

# **The Politics of Violence in Democratization Lessons from Kenya and South Africa**

**Jacqueline M. Klopp and Elke Zuern**

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In South Africa during the four years following Nelson Mandela's release from prison and the unbanning of leading opposition movements including the African National Congress (ANC), an estimated 15,000 people died in political violence;<sup>1</sup> similarly, in Kenya, over the last decade of political liberalization, over two thousand people were killed and at least 500,000 displaced.<sup>2</sup> Despite large-scale violence, and indeed civil war in South Africa, both countries successfully transitioned to formal electoral democracy. In April 1994, South Africa completed its first non-racial, democratic elections; in December 2002, Kenya achieved an historic transfer of power from the dominant party, the Kenya African National Union (KANU), to an opposition coalition through a free and fair election. In both cases, contrary to popular expectations, violence, which seemed destined to derail the prospects for peaceful elections and the creation of new democracies, declined markedly in the run-up to the elections. This led many analysts to refer to the South African transition as a miracle;<sup>3</sup> with an air of surprise, journalists also noted the "uncharacteristic order and calm" which accompanied the change in power in Kenya.<sup>4</sup>

These cases reinforce work that suggests an inverted U shaped relationship between violence and democratization with "more murder in the middle" transitional moment when oppositional actors contest authoritarian states.<sup>5</sup> This is currently explained by institutional and rational action arguments. This paper argues that neither of these explanations adequately resolves the puzzle of how violence in moments of transition often de-escalates dramatically such as in the Kenyan and South African cases. We argue that by bringing in transitions theory

and disaggregating different mechanisms of violence and how they come into play within the renegotiations of power between incumbents and opponents, we can help solve this puzzle. As we will show, different forms of violence, whether intentional or not, can be used within bargaining to improve the position of one party over another or in some cases as an attempt by some actors to derail negotiations altogether. Drawing on a comparison of the Kenyan and South African cases we isolate three mechanisms through which violence gets produced within the wider bargaining process over change: 1) “public order” policing of protest by mobilized opponents to those in power 2) incumbent deployment of special forces and 3) the use of local conflicts by national actors in the context of party formation. We then show how violence related to this bargaining process can dramatically decline once an agreement, often a formal pact, is actually reached.

### *Explaining the Inverted U*

Current explanations for the inverted U shape relationship between violence and democratization focus on 1) institutions or 2) incentives for rational action as key explanatory variables. According to the institutional argument, authoritarian states are able to repress violence while more democratic states are able to channel conflicts into peaceful institutional channels. In transitional moments, in contrast, state control is weakened in a context of incomplete democratic institutions and persisting repression. Often violence takes the form of incumbents’ “backlash” against challengers.<sup>6</sup> In this view, violence de-escalation is explained by the fact that eventually “new and more open institutions take root to promote a peaceful resolution of domestic conflict”.<sup>7</sup>

The Kenyan and South African cases present a problem for this theory: the time-scale over which violence dramatically declined was very short and no new institutions were created

that changed the channels of conflict mediation within that time. On the contrary, new forms of internal repression emerged. The violence subsided shortly before the first “founding elections” or change in power ushering in inclusive democratic governments and new channels for participation in both countries. In South Africa, the decline in violence happened within a time scale of months. (?) Earlier attempts by the dominant National Party to slowly introduce reforms such as XXX failed to reduce violence. In Kenya, violence was coincident with the first limited constitutional reform agreement in 1997 and escalated after it in 1998 and 2000 after the limited reforms were formally in place. It thus becomes hard to attribute the attenuation of violence in both countries to institutional changes.

The rational action explanation for the inverted U shaped relationship relies on incentives. In an authoritarian state, the opportunity for collective political action and chances of success are low and the costs high, reducing the likelihood of protest and challenges to incumbents. In a democratic state, the opportunity for peaceful collective action and probability of success are higher than for violent action. In both cases violence is less likely than the intermediate state, where opportunities exist for protest and challenges to incumbents but the probability of success through peaceful means is low. Incentives thus exist for violent tactics on the part of challengers as well as incumbents.<sup>8</sup> What is missing from this theory is a way to explain how incentives to use or condone violent tactics shift rather abruptly for main actors in transitions.

Transitions theory has the potential to solve this puzzle. If violence producing mechanisms are linked to bargaining, violence may decline rapidly once an agreement is formally or tacitly reached. Unfortunately, this way to approach the problem of violence within democratization (or more appropriately political liberalization) has been inadequately explored.

Most work on transitions has not focused explicitly on the role of violence and in fact, often treats violence as endogenous to elite negotiations over transition. Indeed, pacted transitions are explicitly defined as those allowing the creation of a new regime without violent confrontation.<sup>9</sup> Further, by focusing on the bargaining process between regime leaders and opponents within formal negotiating fora, transitions accounts frequently de-link negotiators from the very populations upon whom they depend for their support and their position at the table.<sup>10</sup> It is by looking at these constituencies, key actors within them and their links to negotiators that we can find mechanisms that produce violence at these transitional moments.

The strength of transitions theory for the problem at hand lies in its central focus on interactions among different actors, both those constituting the elite and the “masses”, their arguments, tactics and allies, both local and international. Importantly, this work points to the need to break down the regime at least into hard-liners who do not wish to compromise and soft-liners who see the need for reforms to legitimize the regime, and the opposition at least into moderates who seek compromise and radicals more willing to use popular mobilization to push for greater change in the rules of the game.<sup>11</sup> The legacy of violence often helps shape who is a moderate or a radical on either side of the negotiations. Hardliners/radicals within the government are often those with the most blood on their hands and the most to fear from a transition. Radicals with the opposition are often those most willing to resort to extra-legal and even violent tactics against the government.

Violent radicals can help extract concessions that moderates on one side of the bargaining table can use to their advantage against the other side. This suggests that violence or the threat of violence, if it can be controlled or channeled can be a useful technique to force an agreement for change and push an opponent’s hand to make greater concessions.<sup>12</sup> Hence, moderates, even if

they are powerful, may have incentives to give radicals on their side of the bargaining table space to operate. As we shall see, government moderates may help produce violence by 1) cracking down on the mobilization of opposition radicals using existing policing laws or 2) by encouraging or failing to act against violence organized by hardliners at the national or local levels.

Finally, to complicate the picture, national actors play upon uncertainty within transitions. One way they do this, beyond using rhetoric, is to present themselves as “soft-liners” in public, while sponsoring violence in private, increasing their opponent’s perception of risk. This can lead to the use of “privatized” violence specialists such as covert militias that engage in direct, targeted extra-legal violence against opponents and their constituencies. As incumbents have control of the coercive apparatus of the state, they are most likely to engage in this form of violence production and may have other incentives to keep this violence informal, such as the need to appear democratic to the outside world.<sup>14</sup> However, as we shall see, if this informal repression gets revealed it can significantly weaken the government side.

### **The Kenyan and South African Cases**

To illustrate the role of violence in bargaining over democratic change we examine the Kenyan and South African cases, which despite their institutional and structural differences share similar violence producing mechanisms. While Kenya was defined as a plebiscitary, one-party regime, essentially an inclusive authoritarian regime, South Africa was a racial oligarchy, an extremely exclusive, restrictive and limited democracy often considered to be more comparable to bureaucratic authoritarianism in Latin America than the neo-patrimonial regimes of sub-Saharan Africa.<sup>15</sup> While the World Bank classifies Kenya as a low-income country, South Africa is

middle-income.<sup>16</sup> The dynamics of competition were also starkly different. In Kenya, the opposition overwhelmingly denounced violence and worked primarily through a newly competitive electoral system to gain power. In South Africa, opposition actors engaged in varying levels of violence both in self-defense and in armed attacks against adversaries leading to civil war in many parts of the country. In Kenya, while the opposition and government sparred, top leaders rarely engaged in serious formal negotiations to change the constitution. In South Africa, extended formal negotiations were essential to the creation of formal democracy and the holding of the first non-racial democratic elections. Despite the marked differences between these cases, after disaggregating and examining the mechanisms by which violence was produced, and embedding these processes in a wider process of bargaining over change, we find remarkable similarities linked more to general bargaining strategies than institutional configurations.

### ***“Public Order” Policing of Protest and Unpremeditated Violence***

A key bargaining tool of challengers to authoritarian rule are demonstrations. Whether opposition politicians help organize popular mobilizations or rely on students and civil society to do so, they benefit from them. Public displays of defiance may weaken the legitimacy of the incumbents at home and abroad and strengthen the hand of the opposition. Indeed, the violence around policed demonstrations, predictable if not directly intentional, becomes enmeshed in the political sparring between incumbents and opposition leaders, eager to gain support at both national and international levels.

For example, in Kenya in 1997, the National Convention Executive Council (NCEC) an umbrella group of church groups, human rights associations and opposition politicians organized a mass action campaign as a way to force reforms and level the unequal playing field before the

next election. Denied a permit to hold a rally, on July 7<sup>th</sup> the NCEC went ahead with demonstrations anyway. The police responded with brutality, beating protesters and killing at least 14 people. The extent of the violence, broadcast on CNN, shocked Kenyans and donors and succeeded in putting the Moi government on the defensive.<sup>18</sup> The sense of crisis produced by this violence pushed the moderate faction in the government to broker a deal with moderate opposition leaders who, in turn, broke away from the more radical platform of the NCEC which was urging a boycott of the election and a national constitutional conference. Negotiations resulted in the Inter-Parties Parliamentary Group (IPPG) reforms that involved a limited expansion of rights. In the sparring that went on after the NCEC mass action campaign, the spectre of violent chaos was played up by the Moi government as a way to de-legitimize the opposition, while the opposition pointed to the police killings to de-legitimize the government and reassert the right to assemble.<sup>19</sup> The opposition view prevailed in part because the perpetrators of the most egregious violence-the police-were caught on TV.

In South Africa, a similar process was at work. While popular protest was a key vehicle for the ANC to demonstrate its overwhelming popular support, the government viewed such mass protests as a threat, as they demonstrated both the power of the opposition and the possibility of violence, which it blamed on the protestors. The apartheid state therefore stressed the physical threat that it believed the protestors represented and thereby justified clearly excessive and most often unprovoked attacks on unarmed protestors as necessary for maintaining order. For ordinary people excluded from participation in the governance of their state by an authoritarian or apartheid regime, protests serve as the only way in which they can participate in the wider bargaining process. In South Africa, township residents employed protest to voice their outrage against apartheid state actions, from sharp increases in service fees to the killing of

unarmed protestors such as in Sebokeng in early March 1990 where the police fired upon a crowd killing 17 and injuring over 400. The ANC, in turn, responded to police massacres such as that at Sebokeng by formally suspending pre-negotiation talks with the NP, arguing that it could not continue talking to a ruling party, which failed to prevent and possibly encouraged such egregious attacks.<sup>20</sup> This was an effective tool for the ANC as it demonstrated concern for the lives of its supporters and defiance toward a still brutal and very powerful apartheid government. At the same time, the ANC kept less formal negotiation channels with the NP open, to employ its leverage to move forward and return to negotiations. In this way, both dominant parties employed protests and the violence that occurred at many protests to press their political goals.

Demonstrations thus mark key and dramatic moments in the attempt by challengers to expand political opportunities. The response of the government, in turn, sends a clear signal of whether it intends to continue with authoritarian patterns or allow expansion of this space. In transitional moments when bargaining over space intensifies we might expect to see more violence produced through public order policing of demonstrations. Since such violence is often attributed to the disorder of the “crowd” it is critical to explore how violence is actually produced in these contexts.<sup>21</sup>

The legal frameworks of authoritarian states which are often rooted in colonial (or in Eastern Europe, Soviet) mechanisms of control, clearly confer enormous leeway to the police to use force in the interests of maintaining “public order”; the form of policing under such authoritarian<sup>22</sup> states is, therefore, dramatically different from that in democracies.<sup>23</sup> In both Kenya and South Africa prior to the transition, public order laws made any demonstration unsanctioned by the state illegal, and police often quickly resorted to force against peaceful demonstrators as a means to enforce such laws.<sup>24</sup> As the police were rarely punished for using



such force, the result was that unarmed protestors were routinely killed or wounded in these confrontations, often as they turned to run.<sup>25</sup> Thus, this violence was not pre-meditated. However, the legal-administrative framework that the police operated in and, in turn upheld, meant that this violence was likely. A repeated pattern of such police behavior constituted a “reign of terror”<sup>26</sup> aimed at demobilizing challengers and slowing any evolving democratization process.

As transitions often involve increasing waves of demonstrations incorporating large numbers of protesters, we would expect periods of greater public contestation to be marked by increases in public violence. This is, in fact, what occurred. In South Africa, for example, killings by the police increased significantly in 1989, during the Defiance Campaign, a year prior to Mandela’s release and the broader political liberalization process initiated by the state. In fact, most of the 600 police killings between 1989 and 1993 occurred in the context of public law policing.<sup>27</sup> Similarly, beginning in 1990 with demonstrations for multi-party politics, Kenya saw a dramatic increase in the number of people killed by the police during demonstrations. From no killings between 1983-1989, at least 51 people were killed between 1990-2002.<sup>28</sup>

This form of violence does not simply end with the promise of state reform. As transitions theorists have demonstrated, incumbents frequently begin a liberalization process with the expectation that they will be able to reduce pressures on their government without ceding significant power. In both Kenya and South Africa, after government elites pledged to create a more open political environment, opposition groups found that newly promised freedoms were not necessarily enforced on the ground as regular police and army units continued to employ repression and harassment to discourage open political contestation. This helps explain a seemingly contradictory process that occurs in some cases; the coincidence of a formal

move towards democracy from above and more violent struggles over newly promised rights from below.<sup>29</sup>

In South Africa, the late 1980s and early 1990s saw the repeal of growing numbers of apartheid laws. President de Klerk announced to top police commanders in early 1990: “We will not use you any longer as instruments to attain political goals... This is the responsibility of the politicians.”<sup>30</sup> Despite such promises, police killings remained high until the end of 1993, when an agreement was reached for multi-racial elections and new monitoring mechanisms had been put in place to quell violence at public gatherings.<sup>31</sup> The Truth and Reconciliation Commission noted, that “in the post-1990 period, the approach of the SAP [South African Police] to crowd control and public order policing remained largely unchanged and ...large numbers of people died as a result of unjustifiable use of deadly force”.<sup>32</sup>

In 1997 in Kenya the Public Order act, which required all public meetings to be licensed by the government, was amended; permits were replaced with a 3 day advance notification to the police. This formal change resulted in a temporary lull in violence, However, as the US Department of State report for 1998 noted, “this improvement was not sustained...Authorities repeatedly disrupted public demonstrations about which the organizers duly informed the police in advance”.<sup>33</sup> As people tried to take advantage of new freedoms to organize civic education or campaign meetings, they confronted the same police response as before. As a result, violence escalated again.<sup>35</sup> Indeed, a year after the reforms, in a remarkable admission, the deputy police commissioner Stephen Kimenchi revealed that, “powerful politicians” gave the police orders to “clobber civilians and disperse peaceful demonstrations”.<sup>36</sup>

### ***Incumbent Deployment of Special Forces and Informal Repression***

The violence around public order policing operates overtly and often within the legal confines of the state. A starkly different dynamic occurs when government officials through violence specialists covertly plan deadly action against civilians for political purposes. This violence, illegal even under authoritarian constitutions, can bring international censure and significantly weaken the bargaining position of its proponents; officials involved in these activities therefore set up covert structures and deliberately try to obscure their own link to these structures.<sup>37</sup> Such operations are often financed by government leaders and tend to function parallel to existing institutions and outside their formal constraints. The violence perpetrated by such covert operations, often called “informal repression” can then be blamed at a higher level on banditry, criminals or mobs, reinforcing the need for a heavy hand in maintaining law and order.<sup>38</sup> In South Africa, these specialists were officials within the security forces. In Kenya, hardliners in KANU, “the KANU B faction” including high level cabinet ministers hired violence specialists from the army and police. In both cases, these state-sanctioned networks of special forces directly planned and orchestrated violence to strengthen the position of the incumbent party.

The actions of special forces demonstrate two important strategies of violence production within a broader bargaining process: violence for positioning and violence for derailment. The first strategy seeks to strengthen the hand of key actors within negotiations over the transformation of the state; the second strategy attempts to completely fracture and destroy attempts at negotiation, either to return to the authoritarian past or to create a new state through violent revolution. In the South African case, in the context of formal negotiations over the reconfiguration of the regime, most violence perpetrated by special forces with the support of central state actors was aimed at positioning the incumbent party within ongoing negotiations.

For this reason the ANC's threatened and repeated withdrawal from negotiations after significant massacres was a relatively effective counter-strategy. In Kenya, in the context of a broader bargaining process, violence by special forces was more frequently aimed at protecting the status quo by ensuring victory in the newly competitive elections and strictly controlling any formal process of change.

While these strategies played out differently in South Africa and Kenya, in both cases special forces effectively created "security dilemmas" where none existed before. These security dilemmas worked to enforce or even create divisions within local communities and served to discredit the worthiness of community members as democratic citizens. State actors quickly framed this deliberately instigated violence as a product of competing ethnic nationalisms or "tribalism" within the general population. Due to the illegal nature of these attacks, in marked contrast to the public order policing, the success of both strategies of positioning and derailment relied upon the covert nature of the operation; once the role of special forces and the myth of ethnic conflict was exposed, political leaders worked to distance themselves from these actions, rather than justifying them as was generally the case with public order policing.

In South Africa, while the apartheid state embarked upon formal reforms to legalize opposition activity, the country's security apparatus remained a clear legacy of three decades of "low-intensity civil war." The so-called counter revolutionary strategy of the 1980s sought to weaken the ANC and its allies through assassination and hit and run operations outside the country and explicitly worked to employ "the ethnic factor in South African society."<sup>39</sup> After the formal onset of political liberalization in 1990, both these strategies served as the basis for security force operations within the country.<sup>40</sup> Military-style attacks on trains, for example, led to approximately 572 deaths between 1990 and 1993.<sup>41</sup> Massacres defined as occurrences

leading to at least ten deaths occurred in Sebokeng, Kwashange, Daveyton, Swanieville, Bruntville, Boipatong, and Bisho.<sup>42</sup> The Boipatong massacre alone left 45 people dead.

In May 1992, one observer commented after the outbreak of the Six Day War in Alexandra: “Gun battles, ambushes on taxis and crowded places, and attacks on train commuters have become a way of life over the past 18 months. Every now and again, as happened in Alexandra in March, a township literally erupts in an orgy of violence and death.”<sup>43</sup> ANC leaders and ordinary township residents, and with time, most South Africans, began to speak of a “third force” as the source of much of this violence. Though it would be false to argue that the third force existed as a single, centrally organized conspiracy against the ANC, it is quite clear that security forces played an important role in fomenting violence and received support from high level actors within the ruling regime.<sup>44</sup> For their part, government leaders justified the steady rise of seemingly random attacks in the townships around Johannesburg including drive-by shootings and train massacres as instability, which was to be expected during a period of rapid political change.

Security force actions importantly included supporting Inkatha, the Zulu cultural organization that became the Inkatha Freedom Party (IFP) in 1990, a staunch adversary to the ANC. In 1986, for example, 200 Inkatha hit-men were trained in the Caprivi, Namibia by the South African Defense Force (SADF) Department of Military Intelligence; these paramilitary personnel were deployed in the Johannesburg area and Natal in the early 1990s in hit squads that attacked ANC-dominated communities. Eugene deKock, who was eventually convicted on 89 of 121 charges of murder, kidnapping, arms smuggling, fraud and theft and sentenced to 212 years, led the infamous Vlakpaas unit which organized such massacres.<sup>45</sup> The unit funneled arms, funds and other support to Inkatha in areas such as the volatile East Rand, which later turned into

war zones between ANC and IFP militants. Though these special forces were cut off from formal oversight, they received thinly veiled support from key political leaders such as Adriaan Vlok the Minister of Law and Order, who was caught on tape in 1990 endorsing political assassinations.<sup>46</sup>

Subsequent investigations ranging from those of the Goldstone Commission, the Steyn Report, the findings of the Truth and Reconciliation Commission as well as the testimony of key security force agents including Dirk Coetzee and Eugene de Kock have repeatedly confirmed the role of security units in the seemingly random violence, hit squads and the crucial supply of arms and other support to Inkatha.<sup>47</sup> These attacks had unequivocal destabilizing effects upon the opposition and did work to establish a form of security dilemma in many communities *after* they had been attacked. The strategy also proved to be quite effective in destabilizing key bases of ANC support. This was clearly no process of persuasion, but rather violent repression and straight-forward terror. Community organizations which previously had not been involved in violence found themselves in a difficult position;<sup>48</sup> one civic leader in Bophelong commented: “Our position was that the community must show their anger but they must not kill anybody or burn anybody’s property.” She added that such decisions became “very hard to enforce.”<sup>49</sup>

With time, and significant deaths, townships were divided and no-go areas developed defined largely by political party affiliation (ANC versus IFP). By late 1991, ANC cadres had clearly responded to attacks by IFP militants by increasing their own armed capabilities and had in turn increased their attacks against the IFP. In many townships, the ANC established self-defense units (SDUs) which waged war against Inkatha self-protection units (SPUs). In Meadowlands, Soweto, one ANC cadre later bragged that though ANC communities were at first caught by surprise at the attacks coming from the hostels, with time, they developed significant

fighting capabilities themselves. "Had it not been for the security forces, we would have wiped them out."<sup>50</sup>

In Kenya, large-scale violence by special forces” was also part of a wider bargaining strategy of positioning and derailment. Firm evidence also exists that special forces in the employ of the state worked to incite violence, though the violence generally did not take on a dynamic autonomous from national actors as it would in South Africa. In Kenya, beginning in 1991, violence called “ethnic clashes” by the government claimed the lives of thousands of Kenyans and displaced over a half a million. This violence spiked before and after elections. High-level actors in Moi’s government including Minister Nicholas Biwott recruited from the military and the administrative police to perpetrate these “ethnic clashes”.<sup>51</sup> Much as the “Third Force” trained Inkatha hit men, these KANU government ministers hired violence specialists to form the core of militias who in turn recruited youth from localities where the “ethnic clashes” took place. As one witness told a government commission in a story that would be repeated over and over again, “politicians had incited people to fight” and “they transported warriors to the area and paid them for each person killed.”<sup>52</sup> In many areas where KANU support was potentially threatened by multi-ethnic populations constituting a swing vote, KANU hawks organized ethnically exclusive late night meetings with militia leaders, local administrators and ordinary citizens to plot who would be targeted and when. This allowed many local people to warn their neighbors, but it also created deep conditions of insecurity as rumors circulated. Even under these conditions, it still took some time for the initial violence to become ethnicized. Indeed, in some cases, people worked together as a community to repulse “invaders,” but once random angry victims attacked innocent people from the Kalenjin, “Moi’s group,” these initial inter-ethnic coalitions fell apart.<sup>53</sup>

As in South Africa, the violence began during a period of liberalization and aimed to strengthen the position of KANU going into a newly opened electoral arena. The torching of homes and the killing of villagers in selected areas of Kenya began a month before the promised legalization of multi-party politics in December 1991 and coincided with a series of government-orchestrated rallies that threatened opposition supporters with violence. The opposition was ethnicized as Kikuyu, no doubt because the leading and most threatening candidates, such as the current President Mwai Kibaki (elected in December 2002), were Kikuyu. This violence appeared deliberately aimed at discrediting the opposition, which was accused of perpetrating the violence. Indeed, Moi had been warning that multi-party politics in Kenya would bring tribal warfare, and the “ethnic clashes” seemed to fulfill the President’s dire predictions. Further, much as in South Africa, the violence caught the opposition off guard and de-stabilized key areas of support. Indeed, as the violence persisted up to the first multi-party elections in 1992, key voters had become internally displaced and hence disenfranchised; some areas were effectively “emergency zones” sealed off from anyone except the government.

Kenya’s “ethnic clashes” were also part of a strategy of derailment. In 1997, when the NCEC called for mass actions to push for reforms to level the playing field before the next election, “ethnic clashes” broke out on the Coast and in the Rift Valley. This violence began with a deliberately staged, grotesque attack on a police station staffed by non-coastal people. These new “clashes” broke the momentum of the constitutional movement. This strategy of derailment by KANU hardliners, worked to bolster the position of KANU moderates: fearing an escalation of violence, a number of opposition MPs broke from a hard-line position in constitutional negotiations and agreed to a much weaker package of reforms sponsored by soft-liners in the KANU government.



Indeed, this attempt at derailing was used again after the December 1997 election. When presidential runner-up, Mwai Kibaki, challenged the electoral results through the courts, he was warned by KANU hardliners through a new spate of rallies to drop the petition. As a key organizer of the ethnic clashes, Minister Nicholas Biwott cautioned at one such rally, “Kibaki’s petition is being viewed as an affront not just to Moi, but to the entire Kalenjin community” and hence it will “directly affect relations with the Kikuyu.”<sup>54</sup> Shortly after, a new round of “ethnic clashes” emerged in Njoro and Laikipia, directed against migrants from Kibaki’s home area of Nyeri. Ultimately, one opposition MP from the area effectively defected to KANU by voting with the party in parliament. Interestingly, when members from victimized Kikuyu communities began organizing “successful” counter-raids on Kalenjin, killing at least one key organizer of “the clashes”, Moi acted quickly to dampen the violence, most likely to avoid a new civil war dynamic, which would be less easily controlled.<sup>55</sup>

### ***3) Local Disputes, Political Party Formation and Violence***

Clearly, not all violence is merely orchestrated from above. Disputes over resources and authority occur at local levels without external prompting and at times grow violent. Further, even when external interventions do occur, some local people “do not simply have politics thrust upon them; rather they appropriate politics and use them for their own purposes.”<sup>56</sup> However, when in the context of political liberalization new political parties form, this can generate more violence as local disputes become entangled in the new competition between political parties and national leaders attempt to channel and frame these disputes to their own uses. Further, the uncertainty produced by political competition and the fears and rumor it breeds provides fertile ground for violent resolution of ongoing disputes. Poor policing or deliberate withdrawal of police protection adds to the likelihood of violence.

Even in those cases where violence seems largely local and “mass-based” in origin, such as the case of “riots,” central actors play a key role. For example, Brass notes in the case of “riots” in India:

... one cannot ignore the intent or will of the state government and the district administration to act upon what it knows to head off or control violence. Some chief ministers or political parties make it their business to say there will be no riots under their rule. When they say so and mean it, they can usually prevent them or limit their effects”<sup>57</sup>

Conversely, when central politicians wish, they can also play into local disputes, often through local agents, to intensify and channel violence in politically advantageous ways.<sup>58</sup> Opportunistic political leaders also take advantage of local disputes by re-interpreting their significance within a bargaining process, using it to blame and de-legitimize opponents and argue for “law and order” or change depending upon the side of the table they are sitting on.

For example, in Narok North constituency in Kenya long-standing disputes existed between agriculturalists who were buying land, often illicitly, and pastoralist Maasai who needed large tracts of land for grazing. When new parties emerged in 1992, the incumbent ole Ntimama, a large-scale farmer himself who was responsible for encouraging land sales, chose to use this real source of tension. His main opponents, Lempaka and Tiampata were Maasai, but they both worked actively to build alliances with local Kikuyu who were largely agriculturalists. Hence, Ntimama chose to become the champion of the pastoralist Maasai and used this simmering land problem to his advantage. Thus, as Ntimama campaigned, he persistently treated the small-scale Kikuyu farming community in Narok as alien troublemakers responsible for the deprivation of Maasai rights. Further, he deliberately played on the real land insecurity by arguing that if the Kikuyu-led opposition party came to power, all Maasai land would be grabbed.

The new party competition overlaid with simmering land problems generated violence in the constituency. On June 10 1992 the National Elections Monitoring Unit, a domestic elections

watchdog organization, observed that, “trouble started after alleged [Maasai] warriors ganged up and vowed not to let any Kikuyu register as voters”. Three people were killed and ten buildings were razed to the ground.<sup>59</sup> On the day of the election another three Kikuyu were killed by a group of Maasai as they were going to vote. By cleverly overlaying and ethnicizing the very real problems of land in the area, Ntimama had helped to raise the stakes of the election and give its outcome a local meaning. Further, by promising those who sold land to Kikuyu farmers an opportunity to get their land back, many Maasai farmers used the new political opening to violently evict their neighbors. This helped provoke politically useful violence that in turn worked against oppositional coalitions. The fear of retribution, the policing of dissent through violence as well as a new reputation as a “strong leader” helped create a cohesive local constituency around Ntimama. This ability to “deliver Maasai votes” increased Ntimama’s bargaining strength to such an extent that he eventually found his way into the new Kenyan government and now serves as a Minister in the Office of the President.

We see similar dynamics in South Africa. Late July 1990 marked an important turning point; on July 14, Inkatha’s leader Mangosuthu Buthelezi announced that Inkatha would now become a national political party open to all races: the Inkatha Freedom Party (IFP). The IFP began an intensive campaign of recruiting IFP supporters among Zulu speakers in the migrant hostels around Johannesburg and employed clear calls for ethnic identification. On July 22 fighting between Inkatha and the ANC which had become endemic in KwaZulu-Natal spread to the Johannesburg area. Approximately 1,500 IFP supporters returning from a political rally, attacked township residents in Sebokeng that they presumed to be ANC supporters.<sup>60</sup> In the following days, violence spread to other townships around Johannesburg. In a climate of heightened insecurity, political uncertainty, rumor and fear, even conflicts, which did not begin

with political party antagonisms, such as a gambling argument in Katlehong on the East Rand, quickly became part of the larger conflict.<sup>61</sup> The cycle of retaliatory violence led to increased killings. As a result, the following month marked the highest rate of political fatalities as reported by the South Africa Survey during the four year transition period: 698 people died in August alone.<sup>62</sup>

Much like Ntimama, Buthelezi used violence to build a local support base through his new political party, the IFP. Buthelezi, with help from the apartheid government, used this party, solidified through collective violence, to create bargaining strength in the negotiations over change. Like Ntimama, he was ultimately successful; to mitigate his impact as a potential spoiler, Buthelezi was brought into the 1994 post-apartheid government as Minister of Home Affairs.

### ***Violence, Bargaining and De-escalation***

The Kenyan and South African cases illustrate that violence as part of both positioning and derailing strategies can be an intrinsic part of bargaining over political change. Moderate incumbents who favor reform may tolerate and even employ violence but do so largely as a means to strengthen their bargaining position. They may fail to police the police and use incidents of violence around demonstrations to attack their opponents. They may employ frames of ethnic conflict to undermine opposition unity. Moderate opposition actors, similarly, while decrying violence, may seek to publicize, at times even provoke, state actions to strengthen their domestic and international support. Hardliners, in contrast, seek to use violence to undermine moderates on all sides and derail any reform process. They may be significantly weakened when their strategies of violence production are exposed and moderates are pressed to condemn their

actions, but even then, by building constituencies, in part through violence, they can gain bargaining power as potential spoilers or allies.

For violence to be useful to incumbent or opposition actors involved in bargaining, it needs to be controllable. Those who employ violence as a positioning tactic are therefore involved directly or indirectly in actual violence production. For this reason, when a successful bargain is struck or the violence begins to damage their position, they may be able to successfully rein it in. This does not imply that they are necessarily able to control the impact of their interventions or even that they will always be successful in controlling violence that they have started. Indeed, these processes in some cases leave significant legacies of violence.<sup>63</sup> Nevertheless, by teasing out this relationship between mechanisms of violence production and bargaining processes over change, we can better explain cases like Kenya and South Africa where violence does decline dramatically.

In South Africa, the violence so destabilized the country that it began to undermine the authority of President de Klerk; revelations regarding the sources of violence also importantly began to subvert a hard-line strategy within the NP to draw out the transition process in order to allow the formation of a coalition with the IFP and other right-leaning parties which together could challenge the ANC.<sup>64</sup> In July 1991, the *Weekly Mail* broke “Inkathagate” revealing a state-supported security police operation which funded Inkatha in its violent campaign against the ANC. By late July, the NP took action in response to these revelations and an ANC ultimatum; two ministers (Minister of Law and Order Adriaan Vlok and Defense Minister Magnus Malan) were demoted to lesser cabinet posts and de Klerk announced plans for a multiparty conference on violence as well as the appointment of a standing commission of inquiry to investigate political violence (later to be known as the Goldstone Commission).

Despite these steps, violence continued as key NP ministers such as the new Minister of Law and Order Hennis Kriel failed to take the more drastic action required to rein in violence specialists.<sup>65</sup> Rather than shutting down, largely autonomous units such as Vlakplaas were allowed to continue functioning, although with almost no interaction with state authorities.

When multiparty negotiations at the Convention for a Democratic South Africa (Codesa) reached a deadlock near the middle of 1992, the ANC responded to the stalemate with a promise to once again demonstrate its mass-based strength by orchestrating rolling mass action; this mass action was once again met with violence. After the ANC action began on June 16, the anniversary of the shooting of Soweto student demonstrators in 1976, another massacre occurred. Approximately two hundred residents of the KwaMadala hostel, IFP supporters, attacked residents of Boipatong. The day after the massacre, the ANC suspended negotiations and Mandela personally attacked de Klerk for not having taken a stronger stand to rein in the violence. De Klerk's approval rating among black South Africans, the crucial majority to which the NP needed to appeal to if it were to have any future in a democratic South Africa, had declined precipitously in the past year.<sup>66</sup> Continued violence also threatened the NP as the incumbent party, which was eager to improve its international image and encourage economic growth at home in order to maintain support.<sup>67</sup>

After yet another massacre, this one in Bisho in early September, de Klerk who had been employing violence as a positioning strategy, recognized the pending threat of a complete breakdown of negotiations and the eruption full-scale civil war. The ANC and the NP signed the crucial Record of Understanding on September 26, 1992, effectively marginalizing the IFP. De Klerk also strengthened the powers of the Goldstone Commission, which responded with greater evidence of continuing security force actions against the ANC. This led to stronger action to

finally rein in these forces.<sup>68</sup> While many forms of violence unfortunately continued, even increased, hit squad activity, train commuter attacks and massacres in the region around Johannesburg all sharply declined.<sup>69</sup> Mangosuthu Buthelezi and his party, the IFP, were clearly weakened by the Record of Understanding and the growing revelations of Inkatha-state complicity. The IFP leader continued to assert his power largely as a potential “spoiler” of any settlement negotiated without the blessing of the IFP, but the ANC and NP pressed ahead with negotiations and plans for democratic elections. One week before the vote, Buthelezi fearing further marginalization, backed away from the brink and committed the IFP to contest the elections, opening the door for elections, which were remarkably violence-free, despite the bloodshed preceding them.

Similarly, after a decade of high levels of violence prior to elections, Kenya experienced a peaceful transfer of power from President Moi to his long time opponent Mwa Kibaki and his coalition of parties, the National Rainbow Coalition (NARC). Prior to the 2002 election and after allowing a virulent anti-Kikuyu campaign by his hardliners, Moi dramatically chose the new leader of KANU to be Uhuru Kenyatta, the son of former President Kenyatta and a Kikuyu. Whether this was a deliberate miscalculation, based on the idea that this would keep the opposition fragmented and split the Kikuyu vote is unclear. However, his choice meant that violence based on anti-Kikuyu rhetoric would no longer work as a strategy, militias were reined in, and indeed, the 2002 election failed to see “ethnic clashes”. Further, it is highly probable that President Moi received assurances from Kibaki that he would not be prosecuted for crimes, if he allowed a transfer of power. Informal negotiations between Kikuyu business elites who funded both the new KANU under Kenyatta and NARC under Kibaki and hardliners in the Moi government took place as early as November 2000 and may have helped create such an

understanding. Indeed, in his speech acknowledging his defeat Moi emphasized that Kibaki is “a man of integrity”.

### *Conclusions*

This paper has made initial strides in teasing out some of the mechanisms of violence production that emerge within bargaining over democratization processes. It has also shown how this approach can explain how large-scale violence can de-escalate fairly abruptly in the absence of consolidation of new democratic institutions. In both cases, violence dramatically declined because a new agreement between incumbents and challengers was struck. This meant: 1) demonstrations ceased before and after the elections 2) incumbents reined in informal militias who they paid and supported, effectively stopping massacres and 3) policing was restored to many localities and national politicians generally refrained from endorsing local violence.

This approach complements the rational action explanation for the inverted U shape relationship between violence and democratization: once an agreement is reached, incentives to use violence decline among actors. It also gives an idea of how newly democratic institutions might emerge out of violence producing bargaining processes that sadly, often leave significant authoritarian and violent legacies.<sup>70</sup> We hope this encourages further comparative research that applies this approach to cases where violence in fact escalates with dramatically different consequences. This work suggests that in such cases like Rwanda and the former Yugoslavia, a key factor leading to escalation was the side-lining and killing of moderates. In such cases hardliners use violence early on as a derailing strategy to destroy possible agreements between opposing sides, which would allow for de-escalation of violence. Our hope is that more work applying transitions theory to better understanding the politics of violence in democratization will bring new and badly needed insights into not only relatively successful cases of



democratization like Kenya and South Africa, but also catastrophic cases like Rwanda and those that seem suspended between both possibilities.

*The Politics of Violence in Democratization*

**Table 1.**

		Violence effects actors relationship to:	
		REGIME	OPPOSITION
REGIME	Soft-Liners	Revelations of hardliners' use of violence and the threat of civil war may strengthen the bargaining position of soft-liners who seek to rein in violence by extending reforms	
	Hard-liners		<b>SPECIAL FORCES:</b> Use of informal repression to undermine, even crush, opposition, derail reforms and strengthen bargaining power. <b>LOCAL RIVALRIES:</b> Ethnicization of local conflicts to attempt to divide and weaken the opposition.
OPPOSITION	Moderates	<b>PROTESTS:</b> Test the regime's promises of liberalization and mobilize domestic and international support for further democratic reforms	
	Radicals	<b>PROTESTS:</b> Same as above	<b>LOCAL RIVALRIES:</b> Test and shift relative balance of power often by employing ethnic labeling within party competition.

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<sup>1</sup> The South African Institute of Race Relations estimated just under 15,000 deaths from the beginning of February 1990 through the end of April 1994, South African Survey 1997, 600, cited in Guelke 2000, 241. These figures are relatively conservative. Analysts such as Taylor and Shaw 1998 have cited over 16,000 deaths during the same period. The Truth and Reconciliation Commission Report cites approximately 14,000 deaths from mid 1990; this excludes well over 1000 deaths in early 1990.

<sup>2</sup> These figures are estimates and most likely are lower bounds. They are derived from the following sources: Human Rights Watch 1993, 1, African Rights 1997, 2 and press reports on the 1998 violence. A recent report on Kenya's internally displaced population estimates that 228,744 people are still displaced, but this does not include those from the coast, Kamungi 2001: 21. On the Coast over 100,000 people were displaced, African Rights 1997, 2.

<sup>3</sup> Discussions of the South African case as a miracle include: cover articles in *Time* and *Newsweek*, *Time* May 9, 1994, 22-30, *Newsweek* May 9, 1994, 30-41 and Waldmeir 1994, Friedman and Atkinson 1994, Sparks 2003.

<sup>4</sup> Sources include: *The Washington Post*, January 5, 2003, *The Guardian*, December 28, 2002, and *The New York Times*, December 31, 2002.

<sup>5</sup> Helen Fein, "More Murder in the Middle: Life-Integrity Violations and Democracy in the World" *Human Rights Quarterly* 17, 1 (1987), Edward Muller and Erich Weede "Cross-National variation in Political Violence: A Rational Action Approach" *The Journal of Conflict Resolution* 34 (4) (1990). Havard Hegre, Tanja Ellingsen, Scott Gates and Nils Petter Gleditsch. "Toward a Democratic Civil Peace? Democracy, Political Change, and Civil War, 1816-1992" *American Political Science Review* 95 (1) 2001.

<sup>6</sup> Hegre et al. Snyder??

<sup>7</sup> Hegre et al pg 34

<sup>8</sup> For a version of this argument see Muller and Weede 1990.

<sup>9</sup> Huntington 1991, 192, O'Donnell and Schmitter 1986, Crescenzi 1999.

<sup>10</sup>

<sup>11</sup> O'Donnell and Schmitter 1986, 28; Kaufman 1986, 96. See Karklins and Petersen 1993 for a model of these actors and the interacting choices faced by potential protestors.

<sup>12</sup> This is an insight that theorists of social protest have already examined. McAdam 1983 and Gamson 1975.

<sup>12</sup> Bermeo 1999, 136 also suggests, that elites can view a pact as a solution to violence and popular mobilization.

<sup>13</sup> Kirschke 2000.

<sup>14</sup> See Philip Roessler. "Donor-Induce Democratization and the Privatization of State Violence in Kenya and Rwanda" *Comparative Politics* 37 (2) 2005.

<sup>15</sup> Bratton and van de Walle 1997.

<sup>16</sup> In 1991 according to the World Bank, Kenya had a per capita GNP of \$340. By 2001 that figure had risen to only \$350, placing Kenya firmly within the set of lower income countries and placing it well below the so-called transition zone invoked by analysts such as Huntington 1991 and Snyder 2000, of at least \$1000 per capita GNP. In 1991, World Bank statistics indicate that South Africa had a GNP of \$2450. In 2001 the country's GNP had risen to \$2850, placing it safely within the transition zone. Even in the eyes of Zakaria 2003 who offers the highest threshold of \$3000-6000 per capita for successful democratization, South Africa is clearly quite close while Kenya seems a world away.

<sup>17</sup> Barkan and Ng'ethe 1998, 37.

<sup>18</sup> Barkan and Ng'ethe 1998, 37.

<sup>19</sup> Holmquist and Ford, 1998, 244. They note that, "reformers viewed mass actions "as something of a tactical threat that can be used but that might also be dissolved with the onset of serious reform."

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<sup>20</sup> *The Star*, April 1, 2000: "Shooting sinks peace talks."

<sup>21</sup> The idea that crowds of any kind are naturally pre-disposed to violence persists in prejudicing analysis, even though the statistics suggest that the vast majority of violence is perpetrated by the policing of these crowds. See Holton 1978 and Harrison 1988.

<sup>22</sup> Though apartheid South Africa was institutionally defined as an extremely exclusive and restricted democratic system, the majority of the population experienced the state (even outside of a State of Emergency) as a prototypical authoritarian regime; for this reason we refer to both Kenya and South Africa as authoritarian states.

<sup>23</sup> One study noted, for example, that from 1970-1976 the killing rate for the police in South Africa was twice that of the police in United States in a period when both countries permitted police to shoot a people fleeing arrest (Foster and Luyt 1986, 303). See also Waddington, Brewer 1994, Cawthra 1993, Rauch 1993 and Rauch and Storey 1998.

<sup>24</sup> In South Africa, these laws included: the Public Safety Act, the Riotous Assemblies Act, the Gatherings and Demonstrations Act, the Unlawful Organizations Act and the Affected Organizations Act among many others. In Kenya, they consisted of the Public Order Act and the Societies Act.

<sup>25</sup> Weitzer and Beattie 1994. Kenya Human Rights Commission 1998c.

<sup>26</sup> Steytler 1989, 1.

<sup>27</sup> South Africa. Truth and Reconciliation Commission (hereafter TRC) Volume 2, 590.

<sup>28</sup> This data from Amnesty International Annual Reports 1983-2003.

<sup>29</sup> This clearly echoes a familiar story in the social movements literature; democratization in the South of the United States combined the formal introduction of voting rights with profound and often violent struggle for the exercise of that right. McAdam 1983. See Tilly 1998 on how rights come into being through bargaining, broadly defined.

<sup>30</sup> Quoted in Sisk 1995: 90.

<sup>31</sup> It must also be noted that 1991 to 1993 also marked a sharp increase in the killing of police officers; 268 officers were killed in the two years from July 1991 to June 1993. TRC. Volume 2, 585.

<sup>32</sup> TRC. Volume 2, 590.

<sup>33</sup> Bureau of Democracy, Human Rights and Labor, US Department of State 1999 Country Report on Human Rights Practices.

<sup>34</sup> Interestingly, in Kenya after 1997, one subtle change occurred. Rather, than keep protesters in jail where they would draw attention to themselves, they were bogged down in court cases in regions far from where they originated. As a means of wearing them down and depleting their resources, they were expected to show up in court every week or else they were fined. (Interviews with human rights organization leaders at Release Political Prisoners, 4Cs, People Against Torture in Nairobi, November 2000.) This was a well practiced apartheid state strategy famously employed during the 1956 Treason Trial which lasted over four years and allowed the state to simultaneously claim it was following democratic procedures while quite effectively undermining legal opposition which it eventually failed to convict.

<sup>35</sup> Interestingly, in Kenya after 1997, one subtle change occurred. Rather, than keep protesters in jail where they would draw attention to themselves, they were bogged down in court cases in regions far from where they originated. As a means of wearing them down and depleting their resources, they were expected to show up in court every week or else they were fined. (Interviews with human rights organization leaders at Release Political Prisoners, 4Cs, People Against Torture in Nairobi, November 2000.) This was a well practiced apartheid state strategy famously employed during the 1956 Treason Trial which lasted over four years and allowed the state to simultaneously claim it was following democratic procedures while quite effectively undermining legal opposition which it eventually failed to convict.

<sup>36</sup> Achieng 1998.

<sup>37</sup> In South Africa, members of the security force when called to testify before commissions such as the Harms and Goldstone Commission repeatedly lied under oath and were in fact instructed to do so by their senior officers. TRC, Volume 6, 586.

<sup>38</sup> In some cases, informal repression was committed by youth gangs in Kenya and South Africa beholden to local politicians.

<sup>39</sup> Taken from an April 1986 State Security Council strategy document, quoted in Ellis 1998, 274.

<sup>40</sup> Also see ANC 1990, Murray 1994, Chapter 5, O'Meara 1997, Sisk 1993, 1995.

<sup>41</sup> TRC, Volume 2, 611.

<sup>42</sup> Guelke 2000: 243.

<sup>43</sup> Garson 1992, 68.

<sup>44</sup> TRC Volume 2, 709-710, Guelke 2000.

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<sup>45</sup> De Kock employed, among others, captured guerillas who had successfully been ‘turned’; these men were interestingly referred to as askaris, a Swahilli word transported from the Kenyan colonial context. The term was used by the British during the MauMau insurgency and was picked up by South African police officers, like de Kock who operated in Rhodesia (later Zimbabwe) in the late 1960s and early 1970s. Ellis 1998, 268.

<sup>46</sup> Taylor and Shaw 1998: 21. Additional sources include reports from the Human Rights Commission, the Community Agency for Social Enquiry, and Africa Watch.

<sup>47</sup> For such confessions see Gobodo-Madikizela 2003, Pauw 1997.

<sup>48</sup> Zuern 2001.

<sup>49</sup> Interview with Bophelong civic leaders. August 29, 1997

<sup>50</sup> Interview in Meadowlands. July 16, 1997.

<sup>51</sup> Human Rights Watch 1993, Kenya Human Rights Commission 1997, 1998a, 1998b, Klopp 2001a, 2001b. Kenya 1992.

<sup>52</sup> Kenya 1992, 51.

<sup>53</sup> Based on interviews with participants in Molo and Enoosupukia two badly hit areas, November 2000.

<sup>54</sup> *Economic Review* 2-8 February 1998.

<sup>55</sup> Kajwang 2003, 37. This is also based on interviews with participants.

<sup>56</sup> Spencer 1990, 12 quoted in Kalyvas 2003, 479.

<sup>57</sup> Brass 1997, 286.

<sup>58</sup> Roy 1994 does an excellent job demonstrating how local and national political leaders transformed a conflict in a Bangladeshi village over a cow wandering into a neighbor’s lentil patch into a Hindu-Muslim conflict. With time, the villagers themselves had reconstructed their understanding of the conflict, now also in terms of religious identity.

<sup>59</sup> National Elections Monitoring Unit 1993, 128.

<sup>60</sup> The IFP at this time was bussing large numbers of party supporters from KwaZulu-Natal into the Johannesburg area to attempt to shore up its support and drive non-IFP supporters from the hostels.

<sup>61</sup> Taylor 1991, 1-2.

<sup>62</sup> Cited in Guelke 2000: 241.

<sup>63</sup> [References...South African Policing.. Rupert taylor? Klopp forthcoming.](#)

<sup>64</sup> Ellis 1998: 283.

<sup>65</sup> Ellis 1998: 288.

<sup>66</sup> Taylor and Shaw 1998: 23.

<sup>67</sup> Guelke 2000, 252.

<sup>68</sup> Ellis 1998, 90.

<sup>69</sup> Taylor and Shaw: 19, 24. Massacres in Natal unfortunately continued as the ANC and IFP battled for political control.

<sup>70</sup> See Robert Fatton. “The Impairments of Democratization: Haiti in Comparative Perspective” *Comparative Politics* 31 (2) (1999). This is perhaps most evident in Kenya, where hardliners remain in the governing coalition, transitional justice has stalled and the internally displaced remain dispossessed.