounds the transformation to the future. Furthermore, truth telling brings individuals into relation and establishes their humanness through a performance that is contingent on the condition of plurality. Joined by truth telling, national unity and reconciliation can neither be mere coexistence nor work towards a homogenous unity. Finally, I conclude in Chapter 5 by discussing the implications of this research.

Notes

¹ Commission of Inquiry into the Post-Election Violence, Report of the Commission of Inquiry into the Post-Election Violence, 2008, Commission of Inquiry into the Post-Election Violence. Human Rights Watch reports that the number of internally displaced persons was as high as 500,000 after two months of the violence. Human Rights Watch, *Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance* (New York: Human Rights Watch, 2008) 3.

² Michael Chege, "Kenya: Back from the Brink?" *Journal of Democracy* 19, no. 4 (2008): 125.

³ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (New York: Verso, 1991), 6. For some contemporary examples, see Vanessa B. Beasley, *You the People: American Identity in Presidential Rhetoric* (College Station: Texas A&M University Press, 2004); Jay P. Childers, "The Democratic Balance: President McKinley's Assassination as Domestic Trauma," *Quarterly Journal of Speech* 99, no. 2 (2013): 156-179; Jennifer R. Mercieca, *Founding Fictions* (Tuscaloosa: University of Alabama Press, 2010).

⁴ Mwai Kibaki, "Speech by Mwai Kibaki During the Opening of the 10th Parliament," March 6, 2008, *Official Report*, National Assembly, 10th Parliament.

⁵ See, for example, "Kenyan Leader Addresses Opening of Parliament; Regrets Post-Poll Violence," *BBC Monitoring Newsfile*, March 6, 2008; "Kenyan President Urges Mps to Back Power-Sharing Deal," *The Guardian*, March 6, 2008; "Kibaki Sets out Plans for the Nation," *The Nation*, March 6, 2008; Ben Agina, "President Says Crisis a Turning Point," *The East African Standard*, March 6, 2008; Barney Jopson, "Kibaki Urges Unity over Reform," *Financial Times*,

March 7, 2008; Alex Ndegwa, "Crisis a 'Turning Point'," *The East African Standard*, March 6, 2008.

⁶ Kibaki, "Speech by Mwai Kibaki."

⁷ As will become obvious, these groups are often not distinct. That is to say, one's ethnic identity often determines one's political and social identities in Kenya because ethnicity is closely tied to politics. From the opposite perspective, I could also say that one's political identity determines one's ethnic and social identities because ethnic identities themselves are political construction originating in British colonial policies of divide and rule.

⁸ Kibaki's acceptance speech was re-printed in the Kenyan newspaper *The Nation*. Mwai Kibaki, "President's Acceptance Speech," *The Nation*, December 30, 2007.

⁹ Kibaki, "Speech by Mwai Kibaki."

¹⁰ John Durham Peters, *Courting the Abyss: Free Speech and the Liberal Tradition* (Chicago: The University of Chicago Press, 2005), 247-279; Iris Marion Young, *Inclusion and Democracy* (New York: Oxford University Press, 2001), 7, 76.

¹¹ Kibaki, "Speech by Mwai Kibaki."

¹² Charles Taylor, "Nationalism and Political Intelligentsia," *Queen's Quarterly* 72 (1965), reprinted in Charles Taylor, *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queen's University Press, 1994), 5.

¹³ This surge in scholarship began in the late Cold War and includes, among others, Benedict Anderson's *Imagined Communities*; Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983); Anthony D. Smith's *The Ethnic Origins of Nations* (Boston: Wiley-

Blackwell, 1988); Eric Hobsbawm's *Nations and Nationalism since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University Press, 1990).

¹⁴ Although nationalism and national unity are not precisely the same concept, they both include a shared national identity and attachment to one's nation. Kenneth Burke's concept of identification made early contributions to understanding the role of language and symbols to create a collective identity, Kenneth Burke, *Language as Symbolic Action: Essays on Life, Literature, and Method* (Berkeley: University of California Press, 1969). Other foundational works on rhetoric's identity-forming capacity include Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*" *Quarterly Journal of Speech* 73, no. 2 (1987); Michael C. McGee, "In Search of "the People": A Rhetorical Alternative," *Quarterly Journal of Speech* 61, no. 3 (1975); Charles Taylor, *Modern Social Imaginaries* (Durham, NC: Duke University Press, 2004); James Boyd White, *Heracles' Bow: Essays on the Rhetoric and Poetics of the Law* (Madison: The University of Wisconsin Press, 1985); Anderson, *Imagined Communities*. More recent works include Vanessa B. Beasley, *You, the People: American Identity in Presidential Rhetoric* (College Station, TX: Texas A&M University Press, 2004); Jennifer R. Mercieca, *Founding Fictions* (Tuscaloosa, AL: The University of Alabama Press, 2010).

¹⁵ Vanessa Beasley and Jennifer Mercieca both focus on the rhetorical construction of national identity and political community in the United States. Additionally, much of the rhetorical scholarship follows the ideas of Charles Taylor's *Modern Social Imaginaries* and Benedict Anderson's *Imagined Communities*. In *Modern Social Imaginaries*, Taylor argues for the existence of "multiple modernities" that reflect "the fact that other non-Western cultures have modernized in their own way," but he seeks to advance this hypothesis by first clarifying the

Western social imaginary, which is the focus of the book. Taylor writes, “My aim here is a modest one. I would like to sketch an account of the forms of social imaginary that have underpinned the rise of Western modernity. My focus is on Western history, which leaves the variety of today’s alternative modernities untouched.” Benedict Anderson’s explanation of print-capitalism as the foundation of nationalism is clearly grounded in Western modernity. Beasley, *You, the People*; Mercieca, *Founding Fictions*; Taylor, *Modern Social Imaginaries*, 1-2; Anderson, *Imagined Communities*.

¹⁶ White, *Heracles' Bow*, 45.

¹⁷ Beasley, *You the People*, 9.

¹⁸ Childers, “The Democratic Balance,” 158-159.

¹⁹ *Ibid.*, 163.

²⁰ Erik Doxtader, “Making Rhetorical History in a Time of Transition: The Occasion, Constitution, and Representation of South African Reconciliation,” *Rhetoric & Public Affairs* 4, no. 2 (2001): 224.

²¹ Beasley, *You, the People*, 15.

²² Michael Ignatieff, *Blood and Belonging: Journeys into the New Nationalism* (New York: Farrar, Straus and Giroux, 1994), 7.

²³ *Ibid.*, 6.

²⁴ *Ibid.*, 7.

²⁵ Ignatieff, *Blood and Belonging*, 7.

²⁶ *Ibid.*, 10

²⁷ *Ibid.*

²⁸ *The Truth, Justice and Reconciliation Act*, 6, (2008), Section 5, <http://www.tjrkenya.org/images/documents/TJRC-Act.pdf>.

²⁹ Truth, Justice and Reconciliation Commission Truth, Report of the Truth, Justice and Reconciliation Commission, (Nairobi: Truth Justice and Reconciliation Commission, Kenya, 2013), Retrieved from URL: http://www.tjrkenya.org/index.php?option=com_content&view=article&id=573&Itemid=238. Vol. I, vi.

³⁰ Lonsdale, "Moral and Political Argument in Kenya," 75.

³¹ John Lonsdale, "Moral and Political Argument in Kenya," in *Ethnicity & Democracy in Africa*, eds. Bruce Berman, Dickson Eyoah, and Will Kymlicka (Athens, OH: Ohio University Press, 2004), 76-77.

³² Jeffrey Steeves, "Beyond Democratic Consolidation in Kenya: Ethnicity, Leadership, and 'Unbounded Politics,'" *African Identities* 4, no. 2 (2006): 196-197.

³³ *Ibid.*, 197.

³⁴ Ignatieff, *Blood and Belonging*, 6.

³⁵ Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, MA: MIT Press, 1992), 121.

³⁶ Michael Walzer, *What It Means to Be an American* (New York: Marsilio Publishers, 1996), 29.

³⁷ Erik Doxtader, "The Potential of Reconciliation's Beginning: A Reply," *Rhetoric & Public Affairs* 7, no. 3 (2004): 384.

³⁸ Alfred Nhema, "Introduction: The Resolution of African Conflicts," in *The Resolution of African Conflicts: The Management of Conflict Resolution & Post-Conflict Reconstruction*, eds. Alfred Nhema and Paul Tuyambe Zeleza (Athens, OH: Ohio University Press, 2008), 2.

³⁹ TJRC 2013, I, ix.

⁴⁰ Paul Tiyambe Zeleza, "Visions of Freedom and Democracy," *Women's Studies Quarterly* 25, no. 3 (1997): 29.

⁴¹ LuMing Mao describes this approach as "reflective encounters." LuMing Mao, "Reflective Encounters: Illustrating Comparative Rhetoric." *Style* 37 (2003): 401-425.

Chapter 2

The Development and Destruction of Kenya's Reputation of Peace and Stability

Well over 1,000 people have been killed in the post-election violence. At least 300,000 people have been displaced by ethnic cleansing. Many of them will be wary of returning to their old homes soon. Kenya's economy has taken a bad knock. *Above all*, the country's reputation as a hub of stability and moderation in a volatile region has been sorely damaged.¹

One would expect, or at least hope, that the extreme violence and the number of lives lost in the weeks following Kenya's 2007 general elections would incite shock and alarm no matter where it occurs. Indeed, scholars, journalists, government officials, NGOs, and laypeople all expressed shock. However, referencing Kenya's reputed history of relative peace and democratic progress, they focused less on the existence of violence than on its location: how could such violence occur in Kenya? In addition to the disbelief and disappointment that Kenya could go this "typical African way," many accounts of the violence emphasized the destruction of Kenya's image as a peaceful, stable democracy as an important consequence of the post-election violence.²

Almost since gaining independence in 1963, Kenya enjoyed a reputation as a peaceful model democracy in East Africa. Despite regular punctuations of violence and well-documented human rights abuses indicating social divisions and political corruption, this image persisted. However, the large-scale violence that occurred following the 2007 general election laid bare the contradiction between Kenya's image and the lived social and political experience in Kenya.

According to Benedict Anderson, a nation is by definition “an imagined political community.”³ As I discussed earlier, numerous rhetorical scholars, following Anderson, have studied how rhetoric gives meaning to and forms the bonds that constitute nations or any political community. The term “imagined community” is therefore not meant to signify that a community is merely made up or imaginary but, rather, to underscore the fundamentally rhetorical nature of nations. In Kenya, however, the post-election violence seemed to reveal that Kenya’s imagined community may have been more imaginary—or, to make all rhetorical scholars shudder, “mere rhetoric”—than actually constitutive of the community. Kenya’s reputation, however, was not “mere rhetoric.” Rather, powerful interests carefully crafted this ideology through willful forgetting and a reliance on the mere existence of political structures and previous lack of large-scale violence. The astonishment expressed in reaction to the violence demonstrates the power and tenacity of this reputation, as well as its dangerous potential to distract attention from social divisions and political injustices.

In addition to shock and dismay that such a crisis could occur in East Africa’s alleged bastion of peace and stability, the post-election violence also elicited calls for social and political transformation through the construction of a “new Kenya.”⁴ In an address to the opening session of Parliament, President Kibaki recognized that the post-election violence “shook our sense of nationhood” but also that it presented a “crucial turning point” out of which Kenyans’ could realize “our collective vision of a free, just, and prosperous nation.”⁵ The post-election violence thus presented a paradoxical moment that included both an opportunity and a warning. On the one hand, by destabilizing Kenya’s image of peace and stability, the crisis created a moment that was ripe for rhetorical invention to transform the imagined political community. On the other

hand, it revealed that the type of image represented by Kenya's reputation—an ideology that does not match and purposefully ignores conditions on the ground—could not provide a stable foundation for Kenya's transformation or nationhood.⁶

In this chapter I trace the development and consequent collapse of Kenya's reputation as a stable model democracy, with the 2007/2008 post-election violence at the climax of this trajectory, to better understand how and why it developed and what its destruction meant for the construction of a new Kenya. Originating from an imported Western image of democracy and state-sanctioned amnesia of Kenya's divisive liberation movement, driven by domestic and foreign political and economic interests, and justified by the presence of democratic institutions and absence of large-scale conflict, Kenya's reputation was certainly not "mere rhetoric," but neither was it constituted by nor constitutive of the community itself. Instead, it fostered a willful forgetting of historic divisions and conflicts and blindness to contemporary ones, rather than addressing them and forming a stable unified community. I argue that achieving political and social transformation in Kenya would require acknowledging that its longstanding image—not only its specific reputation as a stable model democracy, but any similarly crafted ideology—was an untenable foundation for a collective vision of Kenya's future and the transformation to realize this vision. Additionally, understanding the rhetorical foundations of Kenya's identity and community help explain the fundamentally rhetorical nature of the transformation called for in the wake of the post-election violence. Since Kenya already possessed many features of a modern democracy, including regular elections, multiple political parties, a bicameral legislature, and an independent judiciary, its transformation was not of the same nature as a society transitioning from an authoritarian regime to a democracy. While some institutional reforms

were and are needed to ensure more just political practices, the transformation of Kenya's imagined community is fundamental to constructing a "new Kenya." However, transforming Kenya's imagined community could also not simply be a re-telling of Kenya's reputation or the imposition of an alternative ideology. Constructing a "new Kenya" would require a substantial rhetorical transformation that, in the words of historian and former President of the African Studies Association Paul Zeleza, worked towards the "cultural and moral regeneration" of society.⁷

To make this argument and to trace the development and destruction of Kenya's reputation, I first discuss how scholars have theorized nations' fundamentally imagined foundations. Next, I describe the origin, development, and disruption of Kenya's reputation. Finally, I discuss the implications for answering Kibaki's call to construct a "new Kenya."

Degrees and Kinds of Imaginariness in an Imagined Community

Anderson defines a nation as "an imagined political community" in the sense that members of the community "will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion."⁸ He deliberately clarifies that because all nations or communities are imagined, their imaginary status does not equate to fabrication or falsity. "Communities are to be distinguished, not by their falsity/genuineness, but by the style in which they are imagined."⁹ Recognizing that political theory "shares elements of poetical, rhetorical, and dialectical language," Jennifer Mercieca argues that political theories are "political fictions," or "narratives that political communities tell themselves about their government."¹⁰ In literature fiction refers to an imagined story in the sense that it is feigned, made up, or simply not real. Although Mercieca never specifically

explains her choice of the term “fiction,” she uses it in accordance with an understanding of “imagined” that reflects Anderson’s interpretation. As a narrative that “both reflects and creates a social and political reality and provides a frame for understanding a nation’s political practices,” a political fiction is clearly not meant to be fictitious.¹¹ Indeed, Mercieca observes that “a disjunction between what is commonly understood to be the nation’s political principles and the nation’s actual operating paradigm” challenges the circulation and strength of a political fiction.¹²

Although scholars emphasize that these images both constitute and reflect social and political realities, they also recognize the frequent disconnection between imagined and lived experiences. Vanessa Beasley observes that although contemporary scholars largely agree that “shared beliefs, values, and/or attitudes of some sort continue to serve as the ‘cement’ of the American political community,” there are glaring discrepancies between Americans’ creed and conduct.¹³ Further, such a set of shared beliefs is highly unlikely given Americans’ cultural, social, and material diversity. Beasley argues that “a *rhetoric* of shared beliefs” can mitigate these challenges to national unity and help Americans “feel united even when their daily experiences tell them that they are not.”¹⁴ In his explanation of the various ways and reasons why nations are necessarily imagined communities, Anderson writes, “It is imagined as a *community*, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship.”¹⁵ Scholars not only recognize that inconsistencies between communities’ rhetorical imaginings and their social and political realities exist, but, furthermore, these images constitute communities precisely because they smooth over, although they do not completely erase, divisions. The existence and function of

these discrepancies between the imagined community and existing social and political conditions demonstrate that there are always degrees of imaginariness or fictitiousness, in the sense of being made up or false, in every imagined community.

Beasley observes that the broad conceptual definitions of national identity typical of constitutive presidential rhetoric in the United State can hold the community together by constructing a transcendent national subject, but it can also sanction intolerance and have exclusionary consequences.¹⁶ The widespread shock expressed by foreign and domestic media, political leaders, scholars, and human rights organizations in response to the post-election violence demonstrates that Kenya's reputation excluded social divisions and the political practices that fueled them from dominant imaginations of Kenya's national identity and political community. However, as I will explain in the following section, the imaginariness of Kenya's political community differed not simply in degree, but more so in kind. Instead of constructing a transcendental subject, even with the potential for exclusionary consequences, Kenya's national identity and community was formed negatively, on the basis of exclusion through deliberate forgetting that encouraged ignoring sources and manifestations of social and political divisions. Furthermore, Kenya's imagined community depended primarily on the existence of democratic structures, rather than how citizens and politicians should or do act within them. The resulting ideology was not only inconsistent with existing social and political divisions; it also fostered a willful blindness to them.

The Origin, Development, and Disruption of Kenya's Reputation

Tracing the origin, development, and disruption of Kenya's ideology demonstrates how it differed from most notions of imagined communities. Through state-sanctioned amnesia and an

emphasis on the existence, rather than substance, of democratic structures, powerful interests within and beyond Kenya's borders cultivated and sustained Kenya's reputation. The tenacity of this ideology, despite the existence and even acknowledgement of evidence to the contrary, demonstrates its power as well as the perils of an imagined community that willfully ignores social and political divisions.

The Colonial Influence at Independence¹⁷

As countries throughout Africa gained independence from the 1950s to the 1970s, there was widespread hope that independence would offer a new beginning and disjunction from the exploitation of colonial rule. However, Zeleza writes, "We know now . . . that the hopes of a new beginning and the beliefs that independence would mark a revolutionary conjuncture in Africa were illusory. The weight of Africa's pre-colonial and colonial pasts was heavier than most realized or cared to admit in the intoxicating moment of independence."¹⁸ A long and brutally violent anti-colonial movement primarily occurring from 1952 to 1956 known as the Mau Mau uprising, or simply Mau Mau, helped set the stage for Kenyan independence in 1963 by contributing to Britain's realization that continued colonial rule would be too costly, both monetarily and to Britain's public image.¹⁹ However, it also produced several sources of division that continue to threaten the stability of Kenya's political community.

David Anderson describes Mau Mau as "a story of atrocity and excess on both sides, a dirty war from which no one emerged with much pride, and certainly no glory."²⁰ These atrocities and excesses threatened Britain's and Kenya's national images, as well as relations between members of the two communities. Mau Mau "tore through the African communities themselves."²¹ The rebellion was almost entirely confined to the Kikuyu ethnic group, who were

most affected by Britain's land seizures, creating tension between the Kikuyu and other ethnic groups.²² The struggle also divided rebels and loyalists, Africans who sided with the British and opposed Mau Mau, within the Kikuyu community itself and throughout Kenya.²³ The British further enflamed these cleavages by deliberately cultivating and arming an African opposition to Mau Mau.²⁴ In many ways, Mau Mau took on the characteristics of a civil war, rather than a nationalistic struggle against the British.²⁵ Consequently, as John Lonsdale, a historian at the University of Cambridge, describes, "its memory disturbs more Kenyans than it inspires."²⁶

Additionally, Britain presented its battle against Mau Mau as "a war between civilization and savagery," characterizing the movement as the product of atavistic and tribal instincts.²⁷ Noting the rapid social changes that accompanied Britain's arrival in Kenya, Frank Corfield asserted in the official report commissioned by the British government, "This rapid transition has also produced a schizophrenic tendency in the African mind—the extraordinary facility to live two separate lives with one foot in this century and the other in witchcraft and savagery. This has often been noticed, but Mau Mau revealed the almost inexplicable lengths to which it could go. A Kikuyu leading an apparently normal life would, in one moment, become a being that was barely human."²⁸ Establishing Kenya as a stable nation capable of self-rule required distancing it from such tribal stereotypes and, thus, the memories to which they were attached.

For Britain the ruthlessness with which Britain suppressed the rebellion, which included a seven-year state of emergency from October 1952 to January 1960 and a system of concentration camps comparable to those established by the Nazis, was an embarrassment for British imperialism that Britain hoped to forget and would be forgotten.²⁹ Although the British suppressed the rebellion and achieved the military victory they realized the cost of maintaining

colonial rule would be too great and they would have to turn Kenya over to majority African rule, rather than the European-dominated minority rule they desired. By 1960 the British shifted their aim to securing a conservative succession that would continue to protect British interests and white settlers in Kenya. David Anderson writes, “There would be majority African rule, but there would be no place at the table for rebels, or for anyone else whose views were too radical.”³⁰ Thus, former Mau Mau rebels and the ideology behind the Mau Mau movement, which was criticized for being tribal rather than national, was to be excluded from the negotiations for independence and the state established as a product of them and, therefore, silence from protesting against calls to forget Mau Mau.³¹

Jomo Kenyatta became the first prime minister of Kenya upon independence in December 1963, and president after proclaiming Kenya a republic one year later. Emphasizing the need for stability and national unity, Kenyatta preached the importance of reconciliation, both with the British and white settlers and between communities in Kenya. Although Kenyatta himself had been charged and imprisoned by the British for acting as a leader in the rebellion, he fulfilled Britain’s desire for a conservative ally who would maintain a continuity with colonial rule and accommodate white settlers³² Because of Kenyatta’s commitment to maintaining the capitalist society established by the British and to appease white settlers, he refused to nationalize and redistribute land claimed by the white settlers during colonial rule, ignoring one of the central issues in the Mau Mau uprising.³³ Swept under the rug of an externally constructed model of governance in the name of stability and unity, land grievances continue to divide and fuel ethnic tensions today and were a primary factor in the post-election violence. As I have shown, the memory of the uprising itself threatened Kenya’s sense of nationhood in numerous

ways at the moment of independence and was viewed as a source of division to be forgotten rather than a foundation for unity. The internal divisions within Kenya, embarrassment to Britain, and associations with negative tribal stereotypes provoked by memories of Mau Mau threatened national unity within Kenya, as well as relations with the British. Consequently, Kenyatta publicly called upon Kenyans to forgive and forget Mau Mau. At a public rally in September 1962, Kenyatta claimed, “We are determined to have independence in peace, and we shall not allow hooligans to rule Kenya. We must have no hatred toward one another. Mau Mau was a disease which has been eradicated and must never be remembered again.”³⁴ In its place, Kenyatta urged Kenyans to remember instead a past in which “we all fought for *uhuru* [freedom].”³⁵ Lonsdale writes, “As Kenya’s first president [Kenyatta] could scarcely permit the pangs of its birth to be borne by one heroic minority, the Mau Mau fighters, alone. Kenya had to have a nationalist history that included all nations.”³⁶

John Lonsdale and E. S. Atieno Odhiambo argue that all nations emerge out of divisive and often bloodstained births and rebirths, and a “heroically unified past and manifest joint destiny” must be imagined later.³⁷ Continuing, they argue, “Kenya’s arguments about its freedom’s divisive birth . . . mean only that Kenyans are like all other publics in history. It is out of vigorous argument that nations, if they are to be made at all, must be made”³⁸ Attempting to forget or merely paper over a divisive past, however, fails to inspire the arguments that overcome these divisions and found nations. Lonsdale and Odhiambo continue, “To construct a new national political culture, new national political communities, the people of Kenya have to broaden their historical experiences to embrace the multicultural and multi-ethnic nature of the Kenyan state. The popular discourse of Mau Mau memory has hitherto been too simple to

accommodate such a vision.”³⁹ Through continuity with the colonial political and economic structures and state-sanctioned amnesia of Kenya’s major liberation struggle, Kenyatta sought to establish stability and national unity in Kenya. Formed through forgetting and re-fabricating the past, the imagined community that emerged, however, ignored divisions rather than resolving or transcending them.

The Development of Kenya’s Reputation

Despite the hollowness of the image that emerged at independence, scholars, politicians, and the general populous have continued to remark on Kenya’s relative peace and democratic stability. As a result, Kenya gained a longstanding reputation as a model democracy and island of peace in a volatile region. Regardless of the existence, and even recognition, of violence, this image persisted.⁴⁰ The presence of democratic institutions, absence of large-scale conflict, and multiple political and economic interests sustained a hollow reputation in Kenya that continued to mask and ignore underlying conflicts and divisions.

Although Kenya became a de facto one-party state within months of achieving independence, Joel Barkan claims the “brand of authoritarian rule was relatively benign.”⁴¹ Kenya’s democratic form and the presence of democratic institutions overshadowed the lack of political competition and the silencing of opposition. Maina Kiaia, co-founder of the non-governmental organization the Kenya National Commission on Human Rights, writes, “It was one of very few African countries that had managed to hold regular elections since gaining independence in 1963, no matter the outcomes of many of those were pre-determined.”⁴² Moreover, “Kenya had all the trappings of democracy. It had a functioning parliament, complete with a wigged speaker bedecked in flowing robes, just as they have in Great Britain. And it had a

judiciary whose judges wore heavy white wigs and were deferentially addressed as ‘Your Lordship,’ just as in Great Britain.”⁴³ In appearance at least, Kenya was a model of Western democracy.

During the Cold War the West supported Kenya for its anti-communist stance and largely ignored its democratic weaknesses.⁴⁴ According to Makau Mutua, this was when the West solidified Kenya’s image as “the beacon of hope in Africa.”⁴⁵ Steven Ross wrote in 1992 that Kenya had “for many years enjoyed a reputation for political stability, democratic institutions, lack of corruption, and economic growth, unlike a number of other countries in Africa.”⁴⁶ Yet, this reputation contradicted a lack of free and fair elections, intolerance of political opposition, and well-documented record of human rights abuses in Kenya.⁴⁷ Also writing in 1992, Samuel Makinda explained, “Political repression, corruption and detentions were increasingly common, but all the Western World chose to see was a pro-Western foreign policy and an economy healthier than that of neighboring states.”⁴⁸ Kenya’s image of peace and stability emerged against a contrasting reality. Even in its early post-independence history, there existed a contradiction between the peaceful image and violent state. While the West chose to ignore this reality for political benefit during the Cold War, the scale of violence during the 2007-2008 post-election crisis demanded recognition.

With the rivalry of the Cold War over, Western powers could no longer justify ignoring these conditions, in Kenya and elsewhere on the continent, and became increasingly critical of Kenya’s poor record of economic management, human rights abuses, and corruption. In February 1991, Kenya’s supporters made political reform a requirement for Kenya to receive future aid.⁴⁹ Within a month, Kenya’s parliament amended the constitution to allow the return of

multi-party politics. Remarking on the influence of the economic pressure for democratization, Ross wrote in 1992, “The Government has sought to emphasise [its reputation for political stability, democratic institutions, lack of corruption, and economic growth] in order to retain and attract foreign investment and aid, and to maintain a booming tourist industry.⁵⁰ However, the elections that followed in 1992 and 1997 were characterized by unprecedented violence and voter manipulation, and human rights abuses continued.⁵¹ According to Mutua, writing in 1994, “Although Kenya is now formally a multiparty state, the government still governs as if nothing has changed. It arrests, jails, and harasses its critics with impunity, and encourages ethnic killings even as its officials are involved in high levels of corruption.”⁵² Nevertheless, Kenya’s “cosmetic legislative changes” satisfied foreign donors, who re-instated aid and continued to refer to Kenya as a model democracy.⁵³

Zeleva observes that a growth of democratic movements swept across Africa in the early to mid-1990s as Western governments and donor agencies such as the World Bank and International Monetary Fund began to exert greater pressure for democratization and require it as a condition for economic assistance, especially through the World Bank’s and International Monetary Fund’s structural adjustment programs.⁵⁴ James Ferguson argues that the tying of Western norms of good governance to economic assistance was “accompanied by a fundamental shift in the way [African] states have sought to legitimate their policies” from “a moral language of legitimation” to the pragmatic language of “scientific capitalism.”⁵⁵ Politics is understood “as just another technical ‘factor,’” judged more so by the existence of democratic institutions than the political practices and norms that form the substance of the political community.⁵⁶ Beyond

just the technical factors of economic policy, an emphasis on the technical aspects of politics prioritizes the existence of democratic structure over their operating norms and practices.

In 2002 Kenyans successfully voted out the ruling power and Kenya experienced its first transfer of power between political parties. The election was widely celebrated as the first instance of transparent and truly democratic elections in Kenya.⁵⁷ It boosted “Kenyans’ confidence and trust in democracy as a political system” and indicated to the international community that Kenya was upholding its reputation and on a trajectory of consolidating democracy.⁵⁸ While the 2002 election marked a positive development for Kenya, it also further obscured underlying weaknesses. Barkan warned in 2004, “But these developments cannot be taken for granted. Kenya’s democratic government is fragile; it lacks centralized leadership, is riven by ethnic fractionalism and is threatened by mounting economic and security changes.”⁵⁹

By the time the post-election violence erupted in 2008, Kenya’s reputation as a “model of stability and democracy for other African countries” was fixed in the public imagination, despite significant evidence to the contrary.⁶⁰ On the surface at least, the reputation seemed to be true. In contrast to many African states, Kenya had avoided military coups, major armed conflicts, and failure as a state. It was also the hub of international interventions in East Africa. Kenya held negotiations on conflicts in Sudan and Somalia, hosted refugees from multiple East African nations, and was home to the only UN headquarters in the global South and the largest U.S. embassy in Africa.⁶¹ “Kenya was playing the role of the stable regional power.”⁶² Kenya’s stability remained particularly important for the U.S., even after the Cold War. The U.S. viewed Kenya as an important ally in its war on terror and benefited from access to military facilities in Kenya and political support from Kenya in the UN.⁶³ Finally, Kenya’s economy, supported by a

booming tourist industry, dominated the region. By inviting Westerners to experience firsthand Kenya's most appealing features, tourism reinforced Kenya's reputation. Describing Kenya's superficial appearance as a model society, John Githongo, an activist and former investigative journalist in Kenya, writes, "For many in the West, Kenya, with its Anglicized urban population, modern cities, and relatively well-developed infrastructure, epitomized everything positive about Africa. A highly successful tourism industry in a land of breathtaking beauty and world-class athletes had served to consolidate the image of Kenya as somehow different."⁶⁴ Yet, Githongo continues, "Kenyan exceptionalism was in many ways a myth waiting to be shattered."⁶⁵ Beneath the surface of Kenya's democratic form and institutions, tourist-friendly resorts and game parks, and strategic cooperation with Western powers, social divisions, historical grievances, and corruption continued to agitate its political community, finally reaching a breaking point during the 2007 election.

Following from its origin in a British colonial image, Kenya's reputation was largely supported by official state and foreign articulations for the purposes of political and material gain. Additionally, the West's infliction of pragmatic, capitalist modes of governance prioritized the empirical existence of democratic institutions and structures over the imagined foundation of the political community. The artificially imposed reputation that emerged neither constituted nor reflected Kenya's political community. Rather, it ignored conflicts and divisions to assert the existence of a stable political community and present a face that was acceptable to the international community and beneficial to Kenyan elites.

The Disruption of Kenya's Reputation

Expressions of confidence in Kenya's political stability and optimism for its democratic progress resounded within and beyond Kenya's borders on December 27, 2007, the day of the general election. The *New York Times* reported that "Kenyans streamed to the polls in record numbers" and "waited for hours in lines that were miles long" to vote in the presidential election.⁶⁶ The *East African Standard* celebrated the voter turnout as "the most powerful statement of Kenyans' desire to express their democratic right."⁶⁷ Despite some logistical problems at polling locations and isolated violent incidents, as the polls closed the Kenyan police force, human rights groups, and foreign observers commended the Electoral Commission of Kenya (ECK) for its dedication to holding free and fair elections and the Kenyan people for their peaceful conduct.⁶⁸ Early and unofficial reports of electoral counts by the local media suggested the Orange Democratic Movement (ODM) candidate Raila Odinga held such a strong lead over incumbent and Party of National Unity (PNU) candidate Kibaki that it "would take a miracle" for Kibaki to make it up.⁶⁹ Domestic and foreign news media widely acknowledged the historical and political significance of Odinga's impending win, which would mark the first time a Kenyan president lost an election.⁷⁰ The acknowledgment expressed confidence in Kenya's continued progress towards democratic consolidation.

However, Odinga lost his insurmountable lead literally overnight, and the race transformed into a "knife-edge election."⁷¹ Numerous irregularities at the polls and in the counting continued to delay the official election results. Amid rising tensions and suspicions of vote rigging, the first incidents of violence broke out on December 29, two days after Kenyans went to the polls and one day before the election results would be announced. The ECK finally

proclaimed Kibaki the winner on December 30, despite sustained claims and evidence by Odinga and foreign observers that the tally was inaccurate, inciting widespread protests and unprecedented levels of violence. Even after the violence and amid the significant controversy surrounding the announcement of the results, Kibaki still claimed in his acceptance speech, “The freedom of choice, the openness and integrity of the electoral process, and the peaceful manner in which we conducted ourselves as people has raised Kenya’s democratic profile throughout the world.”⁷²

Academic, media, and official reports on the post-election violence frequently expressed surprise or disbelief, or remarked on the shock expressed by others, that such violence could occur in Kenya, given its reputation. Human Rights Watch reported, “The scale and speed of the violence that engulfed Kenya following the controversial presidential election of December 27, 2007 shocked both Kenyans and the world at large.”⁷³ Michael Chege, an advisor on international development policy in Kenya’s Ministry of State for Planning and Development, wrote, “In a scene reminiscent of Rwanda in 1994, 39 people seeking refuge burned to death in a church torched by ethnic mobs from a rival political party. Yet this was Kenya—East Africa’s economic powerhouse, normally considered a stable, peaceful haven on an otherwise troubled continent.”⁷⁴ Githongo wrote in *Foreign Affairs*, “A country once considered to be an oasis of peace and stability in a troubled region had suddenly degenerated into disorder and ferocious violence.”⁷⁵ Further, they portrayed the disruption of Kenya’s reputation as an important consequence of the crisis. In addition to *The Economist* article that opens this chapter, which stated that “above all” the country’s reputation had been damaged, the *New York Times* reported, “Thousands of young men burst out of Kibera, a shantytown of one million people, waving

sticks, smashing shacks, burning tires and hurling stones.”⁷⁶ The article continues, “Now, one of the most developed, stable nations in Africa . . . has plunged into intense uncertainty, losing its sheen as an exemplary democracy and quickly descending into tribal bloodletting.”⁷⁷

The emphasis on Kenya’s shattered reputation as a significant consequence of the post-election violence suggests that in addition to the physical damage inflicted on individual bodies, the damage to Kenya’s imagined social and political body was also important. Kenya relied on its reputation as a stable model democracy to attract foreign investment and aid, maintain political allies, and support its tourist industry. However, the sheer surprise expressed by so many commentators demonstrates the dangerous tendency of an image founded on forgetting and primarily supported by the mere existence of democratic structures and absence of major conflict to disregard weaknesses and divisions. In contrast to Mercieca’s claim that “a disjunction between what is commonly understood to be the nation’s political principles and the nation’s actual operating paradigm may make free and willing circulation problematic,” Kenya’s reputation demonstrated remarkable tenacity and was widely circulated, despite the severe disjunction between it and the political and social reality in Kenya.⁷⁸ Even as commentators remarked on the disruption of Kenya’s reputation, many still failed to recognize that the conflicts and divisions that animated the post-election violence were already present. Most accounts expressed shock that the violence occurred, not shock at the revelation of the issues that fueled it. Descriptions of “ferocious violence,” men “waving sticks” and “smashing shacks,” and “tribal bloodletting” in the examples above demonstrate another important component of this tendency, which I discuss more in the following chapter.⁷⁹ Expressions of shock were often linked to simplistic explanations of the violence based primarily on tribal stereotypes about Africa. Thus,

even as the reputation was disrupted, it continued to permit blindness to the substantive weaknesses and divisions in Kenya's national community.

A Substantial Rhetorical Transformation

In the aftermath of the post-election crisis, many scholars and activists argued for the necessity of looking beyond the form of democracy and mere presence of democratic institutions and focusing on their substance instead.⁸⁰ However, most of these scholars still focus on democratic structures and institutions, simply shifting their attention from the existence of these structures to their function and norms of practice. Although he briefly mentions the importance of empowering the Kenyan people, Kiai primarily emphasizes the necessity of establishing competent and nonpartisan anticorruption bodies, an effective and functioning parliament, and independent media.⁸¹ Beyond merely holding multiparty elections, strengthening legislatures, or revitalizing political parties, Mutua argues for the necessity of “a new democratic constitution that is popularly mandated.”⁸²

Accomplishing constitutional and substantial institutional reform, however, requires a more fundamental transformation of the political community. Mutua also acknowledges, “There can be no doubt that the postcolonial African state does not stand a chance without the radical revision of its *raison d'être*.”⁸³ Constitutional reform lays only “the groundwork for the minimum conditions to institutionalize a free and popular state,” but reform “must go beyond the mechanical reordering of the state” to constitute a new political culture.⁸⁴ Mutua pessimistically observes, however, that in Kenya “renewing the social contract is an arduous, if not impossible, task.”⁸⁵ Githongo suggests that accomplishing this task requires “imbuing the population with a sense of nationhood robust enough for Kenyans to believe that the current challenges will not

overwhelm the country and lead to a gradual implosion.”⁸⁶ Since, as Anderson and others have argued, a community gains its meaning and sense of nationhood through rhetoric, Mutua and Gothingo are clearly calling for a transformation that is at its core rhetorical.

Although rhetoric is fundamental to nationhood, the recent destruction of Kenya’s long-held reputation also exposed the dangers of an ideology constructed on the basis of forgetting and the superficial existence of democratic structures to ignore divisions rather than resolve or transcend them. Kenya’s reputation functioned as the dust jacket of a book. An artistically illustrated cover functioned to allure readers, in the form of Western support and aid, and folded flaps provided a protective, yet fragile, covering of the book inside. Of course, as the cliché goes, one cannot judge a book by its cover. The rhetorical transformation called for in Kenya required rewriting the pages of the book itself. Kibaki stated in his speech to parliament, “The events of the last two months have offered us an opportunity to look inwards, in order to fully comprehend the weaknesses and strengths, as well as the strengths and opportunities we have as a nation.”⁸⁷ Furthermore, the transformation required not just rewriting Kenya’s contemporary story, but also its history. Concluding his speech, Kibaki called for the representatives in parliament to “forget the history of what has happened, not because you want to put it aside, but because you want to do something much better and to improve much better.”⁸⁸ In a way Kibaki was correct. Kenya could not rely on its reputed history, nor did Kenyans wish to repeat the violence or continue conflicts laid bare by the post-election violence. However, Kibaki’s call also echoed Kenyatta’s appeal to forget Mau Mau, and this analysis has shown the perils of a political community founded on forgetting the past.⁸⁹ Constructing a “new Kenya,” therefore required bringing the past forward in a way that could unite more than divide by addressing the historic and

contemporary divisions in Kenya's national community. The following chapters continue developing how this could be accomplished.

Notes

¹ “A Peace Deal at Last,” *The Economist*, February 28, 2008. Emphasis added.

² Maina Kiai wrote, “Many longterm observers were shocked and alarmed that Kenya could go this ‘typical African way.’” Maina Kiai, “The Crisis in Kenya,” *Journal of Democracy* 19, no. 3 (2008): 162.

³ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (New York: Verso, 1991), 6

⁴ Mwai Kibaki, “Speech by Mwai Kibaki During the Opening of the 10th Parliament,” March 6, 2008, *Official Report*, National Assembly, 10th Parliament.

⁵ Ibid.

⁶ Perry Anderson makes a similar argument about ideology in India in Perry Anderson, *The Indian Ideology* (New York: Verso, 2013).

⁷ Speaking of democratic transitions throughout Africa, Zeleza writes, “I believe the struggles we are witnessing in Africa today are not simply for reforms in the mode of governance or economic development. They are also aimed at the cultural and moral regeneration of our societies.” Paul Tiyambe Zeleza, “The Democratic Transition in Africa and the Anglophone Writer,” *Canadian Journal of African Studies* 28, no. 3 (1994): 489.

⁸ Benedict Anderson, *Imagined Communities*, 6.

⁹ Ibid.

¹⁰ Jennifer R. Mercieca, *Founding Fictions* (Tuscaloosa, AL: The University of Alabama Press, 2010), 27.

¹¹ Ibid., 32.

¹² Ibid., 30.

¹³ Vanessa Beasley, *You the People: American Identity in Presidential Rhetoric* (College Station: Texas A&M University Press, (2004), 26.

¹⁴ Beasley, *You the People*, 42.

¹⁵ Benedict Anderson, *Imagined Communities*, 7.

¹⁶ Beasley, *You the People*, 15-17.

¹⁷ To fully account for the legacy of Kenya's colonial past, as well as the continued influence of Western neocolonial practices, is well beyond the scope of this chapter and thesis. Indeed, an entire area of study that spans numerous disciplinary fields is devoted to this endeavor, although extending beyond Kenya's borders. For the purposes of this chapter, a brief and general account of how the colonial influence at the time of Kenya's independence and the legacy of its contested liberation struggle contributed to a reputation that excluded rather than mended or transcended divisions for the sake of stability and national unity.

¹⁸ Zeleza, "The Democratic Transition," 479.

¹⁹ David Anderson, *Histories of the Hanged* (New York: Norton, 2005), 328-336.

²⁰ Ibid., 2.

²¹ Ibid., 4.

²² Clough, "Mau Mau & the Contest for Memory," 254.

²³ The clear division between rebels and loyalists and rebels is itself problematic, however, because many Kenyans were not on one side or the other or were forced to "face both ways" during the emergency. Lotte Hughes, "'Truth be Told': Some Problems with Historical Revisionism in Kenya," *African Studies* 70, no. 2 (2011): 184.

²⁴ Breaking from most recent accounts of the Mau Mau rebellion that celebrate a nationalist perspective, Daniel Branch foregrounds the role of Kikuyu loyalists in his book-length analysis of the rebellion and argues that the conflict between rebels and loyalists within the Kikuyu community left a lasting legacy in the postcolonial state. See Daniel Branch, *Defeating Mau Mau, Creating Kenya: Counterinsurgency, Civil War, and Decolonization* (Cambridge: Cambridge University Press, 2009).

²⁵ David Anderson, *Histories of the Hanged*, 4, 84; Hughes, “Truth be Told,” 184; Odhiambo and Lonsdale, *Mau Mau & Nationhood*, 3.

²⁶ Bruce Berman and John Lonsdale, eds., “The Moral Economy of Mau Mau: The Problem,” in *Unhappy Valley: Conflict in Kenya and Africa* (Athens, OH: Ohio University Press, 1992), 265.

²⁷ David Anderson, *Histories of the Hanged*, 1; Marshall S. Clough, “Mau Mau & the Contest for Memory,” in *Mau Mau and Nationhood: Arms, Authority, & Narration*, ed. Odhiambo and Lonsdale (Boulder: Lynne Rienner Publishers, 1998), 254. This characterization is clearly evident in the official report commissioned by the British government. See Frank Corfield, *The Origins and Growth of Mau Mau: An Historical Survey* (London: Her Majesty’s Stationery Office, 1960).

²⁸ Corfield, *The Origins and Growth of Mau Mau*, 9.

²⁹ David Anderson and Caroline Elkins have both written book-length accounts addressing the atrocities Britain committed during the Mau Mau uprising. Although Elkins has received some criticism for presenting a subjective or biased account without sufficient evidence, her book won the Pulitzer Prize for nonfiction in 2006, and both books have been applauded for revealing the horrific extent of British atrocities in Kenya. See David Anderson, *Histories of the Hanged*; Caroline Elkins, *Britain’s Gulag: The Brutal End of Empire in Kenya* (London: Pimlico, 2005).

³⁰ Ibid., 331.

³¹ John Lonsdale describes Kikuyu political thought at length. See Berman and Lonsdale, *Unhappy Valley*, 315-468.

³² Marshall Clough writes, “The Kenyatta regime, which came to stress order, stability, and economic continuity with colonial times, was soon reconciled with the British and white settlers, and the new government was dominated by men who had entered politics in 1957 and after, in many cases while the Mau Mau leaders were still in detention. Marshall S. Clough, *Mau Mau Memoirs: History, Memory, & Politics* (Boulder: Lynne Rienner Publishers, 1998), 14. See also David Anderson, *Histories of the Hanged*, 335.

³³ E. S. Atieno Odhiambo and John Lonsdale, eds., *Mau Mau & Nationhood: Arms, Authority, & Narration* (Athens, OH: Ohio University Press, 2003).

³⁴ Printed in Jomo Kenyatta, *Suffering Without Bitterness: The Founding of the Kenyan Nation* (Nairobi, Kenya: East African Publishing House, 1968), 124.

³⁵ Clough, *Mau Mau Memoirs*, 14; Odhiambo and Lonsdale, *Mau Mau & Nationhood*, 4.

³⁶ Berman and Lonsdale, *Unhappy Valley*, 266.

³⁷ Odhiambo and Lonsdale, *Mau Mau & Nationhood*, 1. Hannah Arendt makes a similar argument in the opening chapters of *On Revolution*. Hannah Arendt, *On Revolution* (New York: Viking Press, 1963).

³⁸ Ibid., 2.

³⁹ Ibid., 5.

⁴⁰ Although the 2007-2008 post-election election crisis represented the most severe and widespread outbreak of violence in Kenya, it was not the first. Violence also occurred in conjunction with the 1992, 1997, and 2002 elections, and the government has regularly engaged

in violence against political opposition. This violence has been well documented. See, for example, Africa Watch, *Taking Liberties* (Washington, DC: Africa Watch, 1991); Amnesty International, *Kenya: Political Violence Spirals* (New York: Amnesty International, 1998); Human Rights Watch, *Divide and Rule: State Sponsored Ethnic Violence in Kenya* (New York: Human Rights Watch, 2003).

⁴¹ Joel D. Barkan, "Kenya after Moi," *Foreign Affairs* 83, no. 1 (2004): 88.

⁴² Kiai, "The Crisis in Kenya," 163.

⁴³ Ibid.

⁴⁴ Barkan, "Kenya after Moi," 89; Daniel Branch, *Kenya: Between Hope and Despair, 1963-2011* (New Haven: Yale University Press, 2011), 184; Samuel M. Makinda, "Kenya: Out of the Straightjacket, Slowly," *The World Today* 48, no. 10 (1992): 188.

⁴⁵ Makau Mutua, "Human Rights and State Despotism in Kenya: Institutional Problems," *Africa Today* 41, no. 4 (1994): 50.

⁴⁶ Stanley D. Ross, "The Rule of Law and Lawyers in Kenya," *The Journal of African Studies* 30, no. 3 (1992): 421.

⁴⁷ See Africa Watch, *Taking Liberties*.

⁴⁸ Makinda, "Kenya: Out of the Straightjacket," 188.

⁴⁹ Barkan, "Kenya after Moi," 89; Branch, *Kenya: Between Hope and Despair*, 184-185; Ted Dagne, "Kenya: Current Conditions and the Challenges Ahead," Congressional Research Service, February 4, 2010; Ross, "The Rule of Law and Lawyers," 438.

⁵⁰ Ross, "The Rule of Law and Lawyers," 421.

⁵¹ Barkan, "Kenya after Moi," 90.

⁵² Mutua, "Human Rights and State Despotism," 55.

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- ⁵³ Ross, "The Rule of Law and Lawyers in Kenya," 439.
- ⁵⁴ Zeleza, "The Democratic Transition," 475-476.
- ⁵⁵ James Ferguson, *Global Shadows: Africa in the Neoliberal World Order* (Durham: Duke University Press, 2006), 77-78.
- ⁵⁶ *Ibid.*, 79.
- ⁵⁷ Barkan, "Kenya after Moi," 87; Dagne, "Kenya: Current Conditions," 10; Axel Harneit-Sievers and Ralph-Michael Peters, "Kenya's 2007 General Election and Its Aftershock," *Africa Spectrum* 43, no. 1 (2008): 133.
- ⁵⁸ Harneit-Sievers and Peters, "Kenya's 2007 General Election," 133.
- ⁵⁹ Barkan, "Kenya after Moi," 87.
- ⁶⁰ Renu Modi and Seems Shekhawat, "Aftermath of the Kenyan Crisis," *Economic and Political Weekly* 43, no. 18 (2008): 27.
- ⁶¹ Barkan, "Kenya after Moi," 88; Dagne, "Kenya: Current Conditions," 10-11; Mutua, *Kenya's Quest for Democracy*, 5; Kiai, "The Crisis in Kenya," 162.
- ⁶² Mutua, *Kenya's Quest for Democracy*, 5.
- ⁶³ Barkan, "Kenya after Moi," 87-88; Dagne, "Kenya: Current Conditions," 11.
- ⁶⁴ John Githongo, "Fear and Loathing Nairobi," *Foreign Affairs* 89, no. 4 (2010): 2.
- ⁶⁵ *Ibid.*
- ⁶⁶ Jeffrey Gettleman, "Disputed Vote Plunges Kenya into Bloodshed," *New York Times*, December 31, 2007.
- ⁶⁷ "Voters Make Huge Statement," *The East African Standard*, December 28, 2007.
- ⁶⁸ Branch, *Kenya: Between Hope and Despair*, 269. For examples of commentary in the media, see, "Kenyan Human Rights Bodies Praise Electoral Process," *BBC Monitoring Africa*,

December 27, 2007; "Voters Make Huge Statement;" Tim Cocks, "Foreign Observers Praise Kenyan Election," *Reuters News*, December 28, 2007; International Republican Institute, "Preliminary Findings of Iri's International Election Observation Mission," *All Africa*, December 28, 2007; Cyrus Ombati, Edith Fortunate, and Abiya Ocholla, "Police Commend Kenyans for Peaceful Polls," *The East African Standard*, December 28, 2007.

⁶⁹ Xan Rice, "President Heads for Humiliating Defeat as Kenyan Voters Throw Out the Old Guard," *The Guardian*, December 29, 2007.

⁷⁰ Ibid., Gettleman, "Disputed Vote."

⁷¹ The "knife-edge" metaphor appeared in numerous headlines and leads. For example, *Reuters News* reported, "Kenyan election officials on Sunday resumed reporting tallies from a knife-edge vote," in "Voters Make Huge Statement," *The East African Standard*, 28 December 2007; Xan Rice, "Kenya Holds Breath as Kibaki and Rival Battle in Knife-Edge Election: Millions Vote Peacefully in Country's Tightest Poll," *The Guardian*, 28 December 2007. *The Guardian*, December 28, 2007.

⁷² Kibaki, "President's Acceptance Speech."

⁷³ Human Rights Watch, *Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance* (New York: Human Rights Watch, 2008), 3.

⁷⁴ Michael Chege, "Kenya: Back from the Brink?," *Journal of Democracy* 19, no. 4 (2008): 125.

⁷⁵ Githongo, "Fear and Loathing in Nairobi," 2.

⁷⁶ "A Peace Deal at Last;" Gettleman, "Disputed Vote."

⁷⁷ Gettleman, "Disputed Vote."

⁷⁸ Mercieca, *Founding Fictions*, 30.

⁷⁹ Githongo, "Fear and Loathing in Nairobi;" Gettleman, "Disputed Vote."

⁸⁰ Kiai, "The Crisis in Kenya," 163; Mutua, "Human Rights and State Depotism," 55; Mutua, *Kenya's Quest for Democracy*, 11. Joseph W. Nasongo, Lydiah L. M. Wamocha, and Judith S. K. Achoka, "Could Forgiveness and Amnesty Be a Panacea for Kenya's Post-Election Conflict Era?," in *Managing Conflicts in Democratic Transitions*, ed. Akanmu G. Adebayo (Lanham, MD: Lexington Books, 2012) 273.

⁸¹ Kiai, "The Crisis in Kenya," 167.

⁸² Mutua, "Human Rights and State Depotism," 55.

⁸³ Mutua, *Kenya's Quest for Democracy*, 3.

⁸⁴ *Ibid.*, 4.

⁸⁵ *Ibid.*, 3.

⁸⁶ Githongo, "Fear and Loathing in Nairobi," 8.

⁸⁷ Kibaki, "Speech by Mwai Kibaki."

⁸⁸ *Ibid.*

⁸⁹ Jomo Kenyatta, *Suffering Without Bitterness*, 124.

Chapter 3

Ethnicity and Politics in Rhetorics of the Post-Election Violence

Inside the small Kenya Assemblies of God Church in Kiambaa, just outside the town of Eldoret in western Kenya, dozens of terrified people huddled together. They were Kikuyus, members of the tribe that has borne the brunt of the violence that followed last week's disputed presidential election. The attackers, members of the rival Kalenjin tribe, poured fuel on the mattresses and piled on dried maize leaves from a nearby field. Then they set the barricades alight and waited until the flames burned high. The church turned into an oven.¹

The burning alive of approximately 30 Kikuyus, members of Kibaki's ethnic community, seeking refuge in a church was one of the most publicized episodes of violence that followed the national Kenyan elections held on December 27, 2007. The scene, which occurred on January 1, 2008, just two days after the electoral commission announced Kibaki won the presidential election, invoked widespread comparisons to the Rwandan genocide, where, according to the human rights group African Rights, "more Rwandese citizens died in churches and parishes than anywhere else."² These comparisons were subsequently met with a variety of claims, speculations, and denials that the post-election violence should be considered genocide or ethnic cleansing. The transformation of churches, traditionally places of sanctuary and peace, into killing fields not only provides a particularly poignant representation of the destruction, but also joltingly represents the blending of spheres—in this case, religious, political, and cultural or ethnic spheres—often assumed to be distinct that occurs in genocide. Throughout Kenya, the rest of the African continent, and the West, the news media described the scene in vivid detail, with

the ghosts and memories of the Rwandan genocide adding to the dramatic effect.³ The day after the incident, leaders of the opposing political parties in Kenya accused each other of committing genocide. Yet, U.S. officials rhetorically distanced themselves from the burning church and its association with genocide. One month later, in U.S. Congressional hearings on Kenya's post-election violence, Eldoret and the burning church appeared only in passing comments about locations of particularly acute violence. Sanitizing the testimony of the horrific descriptions and, even more fundamentally, of any mention of ethnic identities, U.S. officials hoped to hide from the ghosts of Rwanda. Yet, by denying genocide and the relation of ethnicity to the conflict just as they had during the Rwandan genocide, the ghosts of Rwanda still haunted this discourse. This chapter seeks to explain why the burning church is central in some discourses of the post-election violence and virtually absent in others, as well as the implications of this disjuncture in Kenya and for conceptions of genocide, ethnicity, and the relation between ethnicity and politics more generally.

Raphael Lemkin, a Polish-Jewish lawyer, first introduced the term “genocide”—formed by combining *geno-*, from the Greek word for race or tribe, and *-cide*, from the Latin suffix meaning “to kill”—in 1944 to describe the atrocities committed against European Jews during the Holocaust and with the hopes of preventing and punishing such atrocities in the future. The United Nations officially established genocide as an international crime in the Convention for the Prevention and Punishment of the Crime of Genocide, adopted on December 9, 1948.⁴ According to the convention, acts of genocide are “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”⁵ Related, but arguably distinct, to genocide, ethnic cleansing refers to the purposeful expulsion of, rather than extermination of, a particular ethnic or religious group from a geographic area.⁶ Rhetorical scholars are well aware

of and often confront the challenges of ascertaining intentionality, a requirement of both definitions. However, it is the inclusion of “ethnic” as a component of both definitions that opened the space for discursive struggle during the post-election crisis.

In addition to defining genocide, the Genocide Convention includes a commitment from signing parties to “undertake to prevent and to punish” the crime.⁷ Thus, labeling a conflict as genocide carries political commitments to intervene. Unlike genocide, ethnic cleansing lacks an official legal definition and consequent political commitments. Yet, both labels carry memories of the worst atrocities in history and the failures to prevent them. Thus, they impart a heavy stigma against those accused of genocide or ethnic cleansing, as well as a moral obligation for other states to intervene. The need Lemkin felt to establish a word to officially label the particular type of atrocities epitomized by the Holocaust suggests the importance of rhetoric for determining whether or not certain crimes qualify as genocide. Genocide cannot simply be determined by the presence of dead bodies or mass graves. Rather, it is a function of international commitments (or the avoidance thereof, as was the case with the U.S. non-intervention in Rwanda), political and material motivations, and, most importantly, the rhetorically defined boundaries between ethnicity and politics.

The limits of democracy and scope of politics is a common concern of rhetoricians, as well as how rhetoric both shapes and reflects political norms. While liberal democracy has historically attempted to isolate politics from culture and aspects of society deemed to be pre-political, politics and ethnicity are entwined in Kenya. Nancy Fraser writes, “For liberals, then, the problem of democracy becomes how to insulate political processes from what are considered to be nonpolitical or prepolitical processes.”⁸ Although liberal democracies continually confront issues of race, gender, religion, and sexuality, the tendency is to attempt to bracket these and

proceed as though they exist in isolation to the political. The separation of church and state represents the paradigm of this isolation. Will Kymlicka writes, “Many post-war [WWII] liberals have thought that religious tolerance based on the separation of church and state provides a model for dealing with ethnocultural differences. . . . On this view, ethnic identity, like religion, is something which people should be free to express in their private life, but which is not the concern of the state.”⁹ This paradigm and the perceived separation of ethnicity and politics that followed from it burned along with the church in Eldoret and the Kikuyus seeking refuge inside. Given the holy status of churches and their traditional role as places of sanctuary, it seems they should transcend ethnic divisions. Combined with the attempt to separate religion and politics in Western liberal democracies—or democracies constructed in this image, as the previous chapter suggests of Kenya—the burning church presents a startling image of the violent mixture of ethnicity and politics.

In contrast to the traditional Western liberal view, politics in Kenya is primarily divided along ethnic lines, and the mobilization of ethnic identity for political gain is a common occurrence and openly acknowledged.¹⁰ Ethnicity cannot be considered pre-political; rather, it is inherently political. Speaking generally about ethnically divided societies, Donald L. Horowitz explains, “Although ethnic affiliations can be compartmentalized—that is, their relevance can be limited to some spheres and contexts—there is nonetheless a tendency to seepage. In deeply divided societies, strong ethnic allegiances permeate organizations, activities, and roles to which they are formally unrelated.”¹¹ Further, Jeffrey Steeves writes, “Unlike in the advanced democracies, politics in Africa is ‘life-giving,’ that is, politics intrudes deeply into the lives of people. Whether one gets access to land, to credit, to roads, to scholarships depends upon political forces.”¹² Given the seepage of ethnic identity in politics and the “life-giving” function

of politics, “the individual in Africa is defined by one’s ethnic community and thus one’s loyalty and actions are framed within an ethnic identity.”¹³ The rhetorical geography of the burning church parallels these broader contestations about the relationship of ethnicity and politics.

With the differential circulation of the burning church as my entry point, in this chapter I analyze the labels, accusations, and denials of genocide and ethnic cleansing and the rhetoric justifying these claims in distinct culturally specific discourses that emerged during the post-election violence. I do so through an analysis of key texts in these discourses, including news articles on the post-election violence, official and press statements by Kenyan and U.S. politicians, two U.S. Congressional hearings, and speeches and statements made in the opening session of the Kenya National Assembly. While the rhetorical manipulation of genocide is certainly in part a strategic maneuver for material or political gain, I argue it also reveals divergent political assumptions about the association of ethnicity and politics with important implications for resolving the crisis and shaping the social and political transformation called for in the wake of the post-election violence. Specifically, the analysis demonstrates that addressing the roots of the conflict required recognizing both its political and ethnic dimensions and the structural relationship between ethnicity and politics in Kenya. Further, the analysis suggests that the identification and acknowledgment of genocide must be made through rhetoric that accommodates ethnicity within the political.

In the rest of this chapter, I first describe in greater detail the place of ethnicity in Kenyan politics. Next, I analyze the dominant discourse about the post-election crisis from the news media, U.S. politicians, and Kenyan politicians. I conclude with a discussion of the implications

of this analysis for the resolution of the post-election crisis and potential transformation in Kenya, as well as broader implications about the recognition of genocide.

Ethnic Politics and the Post-Election Crisis

To understand the discourses that emerged during the post-election crisis, one must be familiar with the events of the crisis itself, as well as the larger political context in Kenya, including the relationship between ethnicity and politics and the origins of ethnic tensions. Although Kenya seemed to explode into violence within minutes of the Electoral Commission of Kenya ECK declaring Kibaki the winner of the 2007 presidential election, the crisis was not spontaneous. Rather, it resulted from a combination of underlying social and political issues.

Kenya is home to over forty ethnic groups. As John Young notes, ethnic solidarity in itself is not an inherently negative phenomenon.¹⁴ In fact, ethnic identification can provide an important source of social solidarity. According to John Lonsdale, “Ethnicity is a universal cradle of civility. It socializes human inequalities in local ways.”¹⁵ However, it can challenge social cohesion if used to mobilize against the “other.”¹⁶ Lonsdale distinguishes between “moral ethnicity” as “a process of ‘ourselves-ing,’” and “political tribalism” as a process of “othering” and explains that in Kenya moral ethnicity predated political tribalism.¹⁷ Rok Ajulu explains political ethnicity as “the deliberate politicisation and mobilisation of these ‘consciousnesses’ in order to achieve certain political and economic objectives” and argues that the politicization of ethnicity occurs “at certain specific historical conjunctures” when there is “acute contestation over resources and/or state power.”¹⁸ The creation of the colonial state was one such moment. Employing a divide and conquer strategy, British colonists sharpened and fixed tribal designations as a means of exerting control during their occupation of Kenya from 1898 to 1962. According to Ajulu, “Colonial control through indirect rule, uneven development of capitalism

and, consequently, competition for resources merely accentuated rivalry and politicized ethnic consciousness.”¹⁹ Colonists seized land from the Kenyan people, re-located groups to separate reserves, and defined their occupational roles, creating landed and landless classes divided along ethnic lines. The legacy of these policies continues to reinforce ethnic divisions post-independence.

Writing about the colonial roots of ethnic conflicts, Horowitz notes that independence movements from colonial power “were not always wholly representative of all the ethnic groups in their territories.”²⁰ This was certainly the case in Kenya. The mobilization of ethnic identity for political gain has been a common occurrence in Kenya since independence and is openly acknowledged. Human Rights Watch notes, “The political manipulation of ethnicity is almost a tradition in Kenyan politics.”²¹ Upon achieving independence in 1963, the government under President Jomo Kenyatta redistributed land regained from British settlers according to ethnic loyalties, giving the majority of the land in Kenya’s fertile Rift Valley province to members of Kenyatta’s Kikuyu ethnic group rather than returning it to some of the other groups who originally possessed it. Following Kenyatta’s death in 1978, Daniel arap Moi, who had been Kenyatta’s vice-president for the past twelve years, acceded to the presidency and redistributed resources and patronage among his own ethnic group, the Kalenjin, and mobilized ethnic tensions among other ethnic groups for political gain.²²

The distribution of land continues to influence social, economic, and political relations in Kenya. Uneven land distribution has caused Kenya’s ethnic communities to become geographically, as well as politically separated. Additionally, land provides critical life-sustaining resources, including food and an income. Thus, land distribution has also created significant economic inequality. Nairobi’s slums, characterized by severe ethnic polarization and

tensions over economic disparities, experienced the worst of the post-election violence. One Mathare slum resident said to the media during the post-election violence, “The fight in this country is not between the Kikuyus [Kibaki’s ethnic community] and the Luos [Odinga’s ethnic community]. It is between the winners and the losers, the greedy and the needy.”²³ However, when the ethnic identity of the person in power determines who are the winners and losers, economic disparity, politics, and ethnicity all become intimately entwined and animate tensions along combined political and ethnic lines, as was the case during the 2007/2008 post-election crisis.

Under international pressure, Moi re-introduced multi-party politics in Kenya in 1992.²⁴ Although viewed as a positive step towards democratization, the advent of multi-party politics prompted even greater ethnic politicization and violence in Kenya. As Bruce Berman, Dickson Eyoh, and Will Kymlicka observe of Africa generally, “There is little doubt that the wave of ‘democratization’ in Africa since the 1990s has seen an increase rather than decrease in the visibility of ethnic politics and conflict. . . . Multiparty politics opens spaces for the ‘venting’ of long-entrenched elite and communal cleavages.”²⁵ In Kenya’s contemporary multi-party, winner-take-all political system, in which a presidential candidate only needs a plurality of the votes to win, candidates rely on the support of their ethnic communities to win elections. Additionally, political power is heavily concentrated within the executive branch, providing the president with significant power and the freedom to favor his own ethnic party with land, resources, and jobs. With such high stakes riding on whether or not someone from one’s own ethnic group is in power, the political ideology of a party tends to matter much less than ethnic loyalty. Makau Mutua explains, “Although African states are severely underdeveloped, they remain the largest

source of resources and employment for most inhabitants of Africa. Hence the death-and-life struggles by ethnic elites to capture and control the state in the name of their groups.”²⁶

Moi manipulated ethnic tensions to win both the 1992 and 1997 elections, both of which were marked by ethnic violence.²⁷ When Moi was constitutionally required to step down in 2002, Mwai Kibaki won the 2002 presidential election by forming a coalition party including the leading elites of four of the five major ethnic groups in Kenya and promising sweeping reforms, including substantial land reform and devolution of executive power, consequently reducing the president’s ability to distribute resources. When the promised reforms failed to occur, Raila Odinga was able to build a coalition comprised of his own Luo ethnic community, the Kalenjin community, and other minority ethnic groups, all frustrated by the failure of reform and the prolonged political and economic dominance of Kibaki’s Kikuyu community. Representing this coalition, known as the Orange Democratic Party (ODM), Odinga ran against Kibaki and his new Party of National Unity (PNU) in the 2007 presidential election. With Odinga’s party built on anti-Kikuyu sentiments, it is no surprise the trend of ethnic mobilization continued in the 2007 election campaign. Human Rights Watch reports, “The opposition Orange Democratic Movement (ODM) built a political coalition based on the widespread perception that the Kibaki government had entrenched tribalism and governed in the interests of the Kikuyu community. The PNU, on the other hand, made Luo cultural traditions a target, claiming that an uncircumcised man could not rule Kenya.”²⁸

The historic trend of ethnic politicization combined with the high stakes of “life-giving”²⁹ politics in Kenya laid the foundation for ethnic violence in Kenya’s post-election crisis. Immediately after the ECK announced on December 30, 2007 that Kibaki won the election, violent protests and riots broke throughout the country. At first the violence primarily consisted

of spontaneous protests by Odinga's supporters. Chanting slogans such as, "No Raila, No Peace," these protests were primarily a reaction to the disputed election results. As the violence evolved, however, these spontaneous protests and riots in response to the contested election results evolved into more organized violence against members of Kibaki's Kikuyu ethnic group, assumed to have voted for Kibaki and reprisal attacks by Kikuyus against ethnic groups perceived as supportive of the opposition.³⁰ Thus, a conflict that was prima facie over disputed election results broke along ethnic lines.

While far from exhaustive, the historical and political context presented here provides a sense of the underlying issues at stake in the post-election violence. Although immediately sparked by the disputed election results, the violence reflected historical grievances over land, social and economic inequality, and a political culture of corruption and manipulation. Most importantly, a tradition of ethnic politicization for political gain meant the violence took on an ethnic dimension that became a primary source of discursive struggle in the rhetoric about the post-election violence with implications for how a "new Kenya" could be constructed and what form it would take.

Genocide, Ethnicity, and Politics in the Rhetoric of the Post-Election Violence

Due to the intensity of the violence, the disruption of Kenya's reputation as a stable model democracy, and Kenya's political importance, the post-election violence captured the attention of politicians, journalists, and other public figures in and beyond Kenya. The differential discourses that emerged during the post-election crisis present conflicting perspectives on the place of ethnicity within the conflict. Scholars and humanitarian groups criticized the news media, particularly the Western media, for its sensationalized descriptions and oversimplified explanations of the conflict that perpetuated derogatory stereotypes about

Africa. In contrast, U.S. politicians oversimplified the conflict in an opposite manner, refusing to recognize or explicitly denying the relevance of ethnicity. Between these reductive generalizations, Kenyan politicians publicly identified ethnicity as an important factor in the post-election violence because of the relationship between politics and ethnicity in Kenya. The conflicts among these discourses manifest most explicitly in struggles to label, or to avoid labeling, the conflict as genocide or ethnic cleansing. More fundamentally than the memories, stigma, and obligations associated with these labels, their deployment or rejection also represents different perspectives about the place of ethnicity in the post-election violence and the relationship between ethnicity and politics more generally, resulting in divergent approaches to and goals for resolving the conflict.

Another African Tribal Conflict

The news media exploited the stigma of genocide and ethnic cleansing to present a dramatic account of another African country devolving into tribal warfare. Charlayne Hunter-Gault, former African correspondent for National Public Radio (NPR) and the Public Broadcasting Service (PBS), as well as the South Africa bureau chief for Cable News Network (CNN), explains that most media stories about Africa are criticized for only providing shallow coverage of death, disaster, disease and despair. “The perception throughout Africa is that foreign media are only interested in stories that fit the old journalistic maxim ‘If it bleeds, it leads.’”³¹ Curtis Kiem writes that Western news stories about Africa “tend to be of two kinds: ‘trouble in Africa’ and ‘curiosities from Africa.’”³² The media’s descriptions—particularly in the West, but in the African media as well—of “armed gangs” and “mobs” carrying machetes, clubs, rocks, and bows and arrows and engaged in the “slaughter” and “massacre” of their neighbors dramatized both troubles and curiosities to sell sensational stories about the post-election

violence.³³ Reporting on the first outbreaks of violence, before the election results were even announced, Jeffrey Gettleman wrote for *The New York Times* that demonstrators “tore apart metal shanties with their bare hands” and “men sharpened machetes on the asphalt, vowing to shed blood.”³⁴ Still reporting on the post-election violence nearly a month later, Gettleman continued his barbaric depiction: “On Saturday, hundreds of men prowled a section of the city with six-foot bars, poisoned swords, clubs, knives, and crude circumcision tools. Boys carried gladiator-style shields and women strutted around with sharpened sticks.”³⁵

Despite widespread acts of violence to fuel the media’s imagination and fulfill its desire for the dramatic, the burning church in Eldoret became the central symbol representing the worst of the violence. Although over 1,000 people would die in the post-election violence before it was resolved,³⁶ *Time* magazine claimed the violence reached “a horrific level” when “50 people, including women and children, were burned alive” in the church.³⁷ The church’s power as a symbol representing the worst of the violence derived primarily from the memories it evoked of the Rwandan genocide. Most reports on the incident in Eldoret directly compared the scene to atrocities in Rwanda. *The Guardian* reported in the United Kingdom, “In the worst incident, up to 50 ethnic Kikuyus were burned alive as they sheltered in a church in the Rift Valley city of Eldoret. Eyewitness reports of victims being hacked as they fled echoed those from the Rwandan genocide in 1994, in which more than 500,000 people were killed.”³⁸ Gboyega Akinsanmi wrote in the Nigerian newspaper *This Day* that the scene in Eldoret, revived “memories of the slaughter in churches of hundreds of thousands in Rwanda’s 1994 genocide.”³⁹ The primary rhetorical significance of genocide for the news media was its association with the memories of the Rwandan genocide, which further supplemented the already dramatized descriptions of the violence in Kenya.

Although genocide emerged as an official term in international law to describe the atrocities of the German Holocaust and ethnic cleansing gained wide circulation in reference to the crimes against various ethnic groups in the former Yugoslavia,⁴⁰ the media explicitly and exclusively associated the terms with Rwanda in its coverage of the post-election violence in Kenya. The association among genocide, Rwanda, and Kenya represents a problematic tendency to characterize all African conflicts as the same—tribal, primitive, timeless, and irrational. Even as journalists and others have come to realize the problematic use of the word “tribal” and replace it with an alternative, most commonly “ethnic,” they still fail to acknowledge the social and political construction of ethnicity and often characterize “ethnic groups” much the same as “tribes.”⁴¹ Writing for the Africa Policy Information Center, Chris Lowe explains:

When the general image of tribal timelessness is applied to situations of social conflict between Africans, a particularly destructive myth is created. Stereotypes of primitiveness and conservative backwardness are also linked to images of irrationality and superstition. The combination leads to portrayal of violence and conflict in Africa as primordial, irrational and unchanging. This image resonates with traditional Western racialist ideas and can suggest that irrational violence is inherent and natural to Africans.⁴²

Indeed, the media was similarly criticized during the Rwandan genocide for its sensationalist, yet oversimplified, portrayal of the violence as primordial tribal warfare.⁴³ Expressions of shock and bewilderment that the media expressed in reaction to the post-election violence also demonstrated the collective generalization of African conflicts through comparisons made to other countries where, according to media accounts, ethnic violence would not be surprising. Elizabeth Kennedy wrote for the Associated Press, “Kikuyus have fled to vast displacement camps—a sight more common in neighbors like Somalia and Sudan than Kenya, which is

renowned for its tourist-friendly game parks and white-sand beaches.”⁴⁴ In the United States *Time* magazine quoted a United Nations official: “Maybe in Burundi or Rwanda, but I never thought this could happen in Kenya.”⁴⁵ According to these depictions, Kenya had simply gone the typical African way by descending into tribal warfare.⁴⁶ Further, the media’s tribal characterization of the conflict suggested it was irrational. Introduced with the lead, “In a flash, neighbors turn on one another,” Stephanie McCrummen reported in the *Washington Post*, “Perhaps nowhere have Kenyans been transformed so quickly from ethnically integrated neighbors into tribal warriors than in this western city, which has been the scene of previous bouts of ethnic fighting, but not on this scale.”⁴⁷ By depicting the post-election violence as a typical African irrational, tribal conflict, the media ignored the structural relationship between politics and ethnicity in Kenya and the resulting inequalities and tensions.

A Strictly Political Conflict

In stark contrast to the media’s portrayal of the conflict, the international community, especially the United States, avoided or explicitly rejected labeling the conflict genocide or associating it with Rwanda. Consequently, the burning church in Eldoret is noticeably absent from U.S. discourse. In addition to avoiding an obligation to intervene, the United States in particular had a vested interest in protecting Kenya from the stigma of genocide. Concerned with promoting democracy abroad, the United States desired to protect Kenya’s reputation as a model democracy. In a February 7, 2008 Senate hearing on the post-election crisis, David Mozersky, the Horn of Africa Project Director at the International Crisis Group, warned, “There is, moreover, more at stake in Kenya than just the collapse of yet another African country. It is the entire liberal agenda—economic and political—which is being tested. If Kenya’s economy and democratic process go down the drain, it could create a sense of hopelessness throughout the

Continent of Africa.”⁴⁸ Further, the United States needed Kenya as a stable ally against terrorism. Associating Kenya with the stigma of genocide would threaten both of these interests. In a hearing before the House of Representatives Subcommittee on African and Global Health about the crisis in Kenya James Swan, Deputy Assistant Secretary for the Bureau of African Affairs stated on February 6, 2008, “First, I want to underscore that the United States has important interests in Kenya. These include promoting democracy and good governance, supporting Kenya’s economic development and improved health for its people, and maintaining its role as a stable partner and contributor to peace and security in the region and beyond, including in the areas of counterterrorism.”⁴⁹ Consequently, U.S. politicians discussed the conflict in purely political terms without acknowledging the structural relationship between politics and ethnicity in Kenya.

The first official response by the U.S. focused exclusively on the election. The State Department originally congratulated Kibaki for winning but withdrew the statement after evidence of voting irregularities became apparent. Shortly after the election results were announced, as violence spread throughout the country and on the same day the church in Eldoret was burnt, Secretary of State Condoleeza Rice released a joint statement with UK Foreign Secretary David Miliband, congratulating “the Kenyan people on their commitment to democracy,” but also recognizing the irregularities in the counting of the votes and urging political leaders to end the violence and “engage in a spirit of compromise that puts the democratic interests of Kenya first.”⁵⁰ Although Rice and Miliband recognized the immediate priority in Kenya was the cessation of violence, their emphasis on the democratic implications for Kenya foreshadowed the dominant U.S. response to the crisis.

While the terms genocide and ethnic cleansing freely circulated in the media and Kenyan public discourse, the international community explicitly rejected labeling the conflict genocide. Weeks after the January 1 incident in Eldoret, UN Special Adviser on the Prevention of Genocide and Mass Atrocities, Francis Deng still stated, “We’re not talking the g-word at this point.”⁵¹ In contrast to the dominant stance within the international community against labeling the conflict, however, Jendayi Frazer, U.S. Secretary of State for African Affairs, claimed the conflict was clearly ethnic cleansing. In an official statement on January 31, 2008, Frazer stated:

It's not the first time that I've said that there was ethnic cleansing in Kenya, I said it when I was in Nairobi, I said it when I came back from Eldoret, and I listened to the victims and how they described the situation that they faced in which they very clearly said that organised groups came to their homes, told them to pack their stuff and leave; if they resisted then they were attacked, some were obviously killed. That seems to me to be a situation where some groups are trying to get other ethnic groups to leave certain areas. That sounds like ethnic cleansing to me.⁵²

Ironically, Frazer’s statement provides the strongest evidence of the refusal in the United States to label the conflict genocide for two reasons. First, although Frazer departed from the dominant international response by characterizing the violence as ethnic, she explicitly clarified in later statements that it was not genocide.⁵³ Second, even with this clarification, her statement incited severe backlash from the U.S. Department of State and other U.S. officials. In a daily press briefing later the same day, Sean McCormack, official spokesman for the U.S. Department of State, said Frazer’s comments represented “her firsthand view of the situation,” not the official position of the State Department. When pushed repeatedly by a reporter asking if McCormack was “prepared to use the same term,” given that although ethnic cleansing “is not a legal phrase

like genocide is,” it is “an emotionally charged phrase” due to “the history of the phrase and what comes along with it,” McCormack responded over and over that Frazer’s statement would “stand alone.”⁵⁴ In the February House of Representatives hearing, Chairman of the Subcommittee on African and Global Health Donald M. Payne pointedly criticized Frazer for her statement.⁵⁵ Even without the political obligations associated with the label genocide, ethnic cleansing carries its own rhetorical weight as an emotionally laden term loaded with memories of atrocities. Additionally, as evidenced by the necessity for Frazer to clarify she was not calling the conflict genocide, ethnic cleansing is closely associated with genocide and its attached memories, stigma, and obligations. Consequently, the international community, particularly the United States, avoided associating either label with the conflict in Kenya. Although neither the reporter nor McCormack mention Rwanda, the debate in the United States over how to label the Rwandan genocide—the U.S. State Department specifically instructed officials not to use the term genocide, and officials referred to it as part of an ongoing civil war or “acts of genocide” instead—and subsequent criticism for failing to identify it as genocide and intervene would have likely been in the minds of both. By repeatedly refusing to use either term, McCormack attempts to distance himself and the United States from an association with Rwanda.

During a visit to Nairobi in mid-February to encourage a peace agreement, Rice noticeably avoided the terms genocide or ethnic cleansing in her official press statement about the trip.⁵⁶ At the time of Rice’s visit, President George W. Bush was in the middle of a trip visiting several other African countries. Although the tour originally included Kenya, it was removed from the itinerary because of the violence. Speaking in Kigali, Rwanda just after visiting the Kigali Memorial Center for the Rwandan genocide, Bush commented on his briefing from Rice on the situation in Kenya. While recognizing there were some “warning signs” the

international community needed to pay attention to, Bush clarified, “Now I’m not suggesting that anything close to . . . what happened here is going to happen in Kenya.”⁵⁷ By speaking about the post-election violence in Kigali, Bush embodied the association the media emphasized so highly between the Rwandan genocide and Kenyan post-election violence, but he rhetorically disassociated the two. Payne similarly dissociated the crisis in Kenya from the Rwandan genocide in the House of Representatives, stating, “It wasn’t like Rwanda, where Tutsis went after Hutus and Hutus went after Tutsis.”⁵⁸ For the international community, labeling the conflict genocide would invoke political obligations to intervene. Moreover, associating the conflict with the Rwandan genocide, for which the international community was heavily criticized for failing to intervene, would impose an even stronger moral obligation.

Beyond political motivations, U.S. official political discourse justifying rejecting the labels genocide or ethnic cleansing expose fundamental assumptions about the relationship, or attempted lack thereof, between ethnicity and politics in the tradition of Western liberal democracy. U.S. politicians explicitly disassociated ethnicity and politics, confining the conflict within a narrow perspective of the political and consequently ignoring underlying structural issues. Speaking in the House of Representatives hearing, Payne claimed, “What is happening in Kenya is not, I repeat, not an ethnic conflict. It is a political conflict with ethnic overtones.”⁵⁹ Again, the Rwandan genocide is never mentioned, but this statement bares striking resemblance to assertions by U.S. officials that the violence in Rwanda was part of an ongoing civil war and, therefore, not genocide. Even while recognizing some “ethnic overtones,” Payne characterizes the conflict as political and, therefore, not ethnic, rejecting the possibility that it could be both. He further describes his perspective on the nature and causes of the conflict later in the hearing. “As we know it, about half of the population of Kenya lives on less than \$1 a day, when many

other Kenyans are very affluent; and that is why I continue to say that much of this is not ethnically driven. It is poverty, it is democracy being snatched out of the hands of the people who are able to defeat [*sic*].”⁶⁰ Although he rejects the relevance of ethnicity in a political conflict, Payne readily recognizes economic factors. While economic struggles are common within the political sphere under the Western liberal tradition, ethnicity exists outside it.

Although labels of tribalism and ethnic violence risk stereotyping and oversimplifying a conflict, U.S. political discourse about the Kenya crisis demonstrates the opposite is true as well. By characterizing the conflict as solely political and ignoring ethnic dimensions, U.S. politicians failed to recognize the fundamental issues involved and advocated for a narrow political solution with an emphasis on resolving the disputed election results and reforming democratic institutions. Achieving a power-sharing agreement was the central focus of the U.S. response to the post-election crisis. Speaking to the press during her visit in Nairobi about the steps Kenya should take to resolve the crisis, Condoleezza Rice stated, “The political leaders from all persuasions, all sides, need to come to an agreement. They need to have a power-sharing arrangement which will allow the governance of Kenya to go forward. . . . There needs to be a coalition. They need to share power and share responsibility for the governing of this country.”⁶¹ Although a power-sharing deal was necessary to achieve the immediate goals of ending the violence and securing a functioning governing body, it would not be sufficient to address the underlying issues exposed by the post-election crisis.

Rice, as well as other U.S. politicians, also recognized the need for longer term “constitutional reform, electoral reform, and a number of other reforms,” but they focused on reforming democratic institutions, such as the electoral commission, rather than transforming the social and political culture to address the structural inequalities tied to ethnicity. For example,

Texas Representative Sheila Jackson Lee wrote in a statement submitted to the House of Representatives hearing on the crisis, “In order for Kenya to continue moving forward on its current democratic trajectory, elections must be transparent, free, and fair.”⁶² In addition to Kenya’s democratic institutions, U.S. politicians also emphasized the need for Kenya to maintain its economic progress. Senator Richard Lugar expressed in the Senate hearing:

While these contentious problems may have been going on historically for a long time, at least the degree of unity until now in Kenya has led to a great deal of new investment and progress. . . . Are the emotions at this point, such that people are simply determined to have it, even if the pie grows a great deal smaller? I ask this because I agree with the chairman—clearly we should be doing more in terms of our assistance in economic reform.⁶³

In addition to Lugar’s insulting implication that, guided by emotions, Kenyans were acting irrationally and were unaware of the political and economic consequences of the crisis, he suggests that economic stability should be the primary concern for resolving the conflict and aiding Kenya in the future. Without any recognition of the systematically unequal distribution of land and other resources along ethnic lines embedded in Kenya’s political future, Lugar promotes economic investment and aid as a viable solution to the crisis.

Describing the desired resolution to the crisis as a return to Kenya’s path of democratic progress, common in both Jackson Lee’s and Lugar’s testimony, emerged as another dominant theme in U.S. political discourse. Payne expressed in the House of Representatives, “It was not long ago that the people of Kenya demonstrated that democracy works in Africa.”⁶⁴ Jackson Lee claimed in her statement to the House of Representatives, “The people of Kenya have shown a lust and commitment for democracy that is unprecedented and set a new standard for the

region.”⁶⁵ Following this confidence in Kenyans’ desire for and commitment to democracy, Jackson Lee narrowly characterized the conflict as “spontaneous demonstrations of anger and violence” due to the “outrage over the electoral results.”⁶⁶ Based on claims of the proven success of democracy in Kenya and confidence in Kenyans’ commitment to democracy, characterizations of the conflict as spontaneous suggested a lack of any underlying causes. From the perspective of U.S. politicians, the crisis was merely a temporary obstacle to Kenya’s democratic progress, rather than the result of structural issues and conflicts inherent in Kenya’s political system and culture. Consequently, it could be solved through a political agreement and institutional reform.

Ethnic Politics

C. Bryson Hull and Andrew Cawthorne wrote for *Reuters*, “The use of the word genocide will horrify Kenyans, used to being viewed by the world as a stable democracy, an investment and tourist destination and oasis of peace in a volatile region.”⁶⁷ However, leaders of the opposing political parties in Kenya exchanged mutual accusations of genocide within days of the violence breaking out. Alistair Thompson speculated in a *Reuters* article that “revulsions at the thought of following Rwanda’s path could help bring politicians to the negotiating table” and “mutual accusations of genocide seem calculated to claim the moral high ground and raise alarm bells by evoking the spectre of Rwanda’s bloodbath.”⁶⁸ However, the rhetorical value of labeling the conflict genocide lay less in its association with memories of Rwanda, which leaders of neither party mentioned in their accusations, than in the stigma it invoked against the accused party. William Schabas argues that a strict narrow definition of genocide is necessary precisely because it preserves the powerful stigma against it. He writes, “In any hierarchy, something must sit at the top. The crime of genocide belongs at the top of the pyramid.”⁶⁹

On January 2, the day after the burning of the church in Eldoret, leaders of both major political parties in Kenya accused their opponent of orchestrating genocide. Kivutha Kibwana, Lands Minister in Kibaki's government, stated, "It is becoming clear that these well-organized acts of genocide and ethnic cleansing were well-planned, financed, and rehearsed by Orange Democratic Movement leaders prior to the general elections."⁷⁰ Kibaki's spokesman, Alfred Mutua, similarly claimed, "Supporters of Raila Odinga are involved in ethnic cleansing."⁷¹ In response, Odinga accused Kibaki and his government of committing genocide the very same day.⁷² In addition, Kibaki and PNU supporters established a website titled "Chronicles of the Kenyan Genocide" with the purpose of recording evidence that pro-Odinga ethnic groups were carrying out systematic genocide against Kibaki's Kikuyu ethnic community. The website published materials such as memoranda about a campaign strategy to increase anti-Kikuyu sentiments among other ethnic groups and statements by Odinga defending or making excuses for violence against Kikuyus.⁷³ Although the immediate need in Kenya was to stop the violence, doing so also required resolving the election dispute that initially caused the violence. While both Kibaki and Odinga competed to prove they had the popular support of Kenyans and the legitimate claim to power, the stigma of genocide became a powerful rhetorical weapon each deployed against the other. Further exemplifying this political motivation, Kibaki's Justice and Constitutional Affairs Minister, Martha Karua, again accused Odinga and the ODM of committing genocide and ethnic cleansing in an interview on BBC's *HardTalk* on January 9, the day after Kibaki controversially appointed half of his cabinet, all but two from within his own party and none from Odinga's ODM.⁷⁴ Kibaki's announcement, made on the day negotiations for a potential power-sharing agreement were meant to start, incited anger and criticism from the opposition and members of the international community.⁷⁵ Within the heat of this condemnation,

Karua, one of the just-appointed ministers, launched a far more severe accusation against Odinga and the ODM. “We did not expect the magnitude [of violence] and also that for it [*sic*] to be a form of ethnic cleansing. . . . We are horrified that anybody whatever their grievance could resort to such wanton and criminal behavior.”⁷⁶ Asked by *HardTalk* host Stephen Sackur to confirm that she was “making the most serious of allegations” and accusing Odinga and the ODM of planning ethnic cleansing, Karua responded, “Absolutely, yes.”⁷⁷

By accusing their opposition of committing ethnic cleansing and genocide, politicians in Kenya demonstrated a willingness to recognize the ethnic dimension of the violence in its most extreme form. Moreover, the political motivations behind the accusations are representative of the ways in which politicians in Kenya have historically manipulated ethnicity for political gain. While the media used the burning church and its association with the Rwandan genocide to further sensationalize the post-election violence as tribal barbarism, Kenyan politicians exploited it for political leverage. Njoki Ndungu, Former Member of the Kenyan Parliament and Advocate of the High Court, testified in the U.S. House of Representatives hearing, “I think the current crisis in Kenya *prima fascia*, on the face of it, appears to be an election dispute. But a close study reveals a country that has been forced to own up to a deep-rooted simmering conflict that has been there since colonial Kenya when actually the killings, evictions, displacement, landlessness, and the divisions in tribes were actually introduced.”⁷⁸ Ndungu disputes the characterization of the crisis as simply an electoral dispute and recognizes the deep-rooted nature of the conflict. Unlike the media, however, which characterized the crisis as the sudden eruption of primordial tribal divisions, Ndungu describes how the divisions were introduced in colonial times.

Further disrupting the media’s depiction of spontaneous and senseless tribal violence, Chairman of the Kenya National Commission for Human Rights Mainai Kiai stated, also in the

House of Representatives hearing, “The root of the problem is not that different ethnic groups decided they could no longer live together. The root of the problem is the inability of peaceful means to address our grievances.”⁷⁹ Although Kiai rejected claims that the violence was genocide or ethnic cleansing and emphasized the political roots of the conflict, he explained that as a political conflict, it was also necessarily ethnic. Responding to Representative Payne’s claim that the conflict in Kenya was political with only ethnic overtones, Kiai stated, “What is going on in Kenya is a political crisis with ethnic manifestations, as you said, Mr. Chairman, because our politics is organized ethnically.”⁸⁰ While Payne describes the conflict as only appearing to be ethnic and characterizes it as political in distinction from ethnic, Kiai explains that ethnicity is *fundamental* to politics in Kenya. As a result of the historic and political origins of Kenya’s ethnic divisions, there is an inseverable relationship between ethnicity and politics.

Acknowledging the deep-seated divisions and structural relationship between ethnicity and politics, Kenyans realized that simply ending the violence and reaching a power-sharing agreement would be insufficient to truly resolve the crisis. Kenyans expressed the need for reconciliation and healing to promote social cohesion and national unity. Indeed, the body established to resolve the crisis was called the Kenya National Dialogue and Reconciliation Committee (KNDR or “National Dialogue”) and included as part of its goals the promotion of reconciliation, healing and restoration.⁸¹ Even before the election results were announced, Police Commissioner Hussein Ali recognized the need to “start the healing process for all the divisions that were brought about—ethnic, party, regional, whatever it may have been.”⁸²

Because of the relationship between ethnicity and politics, reconciliation would also require political transformation. The KNDR’s fourth agenda item addressed long-term issues and solutions and acknowledged, “Poverty, the inequitable distribution of resources and perceptions

of historical injustices and exclusion on the part of segments of the Kenyan society constitute the underlying causes of the prevailing social tensions, instability and cycle of violence.”⁸³ The political transformation required for reconciliation required more than simply reforming democratic institutions. Kenneth Marende stated at the opening of the Kenya National Assembly, “Yes, we may believe and insist that building strong institutions is a prerequisite for establishing a functional democratic society, but the truth is that if Kenyans genuinely want to live in a multiparty democratic State, we must nurture democracy in our hearts and minds. . . . We must, therefore, be tolerant and prepared to accommodate and glorify cultural differences, social diversity, economic variety, and political pluralism.”⁸⁴

Although a political agreement was necessary, a solution would also have to address the underlying issues. When asked by Payne to give his opinion on the United States’ position on resolving the crisis, Ndungu stated:

In fact, when Jendayi Frazer came to Nairobi and the first statement is [*sic*] about government of national unity, that was scary. Because that was perceiving things as normal and President Kibaki inviting ODM into government, rather than a difficult, hard-choices, tasks [*sic*] to be done where you sit down and share the power and then agree to move forward. So, for us, government of national unity would really maintain the status quo.⁸⁵

Ndungu acknowledged that politics could not just continue as usual once an agreement was reached and expressed concern that the creation of a coalition government, as the United States advocated, would allow for the continuation of the status quo without addressing the divisions revealed by the post-election crisis. Additionally, Kibaki’s identification of the crisis as a “crucial turning point” and call to construct a “new Kenya” in his nationally televised address at

the opening session of Kenya's National Assembly recognized a need for social and political transformation.⁸⁶ Addressing the divisions and achieving the social and political transformation called for required recognizing these divisions were the result of negative practices of ethnic politicization and reforming these practices.

Conclusion

Although there were certainly exceptions within each of the discourses, I have presented the dominant themes that emerged within each. Recognizing the need and possibility for political transformation that would address the underlying issues that fueled the post-election crisis required a rhetoric that acknowledged the coexistence of ethnicity and politics. It follows then that the political community to be formed out of this transformation would have to accommodate ethnic diversity.

For the news media, the burning church in Eldoret provided a particularly macabre spectacle to supplement sensational headlines about genocide and ethnic or tribal conflict and gory descriptions of violence. While the media capitalized on the ethnic dimension of the conflict, without acknowledging the complex web of political issues within which the conflict was imbedded, the media failed to recognize the conflict on its own terms and its relation to the political structure and norms in Kenya. Rather, it was merely an echo of the Rwandan genocide or part of the timeless tribal conflict inflicting the continent of Africa. Consequently, there could be no way of addressing or resolving it, and Kenya came to represent the most recent African failure.

Although the West is frequently criticized for its tribal stereotypes of Africa and African conflicts, official U.S. political discourse reveals that denying the relevance of ethnicity can result in equally harmful generalizations and oversimplifications. U.S. politicians explicitly

rejected the label genocide, denying that the conflict was ethnic on the basis that it was political as they had similarly done during the Rwandan genocide. Echoes of Rwanda resounded only in their silence. In official U.S. rhetoric—as in much liberal theory—there was no space for ethnicity in the political community. Yet, as should be obvious by now, ethnicity is at the core of Kenyan politics and had to be addressed in any solution to the crisis. The political assumptions underlying the disassociation of ethnicity and politics in official U.S. rhetoric suggests Kenya's reputation as a model democracy in the Western liberal image was untenable and, by extension, reclaiming this reputation would not resolve the crisis in Kenya.

Finally, Kenyan politicians leveraged the burning church and its association with genocide for political advantage, manipulating it in just the same way they have manipulated ethnicity throughout Kenya's history. Recognizing the inseparable relationship between ethnicity and politics, Kenyan politicians also recognized the need for significant political and social transformation, rather than a superficial political agreement to paper over the immediate conflict. Furthermore, the disjuncture between U.S. and Kenyan discourses suggests the “new Kenya” would indeed have to be new—a Kenyan creation constructed specifically for the social and political circumstances in Kenya. Paul Zeleza writes, “Certainly the future does not belong to democratic models imported from outside, but to those rooted in African traditions. By traditions I refer to traditions of struggle, not false harmonies, traditions that celebrate Africa's diversities, rather than its imaginary uniformities.”⁸⁷ Despite the potential for transformation within the discourse of Kenyan politicians, the strategic mobilization of the term genocide, with its heavy political stigma and emotional burdens attached, suggests politicians may not have been as ready for this transformation as they proclaimed.

Beyond the context of Kenya, this analysis also suggests implications about the rhetorical dimensions of genocide and its recognition. Despite Lemkin's attempt to ensure humanity's worst crimes could be identified and prosecuted by creating a stable term, recognizing genocide depends on more than counting dead bodies, identifying victims, or even the often ambiguous task of determining intentionality. Influenced by political commitments and potential strategic gains and losses, recognizing genocide requires a rhetoric that accommodates ethnicity within the bounds of politics. I do not wish to make any claim or attempt to make any determination of whether or not the post-election crisis in Kenya could be considered genocide, but, rather, to reflect on the rhetorical underpinnings on which genocide depends and suggest this as a lucrative subject for further research.

Notes

¹ Robyn Dixon, “Kenians Recall the Screams of Dying in Burning Church,” *Los Angeles Times*, January 3, 2008.

² African Rights, *Rwanda: Death, Despair, and Defiance*, revised edition (London: African Rights, 1995), 865.

³ In addition to the article cited above, see, for example “Kenians Burned to Death in Church,” *BBC News*, January 1, 2008; “Kenya ‘Facing Humanitarian Disaster’,” *The Guardian*, January 2, 2008; Gboyega Akinsanmi, “Fears of Genocide as Death Toll Hits 300,” *This Day*, January 3, 2008. Nick Wadhams, “A Massacre in a Kenyan Church,” *Time*, January 1, 2008.

⁴ For a thorough account of the origin of the term, see William A. Schabas, *Genocide in International Law: The Crime of Crimes*, 2nd edition (New York: Cambridge University Press, 2009), 17-58.

⁵ UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, A/RES/260, December 9, 1948, Article 2.

⁶ The UN has defined ethnic cleansing as “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographical areas.” UN Commission of Experts, “Report of the Commission of Experts Established Pursuant to United Nations Security Council Resolution 780, S/1994/674, May 27, 1994, 33. William Schabas describes the history of the term and the struggle to clearly distinguish ethnic cleansing from acts of genocide. See Schabas, *Genocide in International Law*, 221-234. Although the terms are officially distinct, they are often colloquially used synonymously.

⁷ UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, Article 1.

⁸ Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, MA: MIT Press, 1992), 121.

⁹ Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995), 3.

¹⁰ Rok Ajulu, "Politicised Ethnicity, Competitive Politics and Conflict in Kenya: A Historical Perspective," *African Studies* 61, no. 2 (2002): 251.

¹¹ Donald L. Horowitz, *Ethnic Groups in Conflict*, 2nd ed. (Berkeley: University of California Press, 2000), 7-8.

¹² Jeffrey Steeves, "Beyond Democratic Consolidation in Kenya: Ethnicity, Leadership, and Unbounded Politics," *African Identities* 4, no. 2 (2006): 196.

¹³ *Ibid.*, 197.

¹⁴ John Young, "Ethnicity and Power in Ethiopia," *Review of African Political Economy* 70, no. 23 (1996).

¹⁵ John Lonsdale, "Moral and Political Argument in Kenya," in *Ethnicity & Democracy in Africa*, eds. Bruce Berman, Dickson Eyoah, and Will Kymlicka (Athens, OH: Ohio University Press, 2004), 76.

¹⁶ Young, "Ethnicity and Power in Ethiopia," 70.

¹⁷ Lonsdale, "Moral and Political Argument," 76. Other scholars, such as Ajulu, use the term "political ethnicity." Given, as Lowe states, that "most scholars who study African states and societies—both African and non-African—agree that the idea of tribe promotes misleading

stereotypes,” I use the term “political ethnicity” instead of “political tribalism” in this thesis. See Ajulu, “Politicised Ethnicity;” Chris Lowe, "Talking About 'Tribe': Moving from Stereotypes to Analysis." Africa Policy Information Center, 1997, http://africanactivist.msu.edu/document_metadata.php?objectid=32-130-153D (accessed March 24, 2014), 1.

¹⁸ Ajulu, “Politicised Ethnicity,” 252.

¹⁹ Ibid., 253.

²⁰ Horowitz, *Ethnic Groups in Conflict*, 4.

²¹ Human Rights Watch, *Ballots to Bullets: Organized Political Violence and Kenya’s Crisis of Governance* (New York: Human Rights Watch, 2008), 17.

²² For a detailed account of the Kalenjin, their political relevance, and their role in the post-election crisis, see Gabrielle Lynch, *I Say to You: Ethnic Politics and the Kalenjin in Kenya* (Chicago: The University of Chicago Press, 2011).

²³ Njuwa Maina and Nicolo Gnecci, “Slum Dwellers Cower in Kenya’s ‘Unhappy Valley,’” *Reuters*, January 3, 2008.

²⁴ Kenya had briefly experimented with multi-party politics just after independence, from 1963-1966.

²⁵ Bruce Berman, Dickson Eyoah, and Will Kymlicka, eds., *Ethnicity & Democracy in Africa* (Athens, OH: Ohio University Press, 2004), 9.

²⁶ Makau Mutua, *Kenya’s Quest for Democracy: Taming Leviathan* (Boulder, CO: Lynne Rienner Publishers, 2008), 21.

²⁷ For a more detailed account of Kenya's transition to multi-party politics and Moi's manipulation of ethnic tensions and responsibility for ethnic violence, see Daniel Branch, *Kenya: Between Hope and Despair, 1963-2011* (New Haven: Yale University Press, 2011), 195-244.

²⁸ Human Rights Watch, *Ballots to Bullets*, 4.

²⁹ Steeves, "Beyond Democratic Consolidation," 196.

³⁰ Human Rights Watch, *Ballots to Bullets*, 35.

³¹ Charlayne Hunter-Gault, *New News out of Africa: Uncovering Africa's Renaissance* (New York: Oxford University Press, 2006), 109.

³² Curtis Keim, *Mistaking Africa: Curiosities and Inventions of the American Mind*, 3rd edition (Boulder, CO: Westview Press, 2014), 18.

³³ For a small sample of such depictions, see Florence Muchori, "Fires of Fury, Joy across Kenya at Kibaki Victory," *Reuters*, December 30, 2007; Jeffrey Gettleman, "Riots Batter Kenya as Rivals Declare Victory," *The New York Times*, December 30, 2007; "Ethnic Fighting Intensifies after Election in Kenya," *The New York Times*, January 1, 2008; "Ethnic Violence in Rift Valley Is Tearing Kenya Apart," *The New York Times*, January 27, 2008; Stephanie McCrummen, "Tribal Rage Tears at Diverse Kenyan City," *Washington Post*, January 3, 2008. Daniel Wallis, "Kenya's Kibaki Accuses Rival of 'Ethnic Cleansing'," *Reuters*, January 1, 2008.

³⁴ Gettleman, "Riots Batter Kenya."

³⁵ Gettleman, "Ethnic Violence in Rift Valley."

³⁶ Human Rights Watch, *Ballots to Bullets*, 2.

³⁷ Wadhams, "A Massacre in a Kenyan Church."

³⁸ "Kenya 'Facing Humanitarian Disaster'."

³⁹ Akinsanmi, "Fears of Genocide."

⁴⁰ Schabas, *Genocide in International Law*, 221.

⁴¹ John Pottier writes of the media coverage of the Rwandan genocide, “For those journalists who understood ‘tribalism’ was not the correct term, bringing in other variables proved equally problematic.” Johan Pottier, “Escape from Genocide: The Politics of Identity in Rwanda’s Massacres,” in *Violence and Belonging: The Quest for Identity in Post-Colonial Africa*, ed. Vigdis Broch-Due (New York: Routledge, 2005), 197.

⁴² Lowe, "Talking About 'Tribe'."

⁴³ Pottier, “Escape from Genocide,” 195-197.

⁴⁴ Elizabeth A. Kennedy, "Kenya Violence Brings a Bloody End to Uneasy Coexistence among Ethnic Groups," *Associated Press*, January 22, 2008.

⁴⁵ Nick Wadhams, "A Massacre in a Kenyan Church," *Time*, January 1, 2008.

⁴⁶ Maina Kiai wrote, “Many longterm observers were shocked and alarmed that Kenya could go this ‘typical African way.’” Maina Kiai, “The Crisis in Kenya,” *Journal of Democracy* 19, no. 3 (2008): 162.

⁴⁷ McCrummen, “Tribal Rage Tears at Diverse Kenyan City.”

⁴⁸ Senate Subcommittee on African Affairs, *The Immediate and Underlying Causes and Consequences of Kenya’s Flawed Election: Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations, United States Senate, 110th Cong., 2nd sess., February 7, 2008, 57.*

⁴⁹ House Subcommittee on Africa and Global Health of the Committee on Foreign Affairs, *The Political Crisis in Kenya: A Call for Justice and Peaceful Resolution: Hearing before the Subcommittee on Africa and Global Health of the Committee on Foreign Affairs, House of Representatives, 110th Cong, 2nd sess., February 6, 2008, 7.*

⁵⁰ Condoleezza Rice and David Miliband, "Statement by Secretary of State Condoleezza Rice and Uk Foreign Secretary David Miliband on Situation in Kenya," U.S. Department of State Archives, January 2, 2008, <http://2001-2009.state.gov/r/pa/prs/ps/2008/jan/98220.htm> (accessed March 24, 2014).

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⁵² Jendayi Frazer, "Ethnic Cleansing in Kenya," U.S. Department of State Archive, January 31, 2008, <http://2001-2009.state.gov/p/af/rls/rm/2008/99894.htm> (accessed March 17, 2014).

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⁵⁷ George W. Bush, "The President's News Conference with President Paul Kagame of Rwanda in Kigali," Washington, D.C.: GPO, 2008, <http://www.gpo.gov/fdsys/pkg/WCPD-2008-02-25/html/WCPD-2008-02-25-Pg238-2.htm> (accessed March 17, 2014).

⁵⁸ House Subcommittee on Africa and Global Health of the Committee on Foreign Affairs, *The Political Crisis in Kenya: A Call for Justice and Peaceful Resolution*, 26.

⁵⁹ House Subcommittee on Africa and Global Health of the Committee on Foreign Affairs, *The Political Crisis in Kenya: A Call for Justice and Peaceful Resolution*, 4.

⁶⁰ House Subcommittee on Africa and Global Health of the Committee on Foreign Affairs, *The Political Crisis in Kenya: A Call for Justice and Peaceful Resolution*, 26.

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⁶⁵ *Ibid.*, 107.

⁶⁶ *Ibid.*, 108.

⁶⁷ C. Bryson Hull and Andrew Cawthorne, “Kenya Government Denounces ‘Genocide’ as Toll Hits 300,” *Reuters*, January 2, 2008.

⁶⁸ Alistair Thomson, “Shades of Rwanda Skin-Deep, but Could Push Kenya Deal,” *Reuters*, January 3, 2008.

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⁷² Although Odinga’s official statement is unavailable, the accusation was reported in several news reports. See, for example, “Kenya ‘Facing Humanitarian Disaster’;” Akinsanmi, “Fears of Genocide;” Thomson, “Shades of Rwanda;” Peter Mwaura, “Has Crime of Genocide Been Committed?,” *The Nation*, January 11, 2008.

⁷³ Keith Somerville, *Radio Propaganda and the Broadcasting of Hatred: Historical Development and Definitions* (London: Palgrave Macmillan, 2012), 228; “Chronicles of the Kenyan Genocide,” *Blogspot*, last modified October 12, 2008, http://kenyangenocide.blogspot.com/2010_10_01_archie.html.

⁷⁴ Karua first accuses Odinga of committing ethnic cleansing, but she refers to genocide later in the interview. The interview can be viewed online at “Debate: Kenya Elections,” *BBC News*, January 9, 2008, <http://news.bbc.co.uk/2/hi/programmes/hardtalk/7179270.stm> (accessed March 26, 2014).

⁷⁵ See “Kibaki Names Cabinet,” *The East Africa Standard*, January 8, 2008; “Kibaki Announces Half New Cabinet Amid Crisis,” *Reuters*, January 8, 2008; “Kenya at the Brink: A President and His Challenger Can Strike a Deal – Or Condemn Their Country to Chaos,” *The Washington Post*, January 10, 2008; “Kibaki’s Own Goal: Kenya’s President Is Dividing, Not Uniting, His Nation,” *Financial Times*, January 10, 2008; Xan Rice, “Fury as Kenyan Leader Names Ministers,” *The Guardian*, January 8, 2008.

⁷⁶ “Debate: Kenya Elections,” *BBC News*.

⁷⁷ Ibid.

⁷⁸ House Subcommittee on Africa and Global Health of the Committee on Foreign Affairs, *The Political Crisis in Kenya: A Call for Justice and Peaceful Resolution*, 73. Although the media's use of the term "tribe" typically denotes a stereotype of primitiveness and savagery, Keim explains that Africans do not use the term in this way and use it more like that of our phrase "ethnic group." Further, according to Lowe, Africans often use the term "tribe" because when they learn English they are taught that is the term English-speakers will recognize. Keim, *Mistaking Africa*, 119; Lowe, *Talking about 'Tribe'*, " 5.

⁷⁹ Ibid., 85.

⁸⁰ Ibid., 84.

⁸¹ Kenya National Dialogue and Reconciliation, "Annotated Agenda for the Kenya Dialogue and Reconciliation," February 1, 2008, <http://www.dialoguekenya.org/index.php/agreements.html> (Accessed March 26, 2014).

⁸² "Kenyan Police Chief Urges Losers to Accept Defeat," *BBC Monitoring Newswire*, 28 December 2007.

⁸³ KNDR, "Annotated Agenda."

⁸⁴ Kenya National Assembly, *State Opening of a New Session*, 39.

⁸⁵ Ibid., 101.

⁸⁶ Kenya National Assembly, *State Opening of a New Session*, 10th Parliament., 2nd sess., March 6, 2008, 41, 45.

⁸⁷ Paul Tiyambe Zeleza, "The Democratic Transition in Africa and the Anglophone Writer," *Canadian Journal of African Studies* 28, no. 3 (1994): 489.

Chapter 4

Truth Telling: A Rhetorical Performance of National Unity and Reconciliation

This is a Report. It is written with words, and printed on paper or converted into electronic bits and bytes. Yet it is the product of, in some cases literally, the blood, sweat and tears of the stories that were told to us as we travelled the country. The written word, no matter how poetic, cannot convey accurately the passion with which people demanded to tell their stories and the integrity and dignity with which they related their experiences. It cannot convey the silence, the tears, and the emotions that engulfed the venue at which a man described how he lost his entire family during the 2007/2008 Post Election Violence (PEV). It cannot convey the traumatic experience of a woman who was raped during the PEV and her fear that the same could happen to her during the 2013 elections.¹

In its very first pages the final report of Kenya's Truth, Justice, and Reconciliation Commission (TJRC) announced a struggle of representation.² The passage quoted above poignantly describes the limits of the written word to represent the emotions and experiences of the individuals who testified in its public hearings. Despite the Commission's struggle to represent the stories it heard, stories and performances of storytelling were central to addressing an even more fundamental struggle to the Commission's task: a struggle to represent the past to promote national unity and reconciliation.

Kenya's National Assembly established the TJRC "to promote peace, justice, national unity, healing, and reconciliation among the people of Kenya."³ Recognizing the need to "address the past in order to prepare for the future," the National Assembly charged the Commission with "establishing an accurate, complete and historical record of violations and

abuses of human rights and economic rights” and “as complete a picture as possible of the causes, nature and extent” of these violations from the time Kenya gained independence in 1963 through the post-election violence in 2008.⁴ Finally, the TJRC was required to produce a final report that represented the culmination of its work by not only providing a comprehensive account of the past, but also representing it in a way that could promote national unity and reconciliation. Attuned to the impossibility of actually providing an “accurate, complete and historical record,” the Commission’s mandate called for the report to present “as comprehensive an account as possible.”⁵ As scholarship on public and collective memory makes amply clear, the existence of multiple and conflicting accounts of the past precludes the possibility for a single narrative to provide a comprehensive account of the past. Further complicating the Commission’s task, it needed to present a divisive and painful past marked by “blood, sweat, and tears” in a way that could “promote peace, justice, national unity, healing, and reconciliation.”⁶ It is by leaning heavily on stories—the Commission collected over 42,000 written statements and recorded testimonies at public hearings it held throughout the country from April 2011 to April 2012—that the Commission addressed this task.⁷ The Commission created the statement-taking process to provide “victims, their families and witnesses the opportunity to tell their stories.”⁸ Additionally, it understood its public hearings as essential to fulfill its duty of establishing a historical record.⁹

Stories or, as I will argue, performances of storytelling were central to the Commission’s work and linked the representation of the past to the objectives of promoting national unity and reconciliation. The Commission used a variety of terms to describe the stories it received and the act of storytelling. In addition to stories, it also referred to dialogue, discussion, deliberation, debate, truth telling, “the truth as it was presented to the Commission,” testimony, testifying, and

confession.¹⁰ Although its use of these terms was imprecise, each represented an expression of individual experience shared collectively. Of these, “truth telling” was the most prominent and gave the most insight about the role of stories and storytelling in the Commission’s work. The Commission explicitly constituted all individuals it engaged as truth-tellers and linked truth telling to promoting national unity and reconciliation. According to the report, “To promote reconciliation and national unity and to respect the dignity and value of all Kenyans, the Commission decided to refer to all individuals who engaged with the Commission as witnesses, rather than as victims or perpetrators.”¹¹ As witnesses, individuals transcended the division between victims and perpetrators. The association of witnesses or witnessing with truth is a common theoretical assumption. John Durham Peters describes witnessing as “an amazingly subtle array of practices of securing truth.”¹² The Commission clearly established truth telling as the foundation for national unity and reconciliation. Referring to its official mandate by the National Assembly, the Commission explained that it was required to provide “‘a platform for non-retributive truth telling’ in the hope that such a conversation ‘would chart a new moral vision’ and ultimately lead to reconciliation” and to “provide ‘repentant perpetrators or participants in gross human rights violations with a forum to confess their actions as a way of bringing reconciliation.’”¹³

The centrality of “truth” in the Commission’s work was indicated directly within the Commission’s name—the Truth, Justice and Reconciliation Commission. The Commission’s association of truth telling with the stories it received suggested what form the “truth” in “Truth, Justice and Reconciliation Commission” took and the role it played. The importance was not that the stories were or were not verifiably true, but that the Commission called all of them true, thereby acknowledging and accounting for the existence of multiple truths. Truth telling not only

allows for and provides multiple accounts of the past; it also works towards building a community. According to Barbie Zelizer, collective memory includes “activities of sharing, discussion, negotiation, and, often, contestation” and “extends the acts of remembering for recall’s sake into a consideration of the use of memory to shape belonging, exclusivity, social order and community.”¹⁴ In addition to creating a more comprehensive account, the inclusion of multiple truths fosters understanding among differences and is more attentive to social divisions and corrupt political practices and, thus, grounds the potential to change them. Furthermore, the performance of truth telling brings individuals into relation through a performance that is contingent on the condition of plurality and allows a more robust expression of individual experiences with the potential to motivate collective action to resolve social divisions and the political practices that fuel them.

I analyze the TJRC’s final report to better understand the limits and potential of rhetoric—both as a rhetorical performance and as it is represented by the written word—to promote national unity and reconciliation in a time of political and social transformation. The Commission presented its report, a four-volume document totaling over two thousand pages, to then-President Mwai Kibaki on May 21, 2013. In addition to simply being an important document for rhetorical study, the report directly engages questions about the limits and potential of rhetoric and is itself representative of this tension. The report is not what it claims to be. At first glance, it bears many marks of a formal report—methodically divided sections, definitions of core concepts, descriptions of methodology, and numerous tables, graphs, and charts, but a closer reading reveals it is anything but formal and linear. The report’s own attempts to work out what national unity and reconciliation could mean in the historical and political context, as well as its potential to contribute to them, reveal the limits of the formal and rational norms of an

official report to promote these objectives. The inclusion of stories works against these restrictive norms to support the Commission's task.

I argue that truth telling acts as a mode of historical recall to promote national unity and reconciliation. As opposed to a single linear historical narrative, truth telling defies rational consistency by allowing for multiple and sometimes conflicting accounts of the past and by bringing the past forward as a means of shaping the present and future. As a rhetorical performance, truth telling also brings individuals together and allows for embodied emotional expression that fosters greater understanding among individuals with different experiences and perspectives and motivates social and political change. The Commission clearly associated national unity and reconciliation as at least interdependent concepts and often seemingly synonymous.¹⁵ Truth telling provides the link that binds these concepts. Working between national unity and reconciliation, truth telling refigures both as neither mere coexistence nor homogenous unity. Unbound to existing political norms and institutions and constituted through individual actions performed for the sake of and in a collective, truth telling founds a community empowered to transform the conditions of political and social life.

Following this introduction, I move directly into analyzing the TJRC's final report to determine the role of truth telling in the TJRC's work and its potential as a rhetorical performance and specific mode of historical recall to promote national unity and reconciliation, as well as what these concepts mean when constituted in this way. The analysis moves in several parts. First, I establish the central role of stories, a form of communication that extends beyond the rational norms typical of deliberation, for the construction of the report and their potential to contribute to national unity and reconciliation. Next, I discuss how truth telling fulfills this role by recalling multiple perspectives and accounts of the past, fostering understanding among them,

and animating a transformation to the future. I conclude by discussing the implications of this analysis for understanding rhetoric's potential to promote national unity and reconciliation through performances of truth telling, as well as broader implications about the status of a truth commission's final report.

Representations of Individual Experiences

The Commission's mandate to not only establish "an accurate, complete and historical record of violations and abuses of human rights and economic rights," but also to ascribe meaning to them by describing their "causes, extent, and nature" called for the Commission to construct a historical narrative.¹⁶ However, the Commission described several reasons why it could not construct a single narrative to provide a comprehensive account of the past and promote national unity and reconciliation. From a practical perspective, it acknowledged that due to its status as a "temporary body with limited political resources," the contents of its report "are not exhaustive in terms of establishing a complete record of gross violations of human rights or painting a complete picture of the causes, nature and extent of these violations."¹⁷ Beyond practical concerns with its own limitations, the Commission also described more fundamental inadequacies of a single narrative to meet its objectives. Particularly, as I describe in depth later in this analysis, the existence of multiple truths and an understanding of reconciliation as an ongoing process of transformation that disrupts linear time cannot be represented in a single narrative. To address these concerns the Commission established stories—namely, the testimonies from public hearings and the more than 40,000 written statements it received—as the foundation of its work. The centrality of dialogue to the Commission's work was apparent from its very inception. The Kenya National Dialogue and Reconciliation Committee (KNDR), a committee led by former UN Secretary-General Kofi Annan and including representatives of the

competing political parties, was established to set an agenda for resolving the crisis. The KNDR created multiple commissions to investigate the post-election violence and carry out various aspects of Kenya's proposed transformation and recommended establishing the TJRC to address the historical issues that culminated in the post-election violence. According to the final report, "The Commission aims to generate constructive debate and discussion by bringing to light information and the facts that were previously unknown or little known to Kenyans."¹⁸ Although the Commission still sought to provide an account of the past, it positioned this account as the groundwork for further discussion rather than a single closed narrative. From this perspective, the final report was still fundamental to achieving the Commission's objectives since it revealed the information and facts that could then be debated. However, a close reading of the final report illuminates the importance of stories to the very construction of the report as well.

The Commission described reconciliation as occurring on various levels, including intrapersonal, interpersonal, intercommunity, and national reconciliation. Aware of its own limits as an institution and understanding reconciliation as an ongoing process rather than something to be achieved, the Commission recognized that "the decision to reconcile is a personal decision" and situated individuals as the foundation for national unity and reconciliation. The Commission wrote, "It is the people of Kenya, who have both committed and suffered these violations, who ultimately are key to national unity and reconciliation."¹⁹ From this perspective, national unity and reconciliation must be constituted from the ground up, rather than from an institutionally constructed official narrative. Towards this goal, the Commission said it would construct its account of the past "through the experiences and voices of those who experienced it first-hand."²⁰ Accordingly, in addition to initiating discussion, the report is also a product of it.

Iris Marion Young warns that “to the extent that norms of deliberation implicitly value certain styles of expression as dispassionate, orderly, or articulate,” they often exclude other important forms of communication, such as non-linear or non-logical arguments and disruptive, emotional, or embodied forms of expression.²¹ Although the Commission’s hope for “constructive debate and discussion” suggests norms of rational deliberation, national unity and reconciliation defy rational consistency and require a rhetoric unbound by restrictive norms of rational deliberation. The irreducibility of difference and need to account for multiple experiences and perceptions of the past displaces the consensus-seeking *telos* typical of deliberation. Additionally, recalling the past for the purpose of transforming the present and future disrupts linear time and norms of orderliness. Finally, the pain and suffering in the personal testimonies received by the Commission could not be expressed in dispassionate or objective language that is valued in many views of deliberation and typical of formal reports. The dialogue central to the Commission’s work and capable of founding national unity and reconciliation could not be contained within the rational norms of deliberative democracy and that typically ground civic nationalism.²²

Two important-yet-excluded modes of expression Young identifies, narrative and rhetoric, help explain the type of dialogue that could ground national unity and reconciliation. Young explains that while arguments tend to prioritize the assumptions, experiences, and values of some members of the political community while excluding or devaluing others, narratives promote understanding among members of the community by explaining values, meanings, and experiences from the perspectives of those who have and hold them.²³ As opposed to a historical narrative, which is often viewed as supplying a singular official account of the past, Young argues for the importance of individual narratives that explain particular socially situated

experiences and perspectives. Additionally, Young contends that “affective, embodied, and stylistic aspects of communication” modes of expression, which she categorizes as rhetoric, are necessary for “situating those seeking to persuade others in relation to their audience.”²⁴

Although Young’s limited characterization of rhetoric as “the ways claims and reasons are stated” as opposed to what is said would be problematic for many rhetorical scholars, Young only makes this distinction for the purpose of arguing against its meaningful existence.²⁵ Further, her claims for the importance of the “affective, embodied, and stylistic aspects of communication” simultaneously embrace an expanded view of rhetoric and suggest its potential for national unity and reconciliation.²⁶

Truth Telling: A Rhetorical Performance of National Unity and Reconciliation

The importance of narrative and affective, embodied expression in the Commission’s work is evident in the significance the Commission attributed to individuals’ stories and the act of truth telling. Throughout the report, individuals’ personal narratives, or small excerpts of them, interrupt the report’s formal claims and explanations. Stories not only present multiple truths about the past but also foster understanding across differences and a more comprehensive perception of the past that grounds the transformation to the future.

Understanding and Relations Across Differences

The reconciling of individuals, communities, or ideas would seem obviously to promote unity. Yet, by identifying what needs to be reconciled, reconciliation brings difference to light. Doxtader warns that endowing reconciliation with a unifying *telos* obscures the prospect that reconciliation occurs through disagreements between opposing parties that determine what needs to be reconciled and how to go about it.²⁷ Just as national unity in Kenya requires recognizing ethnic differences within the political community, as I demonstrated in the previous chapter,

reconciliation also works towards a unity in difference. John B. Hatch writes, “The aim of reconciliation is not a fixed and final unity of identity (for example, a color-blind society), but rather a fluid, evolving harmony connecting differences and moments of dissonance in a diverse society.”²⁸ The Commission’s decision to combine its discussions of ethnic tensions and national unity and reconciliation reflected its perspective that transforming relations among ethnic communities to resolve ethnic tensions is integral for national unity and reconciliation. The foreword of Volume III begins, “One cannot speak of national unity, healing and reconciliation without discussing ethnic tension.”²⁹ Resolving ethnic tensions, however, does not equate to dissolving ethnic differences. The Commission identified “the integration of its different ethnic groups or communities into a cohesive nation, without compromising the respective identities of these ethnic groups” as a critical challenge for Kenya.³⁰ While the Commission hoped to resolve ethnic tensions and create “a cohesive nation,” it also needed to recognize differences rather than unify the nation under one homogenous identity. Wambugu Ngujiri testified in one of the TJRC’s thematic public hearings on ethnic tensions and violence, and the Commission recorded in the report, “We must work from the basis that Kenya is a garment of many colours, which is beautiful because each colour is present. We cannot be one colour because we would be dull. Some colours cannot run over others because we would be ugly. We must all stay in place and be bright. That is an ideal situation of where Kenya out to be.”³¹

Constructing national unity while also accommodating difference requires recognizing the legitimacy of diverse accounts of the past. Acknowledging that “what constitutes the truth in a particular context and society is often subject to contestations and multiple conflicting narratives,” the Commission conceded that it could not provide “a definitive history of the broad range of violations committed and suffered during that forty-five year period” and that Kenyans

need not all “agree on a historical account.”³² Instead, it endeavored to depict “the truth as it was presented to the Commission.”³³ According to the report, the Commission’s statement-taking process “gave voice to a multitude of stories and perspectives about violations that had occurred in Kenya’s history.”³⁴ The Commission then constructed its report from these stories, as well as recorded testimonies from public hearings. It explained, “The stories related in this Report are largely the stories of ordinary Kenyans.”³⁵ The inclusion of individuals’ stories representing various perspectives and experiences challenges the legitimacy on any single version of the past.

The excerpts from individuals’ testimonies or written statements appear in various forms throughout the report, most commonly as block quotations to support a claim made by the report (see figure 1). Short quotations offset in colored boxes are scattered individually throughout the report (see figures 2-3) or in groups at the beginning of many chapters (see figure 4). The report also includes longer stories, also offset in colored boxes, that span from one to several pages (see figure 5). Photographs occasionally accompany these stories and also appear throughout the report (see figure 6). The scattered stories throughout the entirety of the report symbolically represent the inability to account for these multiple truths within a single narrative.

While the various perspectives and experiences presented in individuals’ stories could not be accommodated in a single narrative, neither could individual stories independently ground national unity and reconciliation. Rather, the commission hoped to foster common understanding among diverse perspectives and a collective understanding of the past that acknowledged these diverse perspectives. The Commission recognized that the stories told to it through the written statements and testimonies at public hearings were “reflective of the array of experiences and the

91. After displacement cases of discrimination of IDPs was also reported by those who testified before Commission in the public hearing forums. A lady who was in Kachibora IDPs camp around Kitale lamented in pain on how their children were not considered when stipends for bursary were given to children who were enrolling for secondary education after the primary exams. She said,

“Our children are suffering a great deal. For instance, this girl you see here passed her KCPE examinations and qualified to go to secondary school, but her life has been reduced to cooking in hotels. This girl was admitted to secondary school, but she is now in Kitale doing nothing. We do not get bursaries. It is like they belong to specific people”.⁹⁴

Figure 1. TJRC 2013, III, 36.

The soldiers locked the doors of the houses and took us as their wives. The suffering we underwent was enough and the men were beaten up.

Sexual violence during the Mount Elgon conflict and security operation

69. The roots of the conflict in the Mount Elgon region as well as the formation of the SLDF have been discussed in detail elsewhere in this report. Of importance to this section are the high cases of sexual violence that were witnessed during and after the conflict. Sexual violence in Mt Elgon, was committed by both the members of the SLDF as well as by the SSAs who were later deployed in the area to quell the violence and restore order.

Figure 2. TJRC 2013, IIA, 729.

abuses.⁹

22. One of the most important contributions the Commission hopes to make towards justice in Kenya is the establishment of an authoritative record of past abuses. Justice will be furthered in this Report through the identification of individuals and institutions found to be responsible for human rights violations and historical injustices. Even where there is no prospect of criminal justice the conduct of rights violators will be held up for close scrutiny. They will be held to public account and their roles forever recorded in history.
23. History will be guided by this Report in judging and assessing the conduct of perpetrators. In publicly identifying those it found to be responsible for human rights violations and historical injustices, the Commission invites Kenyans and the world to hold these individuals to account for their actions.
24. In addition to embracing its mandate relating to justice in the traditional sense, the Commission also adopted restorative and social elements of justice in its work and in this Report. Retributive justice mechanisms, because of their focus on perpetrators and punishment, are often ill-equipped to cater to the needs

To tell you the truth, I do not have any expectations. Talking about it, praise to God, is good enough. I never thought I would see a Commission looking for the truth.¹⁶

Figure 3. TJRC 2013, I, 45.



CHAPTER ONE

Ethnic Tension

We must work from the basis that Kenya is a garment of many colours, which is beautiful because each colour is present. We cannot be one colour because we would be dull. Some colours cannot run over others because we would be ugly. We must all stay in place and be bright. That is an ideal situation of where Kenya ought to be.¹

Wambugi Ngũjiri, testimony before TJRC

I have only daughters and none of them has a boyfriend who is a Luo. I would want to sleep as a mother knowing that wherever they go, whichever part of this country they will eventually set up homes, they will be treated well.²

Phoebe Axiyo, testimony before TJRC

That we are born of different tribes we cannot change, but I refuse to believe that, because our tribes have different backgrounds and culture and customs we cannot create an African community or a nation.

Tom Mboya, *Freedom and After* (1963) 70

1. TJRC/Hansard/Thematic Hearing on Ethnic Tension and Violence/Nairobi/p. 35
2. TJRC/Hansard/Women's Hearing/#Gausu/16 July 2011/p. 37

Figure 4. TJRC 2013, III, 1.

'When he turned after surrendering, he was shot on the back and he died instantly. It was a cold blood killing'

If I may go direct to the operation of 1982/1984; this was the major one where the Government of Kenya led by former President Moi declared that the Pokot community should be disarmed. The disarmament turned into kind of a communal punishment. I am calling it a communal punishment because everybody, even if you were a peacemaker, a bishop or a professor; you were treated equally. So, if it was beating, you were all beaten. There were some people who were beaten and tortured. Over 25,000 herds of cattle were taken to Kacheliba Police Station. Over 10,000 cattle died in the same police station and the remaining 15,000 were just transported to unknown places.

When the Government went round to collect firearms, they announced that: *If you surrender your gun, you will be given a certificate of confirmation.* People were informed that when the helicopter comes, you should raise that certificate so that they will know that you are a peaceful person and some people did the same. Mzee Ataligole Losute became the first person to surrender his gun, but when he tried to raise the certificate, the helicopter dropped down and then he was told: *Because you are a good person, we will take you round to be an example to other people.* So, when that Mzee was flown off by the helicopter, his wives saw him go inside the helicopter and after going round, he was seen hooked or tied on his neck to the helicopter and then he was flown off and went round the helicopter and after about 30 minutes, that old man died. He was thrown away at the border of Kenya and Uganda. Another person who was treated the same way was Mzee Achelo. When he raised his certificate to show that he was a peaceful person, he was sprayed with bullets by the helicopter and three others died at a place called Karamel in Nikunyu Division, which was a location then.

There was an assistant chief called Michael Among'utobotela who talked to the people as he was a mediator between the community and the Government. He tried to advise people to surrender guns to him at night and then he would give them to the Army men because the community feared being killed or being shot. So, the assistant chief, Mr. Among'utobotela, received the guns and he surrendered them to the General Service Unit (GSU) and the Army. When he turned after surrendering, he was shot on the back and he died instantly. It was a cold blood killing.

Mzee Chesirok Lotee was given an iron metal to chew it. He was threatened that he was going to be sodomized. He was told to lie down on his back and was thoroughly beaten. Then the army men took some sand and poured into his eyes. That old man is blind as we speak now. I do not know whether he is around here. But, maybe, for confirmation, if you want to see him, you may get him later.

I have some few pictures which show the victims of those who were affected by the said operations. If I may raise this picture here, it shows a man whose leg was cut off. He was shot and because there was no health facilities near; the only option was for the leg to be cut off.

There is another gentleman here who was suffering from epilepsy, but because of fear of the helicopter, he decided to hide himself. He entered into somebody's house and was caught by the disease while there and he got burnt.

Figure 5. TJRC 2013, IIA, 636



A switchboard of buttons used for effecting various modes of torture at Nyaya House torture chambers

At that juncture, they told me to lie on my belly. I was naked. They started walking on me and some two ladies tried to electrocute me. One lady would come from one side with live wire and would hit me with it. I would make noise and they would carry me above the ground and drop me.⁷³

Figure 6. TJRC 2013, IIA, 631.

suffering of victims across the land.”³⁶ Young explains, “Storytelling is often the only vehicle for understanding the particular experiences of those in particular social situations, experiences not shared by those situated differently, but which they must understand in order to do justice.”³⁷ Thus, stories not only reveal differences but also foster understanding among them. Furthermore, as a rhetorical performance, truth telling includes not just words, but also bodily states and emotions that can more fully express the range of experiences shared by individuals, allowing for greater understanding and identification. Peters observes in the act of witnessing a “difficult juncture between experience and word.” He explains, “The journey from experience (the seen) into words (the said) is precarious. No transfusion of consciousness ever takes place. Words can be exchanged, but experiences cannot. Testimony is the discourse of another whose universe of experience diverges from one’s own.”³⁸ Peters’s concern resembles the report’s concern with the limits of the written word to represent witnesses’ emotions and experiences, expressed in the opening passage of this chapter. While Peters describes this challenge as “an intensification of the problem of communication more generally,” however, the report refers specifically to the limits of the written word. Even working within the limits of the written word, the stories included in the report more fully and movingly represent the diverse experiences in Kenya than the report’s own more formal and objective language. Many of the passages included in this analysis validate this observation. For example, as opposed to the report’s observation that conditions of inequality and corrupt political practices have “eroded a sense of belonging, nationhood, and public trust,” Dubat Ali Amey expressed, “We have never been part of the National Anthem.”³⁹ Beyond the written word, truth telling, as a rhetorical performance, enables witnesses to convey their experiences through emotional, embodied expression. As described in the opening passage, people did not just “tell their stories” in words; they “related their

experiences” through emotions, bodily states, and even silence. Because as Peters explains, “no transfusion of consciousness ever takes place,” individuals can never fully relate their experiences to those who did not themselves experience the same things.⁴⁰ However, understanding truth telling as a rhetorical performance that allows for affective, embodied expression at least reduces the “veracity gap” Peters identifies with the “disjuncture between experience and word,” but it also imports to an important limit of the report.⁴¹

While the stories that were told could foster greater understanding, the coming together in a particular place to relate experiences and have those experiences acknowledged, both officially and as fellow humans by other individuals in the forum, further works towards reconciliation and national unity. According to the report, “Public truth-telling offers a forum for the victims to recount publicly their experiences and to have such experiences acknowledged.”⁴² In addition to official acknowledgment, the Commission also viewed the truth telling process as critical because “as the individual narrative is shared collectively, a gradual process of re-humanizing the victim (and offender) begins.”⁴³ The stories represent the different perspectives of individuals, but the act of truth telling first forms the individual-as-human. Numerous political theorists and philosophers suggest individuals can only realize their identities and very essence of humanness in relation to others. Charles Taylor contends that dialogue is a “crucial feature of human life” and the only means by which individuals can “become full human agents” or discover their identities.⁴⁴ For Hannah Arendt action is the highest realization of the *vita activa* and is the one activity that allows individuals to distinguish themselves, not only their distinctness but as humans.⁴⁵ “In speaking and acting,” Arendt writes, “men show who they are, reveal actively their unique personal identities and thus make their appearance in the human world.”⁴⁶ As such, action relies on the condition of plurality, which Arendt defines as embodying

both equality and distinction, meaning humans are sufficiently alike to understand one another but still each unique.⁴⁷ Truth telling allows for the creation of individual identities and the restoration of humanness to victims whose voices had been silenced, but it also establishes an interconnectedness among these identities through the simple act of coming together in a shared forum and engaging together in the common act of relating one's experiences, as well as through the dependency of one's identity on the presence and recognition of others. It thus unites individuals through their mutual dependency on one another for discovering their own identity and humanness while also recognizing and depending on their distinctiveness.

Recalling the Past to Transform the Present and Future

In addition to promoting identification among individuals, such an understanding also promotes national unity and reconciliation by cultivating an enlarged collective understanding of the past that can ground a transformation in the present to a better future. The Commission understood its task to be “making a significant contribution to our collective understanding of that past, particularly through the experiences and voices of those who experienced it first-hand.”⁴⁸ Young explains that narrative is important for the creation of “social knowledge.” Because narratives present situated knowledge from various social locations, “the combination of narratives from different perspectives produces a collective social wisdom not available from any one position.”⁴⁹ Occurring in a time of transition, in the construction of a “new Kenya,” reconciliation and national unity require transforming grounds for violence and antagonistic relationships into conditions for peaceable living and relations. Recognizing the various meanings attached to reconciliation, Erik Doxtader asserts, “Whatever it is, reconciliation entails the transformation of a thing, state of mind, event, or relationship into something that it is not. Its constitutive work has to do with what appears and what happens within a moment of essential

contestation.”⁵⁰ Operating within the potential for transformation, reconciliation cannot rely on a rhetoric of shared values and beliefs or a commitment to political norms and institutions. Doxtader cautions, “Appeals to such goods as collective interest, constitutionalism, justice, and natural rights may indicate that theorists have presupposed precisely that which they seek to explain.”⁵¹ Similarly, as I demonstrated in Chapter 2, a national narrative that presupposes and appeals to such goods while purposely forgetting or ignoring potential threats to them cannot constitute a stable community. By cultivating an enlarged collective understanding, truth telling identifies the “thing, state of mind, event, or relationship” to be transformed. The Commission explained that it “hoped to contribute to building a new social truth and shared understanding of the past for all Kenyans. A truth that not only narrated key events of Kenya’s past, but a truth that identified the underlying fault lines that serve to explain why it has been that Kenyans have turned on Kenyans repeatedly in the past, most recently and significantly after the 2007 General Election.”⁵² Identifying the social divisions and addressing the root problems that cause them and thereby threaten national unity and general peace in Kenya requires a collective understanding of the past based on the diverse perspectives presented in individuals’ stories. By first cultivating an enlarged collective understanding, stories provide the potential to transform antagonistic relations and the social and political conditions that fuel them.

As opposed to a historical narrative that is necessarily directed towards the past, an extremely divisive past in this context, the performance of truth telling breaks from it and moves towards the future. According to Doxtader, “Confronted with the need to deal with the past, facing questions about the meaning of history and its capacity to shape the future, reconciliation seems to begin with expressions of experience.”⁵³ By first revealing the fault lines and root problems, stories function to bring the past forward and enable the transformation to the future.

The Commission described reconciliation as “a process of engagement with the past by the present in order to secure a more just and peaceful future.”⁵⁴ Dubat Ali Amey, an Elder from Garissa, part of the economically marginalized region formerly known as the Northern Frontier District, described at a public hearing how historic economic marginalization has eroded a sense of nationhood. The report records his testimony: “Before we started the session, the National Anthem was sung. I want to tell you that we have never been part of the National Anthem. The National Anthem talks of justice, fellowship, awareness, good life, abundance, among other things. These things have never been experienced in this region. In totality, I can say that we have never been part of this country.”⁵⁵ The Commission explained that issues such as “land problems, inequality and regional imbalances, and impunity combined with a lack of transparency and accountability” have remained largely unresolved and “have eroded a sense of belonging, nationhood, and public trust in political and governance institutions.”⁵⁶ In addition to threatening a general sense of nationhood, the Commission also observed that historic patterns of unequal distribution of material social goods, closely related to the politicization of ethnicity, are the primary sources of ethnic tension and a significant threat to national unity.⁵⁷ Reconciliation and national unity require looking to the past to determine these historic patterns that allow for structural inequality and incite ethnic tensions, with the purpose of transforming them and constructing a future characterized by equality and harmony instead. Through “the truth established herein,” the product of truth telling, the Commission hoped the report would “assist in the establishment of a re-energised and united Kenya in which the violations and injustices relayed in the chapters of this report will never happen again.”⁵⁸ The merging of past, present, and future necessary for this action echoes a common *topos* in memory studies. As Stephen Browne writes, “The present, it seems, will not leave the past alone.”⁵⁹ Zelizer explains, “The

study of collective memory, then, is much more than the unidimensional study of the past. It represents a graphing of the past as it is used for present aims, a vision in bold relief of the past as it is woven into the present future.”⁶⁰

While stories can contribute to national unity by fostering understanding among differences and cultivating an expanded social knowledge, an understanding of reconciliation and the constitution of national unity as ongoing processes emphasizes the importance of truth telling, rather than just the stories themselves. The Commission observed that “meaningful reconciliation is not an event, but rather a long process.”⁶¹ As such, it cannot achieve reconciliation but will “initiate dialogue and lay the groundwork . . . for long term processes of reconciliation.”⁶² The Commission realized that reconciliation and national unity require continued engagement. In his description of reconciliation as a “rhetorical concept,” Doxtader argues that there is not “some rhetoric of reconciliation.” Instead, reconciliation is a rhetorical performance, a “call for rhetoric and a form of rhetorical activity.”⁶³ Understood as a process, reconciliation and national unity cannot be constructed from stories as static rhetorical artifacts but, rather, must be continuously enacted through the rhetorical performance of truth telling. The performance of truth telling is also essential to promoting national unity and reconciliation. By bringing individuals together and engaging them in collective action, it begins to cultivate a collective vision for the future and initiates the action necessary to realize it.

The Commission claimed that the acknowledgment gained from truth telling “can contribute to individual healing and thus strengthen the courage of victims and perpetrators to work in furtherance of reconciliation and national unity.”⁶⁴ In addition to empowering victims to act through acknowledgement, the performance of truth telling brings individuals together to begin forming a common vision and initiates the collective action needed to realize it. The public

hearings physically brought individuals together and engaged them in collective action.

Additionally, Young argues that the embodied, emotional expression of experiences, which the performance of truth telling facilitates, motivates the collective to move from thinking to action.

Even the submission of written testimonies engaged individuals in action for the sake of the collective. Furthermore, the Commission also received written memoranda submitted by

representatives of communities or groups. The Commission described the memoranda as “a means by which a group of people or community developed, through a consultative and

participatory manner, an agreed narrative of what they had experienced” and, in the process, fostered harmony within the community.⁶⁵ The report supports this claim with a story from a

representative from the Marsabit Inter-Ethnic Consultative Group, an informal organization formed to consult on the historical injustices faced by the people in the county of Marsabit with

the specific purpose of “comprehensively presenting them before the Commission.”⁶⁶ The

representative explained to the Commission, and the Commission re-tells in the report, “We

valued the inherent good in doing a collective memo. . . . If every community were to stand here and present its separate memorandum, especially on issues relating to ethnic conflict, there

would be accusation and counter accusations which may give us the truth and justice, but defeat the object of reconciliation. By coming together, we have diffused that tension and we believe

that our efforts will crystallize towards [reconciliation].”⁶⁷

Working through memory, truth telling recalls the past as a means of constructing a new future. In doing so, it not only both does the work of national unity and reconciliation by cultivating understanding and relations across differences, but also drives the transformation to a future characterized by conditions more conducive to national unity and reconciliation.

Conclusion

Rather than relying on rhetoric as such, in the form of an overarching official narrative, to bind the nation together, the potential for national unity and reconciliation is found in rhetorical performances of truth telling. Through the sharing of diverse experiences and perspectives truth telling cultivates an enlarged collective understanding across differences that not only contributes to national unity and reconciliation itself but also, by identifying social divisions and their root causes, grounds the potential to construct a future characterized by conditions associated with national unity and reconciliation, such as equality and social harmony. Furthermore, rather than understanding truth telling only as the stories that were told, as a performance itself, truth telling contributes to the realization of national unity and reconciliation as ongoing processes. In addition to fostering greater understanding through the diverse perspectives and experiences related through stories, truth telling as a rhetorical performance brings individuals together and joins them in collective action that defines their very humanness. Because truth telling is contingent upon the presence and acknowledgment of the other, it both forms relations and depends on the condition of plurality and maintaining differences. Finally, by engaging individuals in common action and bringing the past forward, truth telling initiates the collective action needed to transform the conditions that threaten unity and reconciliation identified through the enlarged collective understanding.

By establishing understanding and relations among individuals truth telling begins to heal divisions and form a community founded on an enlarged collective understanding that gains its strength through the representation of and understanding across diverse perspectives and experiences. Furthermore, relations directly among individuals hold the community together, rather than a rational attachment to shared civic values and political practices. Bound together

but not tied to existing political practices and norms, the community formed through truth telling is thus free to transform political practices and institutions.

In the final analysis, however, although the report offers valuable insight about rhetoric's potential to contribute to national unity and reconciliation, it was nevertheless still constrained by the generic requirements of a formal report, including a written format and standards of objectivity. Alongside the stories included in the report, appendices with lists of victims and perpetrators, timelines of massacres, and a table with all of the Commission's recommendations give a sense of finality to the report's account that discourages continued engagement in truth telling and the active construction of a "new Kenya" characterized by conditions of national unity and reconciliation (see figure 7). Furthermore, as I have emphasized throughout this analysis, truth telling's potential is at least partially realized as an embodied collective performance that brings individuals together and allows for fuller expressions of diverse experiences.

The response, or lack thereof, to the report supports this conclusion. Reviewing the major Kenyan newspapers in the week leading up to the release of the report and the months after reveals that what little response the report received was mixed, but largely negative. A May 28 editorial in the *Daily Nation*, published a week after the report was delivered to President Kenyatta observes many of the ways the report undermined national unity. Observing, "Everyone is on the list this time around . . . as those alleged to have violated gross human right," the author concludes, "The chronology of wrongdoing over a period of five decades can only incite disharmony and open old wounds."⁶⁸ Another *Daily Nation* editorial, published on June 1, observed a "sense of hopelessness among Kenyans amid a growing culture of impunity in

Annex:

List of Victims of Detention, Torture and ill-Treatment

STATEMENT ID	NAMES	GENDER	PROVINCE	DISTRICT	CONTEXT OF VIOLATION
6659	Kuria Mbogo	M	Central	Kiambu	Mau Mau
6665	Kigathi Nganga	M	Central	Kiambu	Mau Mau
6665	Njihia Muchai	M	Central	Kiambu	Mau Mau
6665	Njoroge Kibaka Kiruri	M	Central	Kiambu	Mau Mau
6665	Reuben Kibiru Njoroge	M	Central	Kiambu	Mau Mau
6666	Githiri Kariuki	M	Central	Kiambu	Mau Mau
6675	Gatoho Muthama	M	Central	Kiambu	Mau Mau
6675	Kibaki Gathanwa	M	Central	Kiambu	Mau Mau
6675	Njau Gachingu	M	Central	Kiambu	Mau Mau
10045	Erastus Kamuri M Mwereria	M	Eastern	Igembe North	Mau Mau
10045	Kuno M Munorue	M	Eastern	Igembe North	Mau Mau
14681	Chokwe Mwega	M	Western	Bunyala	Mau Mau
14681	Jane Wanga	F	Western	Bunyala	Mau Mau
14681	John Mbiyu Koinange	M	Western	Bunyala	Mau Mau
14681	Laban H Wanga	M	Western	Bunyala	Mau Mau
14681	Margaret O Wanga	M	Western	Bunyala	Mau Mau
14681	Pio Gama Pinto	M	Western	Bunyala	Mau Mau
14681	Ramogi Ochieng Onoko	M	Western	Bunyala	Mau Mau
14681	Susan Nabwire Wanga	M	Western	Bunyala	Mau Mau
14681	Tab Omia Wanga	M	Western	Bunyala	Mau Mau
14681	Wanga Mahanga Oniang	M	Western	Bunyala	Mau Mau
14681	Waruru Kanja	M	Western	Bunyala	Mau Mau
14681	Wilgarda Odinda Wanga	M	Western	Bunyala	Mau Mau
29113	Moki Kivisu	M	Eastern		Mau Mau
29360	Fasilia Njoki	F	Eastern	Embu East	Mau Mau
29360	Genalo Joyce Muniyiva	F	Eastern	Embu East	Mau Mau
29360	Sarah Igoki	F	Eastern	Embu East	Mau Mau
29360	Silvano Mwaniki	M	Eastern	Embu East	Mau Mau
29361	Aliet Kathuni	F	NG	NG	Mau Mau
29361	Elizabeth Thaara	F	NG	NG	Mau Mau
29361	Jonathan Njoka Muruanguiko	M	NG	NG	Mau Mau
29706	Kithinji Mirenge	M	Eastern	Meru South	Mau Mau
29706	Mitonga	M	Eastern	Meru South	Mau Mau
29706	Mmwairua Mamburugua	M	Eastern	Meru South	Mau Mau
29706	Muchinga	M	Eastern	Meru South	Mau Mau
29706	Wanja	F	Eastern	Meru South	Mau Mau
29708	Mananua Margaret Muchuga	F	Eastern	Meru South	Mau Mau
29726	Koome Kanooro	M	Eastern	Meru South	Mau Mau

Figure 7. TJRC 2013, IIA, 664.

public life” that reflects the complacency revealed in the report. The editorial continues, “The public indifference to the report of the Truth, Justice and Reconciliation Commission (TJRC) released last week suggests few believe it will amount to anything.”⁶⁹ Additionally, the report received strident criticisms from those it accused. In an editorial published in the *Daily Nation*, Chris Obure, one of many current members of the Kenya Parliament accused in the report, writes, “What is bothering me are the lies contained in the final report, claiming that I participated in instigating clashes along the Gusii/Maasai border in the lead-up to the 1992 elections.”⁷⁰ Official government actions in response to the report further support the fear that it would amount to nothing. The report also included numerous recommendations for reconciliation with specific timelines for each. The most immediate of these recommendations called for an acknowledgment and apology from the president for incidents of unlawful detention, torture, and ill-treatment and for abuses against women revealed in the report within three months of its release.⁷¹ To date President Kenyatta has made no public acknowledgment or apology for any of the crimes revealed in the report.

Numerous transitional justice scholars who study truth and reconciliation commissions remark on the importance of a commission’s report.⁷² Eric Brahm observes, “The degree to which a commission’s findings are accessible by the public seems most critical for a stronger impact. . . . The more widely available the commission’s report, the more likely it is to have a decisive impact on society.”⁷³ Echoing this sentiment, the Commission claimed that its report would be “viewed as the primary legacy” of the Commission’s work.⁷⁴ However, this analysis suggests that the individual performances of truth telling shared in and for the sake of the collective do the work of national unity and reconciliation far more than the report itself.

Notes

¹ Truth, Justice and Reconciliation Commission, *Report of the Truth, Justice and Reconciliation Commission*, V. I (Nairobi: Truth Justice and Reconciliation Commission, Kenya, 2013): iii-iv, http://www.tjrckkenya.org/index.php?option=com_content&view=article&id=573&Itemid=238. Vol. I, vi. Citations of the TJRC's final report will henceforth be abbreviated with volume and page number such that "TJRC 2013, III, 35" refers to Volume 3, page 35 of the report.

² In addition to using the shorthand TJRC, I frequently refer to the Truth, Justice and Reconciliation as simply "the Commission." There have been numerous investigatory commissions established in Kenya. However, unless specified, "the Commission" refers to the TJRC.

³ *The Truth, Justice and Reconciliation Act*, 6, (2008), Section 5, <http://www.tjrckkenya.org/images/documents/TJRC-Act.pdf>. Hereinafter referred to as TJR Act. Working out the exact nature of the Commission's objectives and the relationships among them is well beyond the scope of any individual work.³ While recognizing that many of these objectives are interrelated, given the focus of this thesis I am primarily concerned with the Commission's efforts to promote national unity. The Commission, however, does not consider national unity independently of reconciliation. It also devotes more attention to these combined objectives than any of the others.

⁴ TJR Act, Preamble, Section 5(a) and Section 5(b).

⁵ *Ibid.*, Section 5(j).

⁶ TJRC 2013, I, iii; TJR Act, Section 5.

⁷ *Ibid.*, 83, 96.

⁸ *Ibid.*.

⁹ *Ibid.*, 96.

¹⁰ Ibid., 42.

¹¹ Ibid., 76. Quoted passage from TJR Act, Section 5(g).

¹² John Durham Peters, *Courting the Abyss: Free Speech and the Liberal Tradition* (Chicago: The University of Chicago Press, 2005), 249.

¹³ TJRC 2013, III, 82. Quoted from TJR Act, Section 5(g) and Section 5(j).

¹⁴ Barbie Zelizer, “Reading the Past Against the Grain: The Shape of Memory Studies,” *Critical Studies in Mass Communication* 12, no. 2 (1995): 214, 227.

¹⁵ The entire third volume specifically addresses “issues relating to national unity and reconciliation,” but within Volume III, the term “national unity” appears independently only once. In every other instance it is associated with reconciliation, joined in the phrase “national unity and reconciliation” or, sometimes, “national unity, healing, and reconciliation.” In one instance, the report overtly links the two objectives with the use of an ampersand while describing the Commission’s “emphasis on the conceptual and practical links between reconciliation & national unity and justice.”¹⁵ Further, the report often presents national unity as a part, or perhaps product, of reconciliation. The chapter in Volume III dedicated to conceptualizing national unity and reconciliation describes the Commission’s various “reconciliation activities,” previous efforts towards reconciliation in Kenya, and the challenges and opportunities for reconciliation. It also includes a copy of the Commission’s “Policy on Reconciliation,” a formal explanation of how the Commission understood reconciliation and its role in promoting it. Within the policy “national unity” still appears in the phrases “national unity and reconciliation” or “national unity, healing, and reconciliation,” implying national unity is only a component or product of reconciliation.

¹⁶ TJR Act, Sections 5(a) and 5(b). Hayden White has noted of all proper historical accounts, “The events must be not only registered within the chronological framework of their original occurrence but narrated as well, that is to say, revealed as possessing a structure, an order of meaning, which they do not possess as mere sequence.” According to White, narrative is *the* code “a culture may utilize for endowing experience with meaning.” Hayden White, “The Value of Narrativity in the Representation of Reality,” *Critical Inquiry* 7(1980): 9, 6.

¹⁷ TJRC 2013, I, 41.

¹⁸ *Ibid.*, 50.

¹⁹ TJRC 2013, III, iv.

²⁰ *Ibid.*, v.

²¹ Iris Marion Young, *Inclusion and Democracy* (New York: Oxford University Press, 2001), 7, 56. In his argument for the adoption of the narrative paradigm, Walter Fisher similarly argues, “The narrative paradigm challenges the notions that human communication—if it is to be considered rhetorical—must be argumentative form, that reason is to be attributed only to discourse marked clearly identifiable modes of inference and/or implication, and that the norms for evaluation of rhetorical communication must be rational standards taken essentially from informal or formal logic.” Although I also criticize restrictive norms of rational deliberation and argue for the importance of stories or narratives as Young describes them, my argument diverges significantly from Fisher’s argument for the adoption of the narrative paradigm. First, I am not arguing for narrative as paradigm to subsume rationality but, rather, that narratives can offer an important alternative to rational deliberation in particular contexts. Second, according to Fisher’s narrative paradigm, narratives can be judged based on “good reasons” and narrative probability and narrative fidelity. Rather than judging or choosing between stories, however, I argue that one

reason stories are so important is because they allow for the existence of multiple truths. Walter R. Fisher, "Narration as a Human Communication Paradigm: The Case of Public Moral Argument," *Communication Monographs* 51 (1984): 1-222.

²² See Chapter 1.

²³ Young, *Inclusion and Democracy*, 71.

²⁴ *Ibid.*, 7, 65.

²⁵ *Ibid.*, 7, 64.

²⁶ *Ibid.*, 7.

²⁷ Erik Doxtader, "The Potential of Reconciliation's Beginning: A Reply," *Rhetoric & Public Affairs* 7, no. 3 (2004): 384.

²⁸ John B. Hatch, "Reconciliation: Building a Bridge from Complicity to Coherence in the Rhetoric of Race Relations," *Rhetoric & Public Affairs* 6, no. 4 (2003): 754.

²⁹ TJRC 2013, III, iii.

³⁰ *Ibid.*, 2.

³¹ Quoted in TJRC 2013, III, 1.

³² TJRC 2013, I, v, 41, 50.

³³ *Ibid.*, 42.

³⁴ TJRC 2013, III, 83.

³⁵ TJRC 2013, I, 43.

³⁶ *Ibid.*, 44.

³⁷ Young, *Inclusion and Democracy*, 74.

³⁸ Peters, *Courting the Abyss*, 250.

³⁹ TJRC 2013, III, 86; TJRC 2013, IIB, 65.

⁴⁰ Peters, *Courting the Abyss*, 250.

⁴¹ Ibid.

⁴² Ibid., 50. The report repeats this sentiment several times. Elsewhere it states, “The hope of the Commission is that by uncovering the truth, providing a forum for individuals to share their experiences and by providing some accountability, the Commission will have placed the nation on a path to further reconciliation and national cohesion and unity.” TJRC 2013, I, 47 and III, 84.

⁴³ TJRC 2013, III, 89.

⁴⁴ Charles Taylor, “The Politics of Recognition,” in *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutman (Princeton: Princeton University Press, 1994), 32, 34.

⁴⁵ Hannah Arendt, *The Human Condition*, 2nd. ed. (Chicago: The University of Chicago Press, 1998), 176

⁴⁶ Arendt, *The Human Condition*, 179.

⁴⁷ Ibid., 7-8.

⁴⁸ TJRC 2013, I, v.

⁴⁹ Young, *Inclusion and Democracy*, 76.

⁵⁰ Erik Doxtader, “Reconciliation - a Rhetorical Concept/Ion,” *Quarterly Journal of Speech* 89, no. 4 (2003): 269.

⁵¹ Erik Doxtader, “Making Rhetorical History in a Time of Transition: The Occasion, Constitution, and Representation of South African Reconciliation,” *Rhetoric & Public Affairs* 4, no. 2 (2001): 224.

⁵² TJRC 2013, I, 43.

⁵³ Doxtader, “Reconciliation,” 280.

⁵⁴ TJRC 2013, I, 50.

⁵⁵ TJRC 2013, IIB, 65.

⁵⁶ TJRC 2013, III, 86.

⁵⁷ Discussions about these issues occur throughout the report. See, for example, TJRC 2013, IIB, 20-21; TJRC 2013, III, iii-iv, 1-38.

⁵⁸ TJRC 2013, I, 43.

⁵⁹ Stephen H. Browne, "Remembering Crispus Attucks: Race Rhetoric, and the Politics of Commemoration," *Quarterly Journal of Speech* 85, no. 2(1999): 169.

⁶⁰ Zelizer, "Reading the Past Against the Grain," 217.

⁶¹ TJRC 2013, III, 86.

⁶² *Ibid.*, 86.

⁶³ Doxtader, "Reconciliation," 268.

⁶⁴ TJRC 2013, I, 50.

⁶⁵ *Ibid.*, 88.

⁶⁶ *Ibid.*, I, 88.

⁶⁷ *Ibid.*, I, 89. Brackets in original.

⁶⁸ Mohamed Wato, "Truth Report: So What Is New About It?," *Daily Nation*, 28 May 2013.

⁶⁹ Otieno Otieno, "The Early Consequences of Choosing Uhuru, Ruto," *Daily Nation*, 01 June 2013.

⁷⁰ Chris Obure, "Read My Lips Tjrc: I'm Not a War-Monger!," *Daily Nation*, 12 June 2013.

⁷¹ TJRC 2013 IV, 9.

⁷² See, for example, Eric Brahm, "Uncovering the Truth: Examining Truth Commission Success and Impact," *International Studies Perspective* 8, no. 1 (2007): 16-35; Priscilla Hayner,

"Commissioning the Truth: Further Research Questions," *Third World Quarterly* 17, no. 1

(1996): 19-29; Joanna R. Quinn, "Haiti's Failed Truth Commission: Lessons in Transitional Justice," *Journal of Human Rights* 8, no. 3 (2009): 265-281.

⁷³ Brahm, "Uncovering the Truth," 31.

⁷⁴ TJRC 2013, I, 6.

Chapter 5

Towards an Enlarged Understanding of Rhetoric and Nation Building

In this thesis I have asked how rhetoric can promote national unity and reconciliation as part of nation building during a time of social and political transformation and when ethnicity is irreducible. To do so, I studied various responses to Kenya's 2007/2008 post-election violence, including calls and attempts to construct a "new Kenya." Understanding the dangers of constructing an ideology through willful forgetting and blindness to social divisions and their sources and aware of the irreducibility of ethnicity within the political community, I argued that the potential for national unity and reconciliation lies in performances of truth telling. As a powerful mode of individual expression and historical recall, truth telling cultivates an enlarged collective understanding that fosters understanding and relations across differences and calls attention to social divisions and their causes, thereby grounding the potential to transform them.

Beginning with the assumption that all nations are "imagined communities," I traced the origin, development, and disruption of Kenya's reputation as a stable, model democracy to better understand the role of rhetoric in constructing an image of Kenya's political community that allowed for, and even encouraged, a willful blindness to social divisions and corrupt political practices. Upon gaining independence in 1963, President Jomo Kenyatta publicly called for the public forgetting of the Mau Mau uprising, a divisive yet important part of Kenya's liberation movement, for the sake of national unity and stability. Associated with divisions between and within ethnic communities in Kenya, as well as negative tribal stereotypes asserted by the British, Kenyatta—and many Kenyans—believed memories of the uprising would divide more than unify and was, thus, best forgotten. Forgetting Mau Mau also supported Kenyatta's commitment to the colonial economic structure and refusal to nationalize and redistribute land.

Land grievances were a central issue in the Mau Mau rebellion and, left unaddressed, continue to be a significant source of ethnic tensions today. Widespread expressions of shock that the immense violence experienced during the post-election crisis could occur in Kenya demonstrate both the power of rhetoric and a dangerous potential of an image crafted through deliberate forgetting and sustained by an emphasis on the existence of democratic structures over their more substantive practices and norms. I concluded this chapter by suggesting the importance of constructing a political community by bringing the past forward to cultivate awareness of historic and contemporary divisions and their sources but without further dividing the community. However, I left the question of how to accomplish this task unanswered for the time. This chapter demonstrated that a stable political community cannot be constructed by simply asserting national unity through the deliberate forgetting of current and past divisions.

Next, I analyzed the relation between ethnicity and politics and, more precisely, how this relationship was framed rhetorically and the implications for resolving the post-election crisis and constructing a “new Kenya.” Among the foreign and domestic media, U.S. official discourse, and Kenyan political leaders, three very different characterizations of the conflict, and the relevance of ethnicity within it, emerged. The media capitalized on sensational descriptions of stereotypical tribal violence, playing up the ethnic dimensions of the conflict as much as possible while ignoring the more fundamental causes of ethnic tensions and the relation to politics. In contrast, U.S. politicians characterized the conflict as political and, therefore, not ethnic. Both responses grossly oversimplified the conflict and ignored important aspects of it that would need to be addressed in order to resolve it and promote a more stable community for the future. In Kenya, the relationship between ethnicity and politics could not be ignored. Moreover, by deploying the rhetorical force of the label “genocide” against their political opponents,

Kenyan politicians acted out the historic manipulation of ethnic differences for political gain that is at the core of ethnic tensions in Kenya today. This chapter demonstrated the necessity of recognizing ethnic differences within the political community in order to address negative practices of manipulating ethnicity for political gain, as well as the limits of Western liberal models of democracy to do so.

Just as I argue that national unity and reconciliation entail bringing the past forward to inform the present and transformation to the future, I pulled forward the lessons of the previous chapters—the necessity of constructing a community informed by the past, even, and perhaps especially, if that past is divisive, and of recognizing differences within the political community—to consider how rhetoric could promote national unity and reconciliation. Ultimately, I argued that performances of truth telling cultivate an enlarged collective understanding that is informed by diverse experiences and perspectives while promoting identification across these differences. Furthermore, the inclusion of diverse perspectives brings social divisions and their sources to light, providing the potential to transform them. Thus, truth telling works between reconciliation and national unity, bringing them together as neither mere coexistence nor a homogenous unity, while animating the potential to transform conditions and practice that threaten national unity, reconciliation, and, ultimately, the stability of the political community.

This thesis has important practical and theoretical implications. Practically, it offers useful insight for the construction of a “new Kenya” as well as for constructing a political community in any society going through or attempting rapid social and political transformation after violence, of which there are many. Above all, it warns against simply denying or attempting to forget sources of division. No matter how divisive, they must still be dealt with and not just

pushed aside. For Kenya this means that a “new Kenya” cannot be entirely new. Rather, it must be informed the past to effectively address historically-rooted sources of division. Furthermore, the acts by which individuals come together to address and work towards resolving sources of divisions can themselves work towards resolving them. The importance of individual performances of truth telling suggests the importance of constituting a community among individuals, rather than asserting its identity or unity from a position of authority above.

This lesson has continued relevance in Kenya today. Five years after the 2007-2008 post-election violence, while Kenya was still basking in the praise and relief of having held a relatively peaceful presidential election in March 2013, violence again rocked the country. On September 21, 2013 an estimated four gunmen from the Somali jihadist group al-Shabaab attacked the Westgate shopping mall in Nairobi. The siege lasted three days and resulted in at least 72 deaths and 200 injuries. In a national address, current President Uhuru Kenyatta told the nation the terrorists attacked because “an open and united country is a threat to evil doers everywhere.” However, with “values of solidarity and love for our homeland,” Kenyans “fought proudly and bravely to secure the freedom to lead our lives as we choose.”¹ Uhuru Kenyatta’s confident proclamation of national unity bears striking resemblance to assertions of stability and national unity by Kenya’s first President Kenyatta.

Additionally, this thesis contributes to rhetorical scholarship on the construction and maintenance of political communities and on reconciliation, as well as the intersection of the two. The analysis shows the limits of theories on the rhetorical construction of political communities based on ideas of civic nationalism that rely on a rational attachment to political institutions, civic virtues, and political norms, as well as the problematic distinction between ethnic and civic nationalism. A political community founded on an attachment to political

institutions can ignore the more substantive practices and norms that operate within those institutions, as was the case in Kenya prior to the post-election violence. Additionally, a political community formed on the basis of an attachment to political institutions is unlikely to be able to transform them. Rather than focusing on institutions, many rhetorical scholars discuss shared values and beliefs as important sources of political community. Yet, the unifying *telos* of an attachment based on shared beliefs often excludes those that do not fit within it. In contrast, a political community founded through individual performances of truth telling creates a unified collective by bringing individuals into relation and fostering understanding across difference, while relying on the very existence of difference. Furthermore, by cultivating an enlarged understanding and establishing attachments among individuals, rather than to institutions, it empowers the community to transform the political institutions if necessary. Finally, truth telling relies upon modes of expression that often defy rational norms. Through its mode of expression and by bringing individuals into relation, truth telling clearly includes some aspects of the passionate attachment associated with ethnic nationalism, but it is not tied to ethnic loyalty. Rather, it encourages and even depends upon the inclusion of diverse ethnic identities within the political community.

The analysis also contributes to theory on reconciliation by providing a more grounded and practical understanding of reconciliation. I suggest that truth telling represents at least one form the rhetorical performance of reconciliation can take. Additionally, the enlarged understanding cultivated through truth telling helps define what is to be transformed and at least how to start going about doing it. Working at the intersection of scholarship on political communities and reconciliation, this analysis also introduces the relevance of memory an axis

between them. Although I do not fully engage the vast literature on memory studies here, it is a common theme throughout this thesis and suggests a lucrative area for future research.

Finally, this analysis has implications for rhetorical theory more broadly. A consistent theme in this analysis is the inadequacy of a Western model—of democracy for Kenya and of rhetoric for the theoretical analysis. While I discuss several significant limits of Western liberal democracy, most notably the exclusion of difference, the more important lesson to be drawn from this analysis is the inappropriateness of simply imposing a Western model, or any model for that matter, in other contexts. For rhetorical theory, this suggests, for one, the importance of contextualizing cases within their political, historical, and cultural contexts, as I have attempted to do here. It also suggests the necessity of expanding rhetorical scholarship beyond Western contexts and developing theory beyond the Western tradition.

The inadequacy of imposing a Western model also speaks to some limitations of this research. Although I have made every effort to contextualize my cases and examine each on its own terms, I cannot escape my own cultural biases, nor can I claim to be aware of all the cultural, political, and historical intricacies that may have influenced the rhetoric I studied. Nevertheless, I have revealed important limits of some components of the Western tradition, as well as suggested the potential of other forms of rhetoric.

Notes

¹ “Kenyan President Kenyatta Addresses Nation on Nairobi Mall Attack,” *Wireupdate*, September 21, 2013, <http://wireupdate.com/text-kenyan-president-kenyatta-addresses-nation-on-nairobi-mall-attack.html>.