

Kenya's 'Collapse' and its post-election tragedy of the commons

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Abstract:

The irregularities in the general elections in December 2007 triggered a period of post-election turmoil and violence in Kenya. Kenya's political-economic system had to suffer serious disruptions while many people feared that the country moved towards societal collapse. This paper analyses the developments and individual decisions made by Kenya's political elite during the post-election crisis in light of the arguments outlined by Jared Diamond in his book "Collapse" and the 'tragedy of the commons'. According to Diamond the most influential factor for avoiding or nurturing societal collapse are the society's responses to its problems. I am showing how the responses of Kenya's political elite failed first to avoid and then to"" deal with the post-election crisis, before decisions were made that contributed to a – at least temporary – transcendence of the crisis.

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Introduction

In the evening of 27 December 2007, after the presidential and parliamentary elections, Kenya had once again demonstrated its ability to hold free and peaceful elections. In the morning of 30 December 2007 an African president had once again demonstrated his determination to stay in power. Within less than three days Kenya had turned from an African role model for democracy, peace, stability and development into a society on the brink of collapse.

When the opposition candidate Mwai Kibaki won the presidential elections in 2002 against Uhuru Kenyatta, the candidate backed by long-term incumbent Daniel Arap Moi and son of the nation's independence hero Jomo Kenyatta, Kenya was widely praised for the free and fair election and as an example of functioning democracy in Africa. Kenyans proudly celebrated their new leader and newly discovered democratic civilisation. Kibaki headed a coalition of parties crosscutting Kenya's ethnic diversity which sparked nation-wide hopes to overcome the patrimonial and kleptocratic political structures of the previous regimes. Kibaki was sworn in at Nairobi's Uhuru Park in a public ceremony with almost a million Kenyans peacefully cheering at him as the symbol for national unity and progress. The contradiction could not have been bigger to the swearing-in ceremony in 2007. After an artificially prolonged and obviously flawed tallying process, the Electoral Commission of Kenya (ECK) declared Kibaki winner of the 2007 presidential election, beating opposition leader Raila Odinga by a few

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hundred thousand votes. Within twenty minutes of the announcement of the result, Kibaki had been sworn in in the backyard of the presidential residence with only a handful of loyalists present. This was the moment when many saw Kenyan embarking on a process of societal collapse.

In this paper I am discussing the tragedy that unfolded in Kenya after the presidential elections in December 2007, in light of the arguments outlined by Jared Diamond in his widely-read book 'Collapse'. Even though Diamond's wider approach is certainly contestable, his line of reasoning on failures in decision making offers significant explanatory value for discussing the backgrounds that triggered the disruption of Kenya's political-economic system in the aftermath of the 2007 elections. The problems Kenya was facing at this point were certainly not exclusively created through the election fraud. Long-term issues, such as poverty, social segregation, violence and crime, inequalities in land ownership as well as in political and economic participation, etc., had been pending for many years, sometimes more latent, sometimes more overt. However, some of those tensions were brought to the fore through decisions and failures on part of Kenya's political elite, above all the rigging of the presidential elections. This paper does not aspire to be a comprehensive or historical review of the tensions within Kenyan society, instead I am adapting Diamond's framework of failures in decision making, in particular in combination with the 'tragedy of the commons', to the situation in Kenya after the 2007 elections.

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'Collapse' and failures in decision making

Diamond developed a five-point framework of possible contributing factors for societal collapse, four of which applied in certain cases, but not in others. Only the fifth set of factors, a society's responses to its problems, proved significant in all cases Diamond examined. Even though the framework has mainly been developed to structure the factors of environmental collapse Diamond points out that "the last set of factors in my [Diamond's] five-point framework involves the ubiquitous question of the society's responses to its problems, whether those problems are environmental or not" (p. 14). Faulty responses or failures in decision-making can then lead to or aggravate a process of societal collapse, whilst successful decision-making might avoid or ease such a process. Adapted to the Kenyan context this suggests that a series of failures in decision-making created or aggravated a situation that brought Kenya on the brink of societal collapse and lead to the displacement and deaths of numerous people. According to Diamond there is a rough sequence of four categories that contributes to failures in decision-making: 1. The failure to anticipate a problem before it arrives; 2. The failure to perceive the problem when it has arrived; 3. The failure to try to solve the problem if it has been perceived; 4. The failure to solve the problem when trying to do so (p.421). In the context of Kenya's post-election crisis the first three of Diamond's four categories offer significant explanatory value, in particular when combining the third category with the 'tragedy of the commons'.

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First, Mwai Kibaki failed to anticipate the problems which were likely to result from rigging the votes. At some point during the tallying process of the votes Kibaki realized that Raila Odinga was leading with a significant margin and made the decision to rig the vote in his favour, apparently unaware of the consequences such a move would entail. Kibaki must have naïvely reasoned that he would get away with it and remain in office for another term with the opposition and the Kenyan population accepting it sooner or later. Because of this false perception he failed to anticipate the reaction the electoral flaw was likely to cause amongst the opposition and within parts of the Kenyan population, or he simply did not care. This failure might have been due to what Diamond calls reasoning by false analogy (p.423). Since independence in 1963, Kenyan politics has been determined by a few strong men. When Kibaki came to power in 2002, he was only the third Kenyan president. Jomo Kenyatta ruled the country from independence until his death in 1978, succeeded by Daniel arap Moi who held the presidency until Kibaki was elected in 2002. Kibaki has served for many years in the Moi government and has thus experienced how, once in power, everything is done to retain it. He falsely presumed that he can draw an analogy of Kenyatta's and Moi's measures to remain in power to the situation in 2007/2008 by employing similar measures to remain in power himself and would get away with it just as his predecessors did. Thereby he did not anticipate the problems such obvious electoral flaw ended up triggering.

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Second, closely tied to the failure to anticipate the problem was the failure of Kibaki and his Party of National Unity (PNU) to perceive it as such once it unleashed, or at least the magnitude it would take and the endurance. Even though the rigging of the elections did not exclusively create the problems Kenya encountered in the beginning of 2008, such as social inequalities and suspicion between different communities, it certainly intensified them and did trigger their violent outbreak. It has to be seriously doubted that either Kibaki or Odinga fully perceived the problem in its magnitude at the beginning stages of the post-election violence. Whilst the government side might have been blinded by the illusion that the regular post-election turmoil was occurring as it was the case on several occasions before, the opposition might have simply seen a delegitimization of the government through increasing levels of civil disorder. Having their interest of delegitimizing the government in mind, the opposition thus also clearly failed to perceive the seriousness of the crisis Kenya as a whole was drifting towards. Diamond points out that a "frequent reason for failure to perceive a problem after it has arrived is distant managers" (p.424). This refers to situations where the decision-makers do not perceive a problem because they are distant from the ones suffering from it, whereby distance is understood as geographical distance as well as social distance. Residing in their well protected estates and residences, the political elites might simply not have been aware of the extent to which the level of violence erupted in many parts of Kenya. Tied into that are the economic problems of which Kenya, and its neighbors, have been suffering since the crisis unleashed. Major



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transportation routes from the port of Mombasa to Nairobi to the eastern parts of Kenya and to Kampala have been disrupted with devastating effects not only on the Kenyan economy, but also on the Ugandan, Rwandan, Burundian, southern Sudanese and eastern Congolese.

Third, Diamond's next category of failure in decision making is the failure to attempt to solve the problem. According to Diamond

Many of the reasons for such failure fall under the heading of what economists and other social scientists term "rational behavior", arising from clashes of interests between people. That is, some people may reason correctly that they can advance their own interests by behavior harmful to other people. Scientists term such behavior "rational" precisely because it employs correct reasoning, even though it may be morally reprehensible (p. 427)

Diamond analogizes such failures in decision-making based on 'rational' reasoning with the 'tragedy of the commons', which can also be adapted to the political and economic dilemma that unfolded in Kenya in the aftermath of the 2007 general election. The tragedy of the commons describes a situation where a common resource is used by many consumers, such as fisherman catching fish in a lake or herders grazing sheep on a common pasture. If every consumer harvests as much as he can, the common resource is quickly depleted and will decline or disappear. Consequently, it would be in the interest of all consumers to



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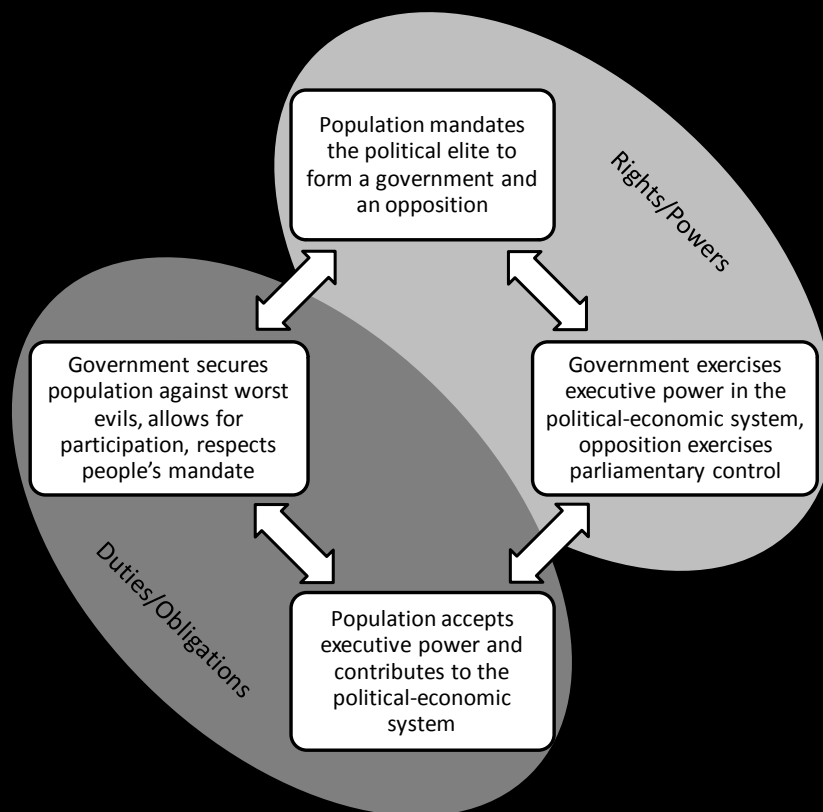
adopt a regulation mechanism in order to avoid overexploitation of the common resource. The individual consumer, however, could maximise his benefit when not abiding to the regulation mechanism and harvesting more than he is entitled to. The problem arises when all consumer act this way as then the regulation mechanism would not be effective anymore and the common resource overexploited.

Kenya's tragedy of the commons

Adapting a simplified interpretation of the tragedy of the commons to Kenya's post-election situation, government and population will be regarded as consumers operating according to a commonly accepted regulation mechanism on the commons, in this case Kenya's political-economic system. Ideally all consumers have an interest in maintaining the common resource, that is to keep the political-economic system functioning. Figure 1 illustrates an idealised regulation mechanism according to which such systems supposedly operate. Each consumer within the system has certain rights/powers, which he is entitled to through the regulation mechanism, but also duties/obligations which he is required to fulfil in order to keep the system working. In Figure 1, rights/powers are shown on the upper right side, duties/obligations on the lower left side. Through its right to vote the population possesses the power to validate or invalidate the government thereby temporarily mandating a certain part of the political elite to exercise executive power. Whilst this right is restricted to the few recurring occasions of general elections, the population generally has the right to demonstrate and

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express its dissatisfaction with the political elite at all times. The part of the political elite that has been mandated by the population has the right to form the government and exercise executive power.



Within this regulation mechanism the population is obliged to accept the government's executive power and to contribute to the overall functioning of the political-economic system. The government on the other hand is obliged to fulfil essentially three functions: First, according to John Gray it has to secure the population against the worst evils: war and civil disorder, criminal violence, and lack of the means of decent

subsistence (Gray 1998, p. 150). Second, a government has to ensure the possibility for all consumers to access the 'commons', that is the possibility for the population to participate in the political-economic system. Third, the government's power per se depends on the mandate given to it by the population. The population has the power to validate or invalidate the government through its right to vote, whereby the government is obliged to respect the verdict of the population.

It is precisely with respect to this last point that the Kenyan post-election crisis started to unfold. This was, however, certainly not the only factor. Taken aground the government's obligation to all three functions outlined above, it can be argued that there had been a series of failures on part of the Kenyan government to fulfil its duties before, especially when it comes to ensuring the possibility of political-economic participation across Kenya's ethnic diversity. A prime example in this context was Kibaki's disrespect for the Memorandum of Understanding (MoU) that had been agreed upon between Kibaki and Odinga before the 2002 general elections to change the constitution. This would have entailed curbing the powers of the president through the creation of the position of an executive prime minister. In addition it envisioned devolution of executive powers to the provinces, which had allowed a broader political participation of Kenya's various communities on sub-national levels. Instead Kibaki retained Kenya's centralised presidential system and a firm grip on power thereby ensuring political and economic supremacy for himself and his supporters. Many of Odinga's followers perceived this as an ongoing betrayal which had deprived them of the



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possibility of significant political-economic participation since independence. In 2002 they had voted for Kibaki on the basis of a Kibaki/Odinga coalition and under the premise of the MoU between the two. In this context Kenyan Nobel laureate Wangari Maathai points out that the

failure to honour the 2002 pre-election MoU between President Kibaki and the other members led by ODM leader Raila Odinga had entrenched the mistrust among the Kenyan leadership thereby hindering the spirit of negotiation (quoted in Daily Nation 23/01/2008, p.8)

Similarly, the authors of a political comment in Kenya's largest daily newspaper, the Daily Nation, argue that

The country experienced a peaceful transition of power in 2002 on an overwhelming mandate for the multi-ethnic National Rainbow Coalition, Narc. This support was driven by two main promises – that of revival of the economy and conclusion of constitutional reform. The collapse of the Coalition's Memorandum of Understanding (among the coalition partners) on the sharing of political power, and therefore economic goods, weakened the multiethnic and inclusive character of the Government. Now, it has had far-

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reaching implications on the winners and losers in the economic recovery in the past five years as well as the constitutional debate and conference.

The issues that have surfaced during the ragging post-election crisis bring to the fore latent tensions present in Kenyan society. Such tensions revolve around equal chances to earn a living and the ability to have in place inclusive governance systems that capture the aspiration of many in the nation. (quoted in Daily Nation 01/02/2008, p.19)

In 2007/2008 the rigging of the presidential election, the immediate swearing-in procedure and the rapid formation of a government comprised of Kibaki's own and affiliated communities further intensified the perception of ongoing exclusion from the political-economic honey-pots amongst Odinga's supporters. The previous and following citations from major media outlets across the region illustrate how this view has been commonly expressed during the post-election turmoil. A Kigali-based weekly pointed out that

The incumbent government in Kenya is perceived by the opposition as being Kikuyu-dominated, so the current political dispute is fuel for the smouldering embers of a land dispute which has existed for decades (The Sunday Times 03/02/2008a, p.5)

On the same topic Nairobi's Daily Nation echoed



Our people, from Mount Elgon in the west, to the Kenya Coast, have always asked for change, from the structures and policies that we inherited from colonialism. But our leaders, starting with Jomo Kenyatta down to Mwai Kibaki, have always refused to listen [...] In Africa, power is used to develop the regions of the leaders [...] Our leaders campaign to go to Parliament not to cater for the interests or concerns of their electors, but to find ways of enriching themselves. (Daily Nation, 18/02/2008a)

In terms of the tragedy of the commons, Kibaki's privileging of his supporters at the expense of other communities marked an overexploitation of the common resource, the political-economic system, that had been going on for some time but that had still been tolerated by the other consumers. In other words, if the regulation mechanism allowed 10 sheep for each consumer on the common resource, Kibaki already had 11 on it, however, the common resource was capable of bearing the additional exploitation. The election fraud, however, was the 12th sheep, which the common resource could not bare any more. Kibaki added an additional, new, dimension of overexploitation, again to the benefit of himself and his supporters and to the disadvantage of the others. The attempt to add the 12th sheep, that is to retain the prime-spot for accessing the political-economic honey-pots, even though his government had been invalidated by the people, was the straw that broke the camel's

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back. Kibaki had overstretched his bid through an excessive disrespect of the regulation mechanism and through taking excessively more than his entitled share of the 'commons', Kenya's political-economic system.

As a result the other consumers also disrespected the regulation mechanism. Motivated by Raila Odinga's party, the Orange Democratic Movement (ODM), his followers began to exercise their right to demonstrate against the election fraud and refused to fulfill their duties. They no longer accepted the executive power of the government they perceived as illegal, stopped to contribute to the government's political-economic framework, and decided to counteract the latter. In some occasions the demonstrations lost their political character and turned into violent crimes against the supporters of the other side. The government tried to put a halt to those happenings through the excessive use of force against all kinds of demonstrations. A strategy which clearly failed as the police proved just as incapable as the government to deal with the situation adequately, which triggered more violence in parts of the country. Just one of countless commentaries in Kenyan national newspapers was lamenting that "it is distressing to accept that the State is unable to defend the right of Kenyans to live safely and own property wherever they choose" (quoted in Daily Nation 18/02/2008b).

The government thus, seemingly only concerned with its own supporters, failed in another one of its key duties, namely securing its population against the worst evils, such as civil disorder and criminal violence. Similarly, the opposition also failed to stop the escalating

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violence, possibly in an attempt to further delegitimize the government through the deliberate creation of civil disorder and disruption of economic activity. Both government and opposition seemed too busy caring about their own power position and exclusively about their own supporters, thereby forgetting their aspiration to be legitimate representatives of all Kenyans. During the immediate post-election crisis, in which more than 1000 Kenyans were killed, almost the entire Kenyan political elite has failed terribly to act in the interest of Kenya and the Kenyan people. John Githongo¹ described this as an “environment where political institutions do not offer solutions, but are actually expressions of the fundamental contradictions in society (quoted in The Sunday Times, 03/02/2008b, p.5).

From all sides there has been a sequence of failures in fulfilling the respective roles required by the regulation mechanism for its functioning. Despite several failures on part of Kenya’s political elite in the past, in particular with respect to allowing broad political-economic participation, the key failure which triggered Kenya’s post-election crisis was Kibaki’s decision to disrespect the people’s verdict of invalidating his government. As a result the other consumers also disrespected the regulation mechanism, causing its malfunction. Taken aground that the ‘commons’ depend on a functioning regulation mechanism, the collapse of the latter marked the beginning of the former’s demise.

¹ John Githongo was formerly in charge of rooting out corruption Kenya, however, upon discovery of a corruption scandal involving government ministers he was threatened and went into exile in the UK



Attempts to avoid societal collapse and re-establish a regulation mechanism

In an attempt to solve the problem, the African Union appointed Kofi Annan to act as mediator and engage Kibaki and Odinga to work together to find a solution to the problem. Even though officially committing to the Annan-led mediation talks, the commitment of Kibaki and his Party of National Unity (PNU) seemed limited. Whilst the desire for the Annan-led talks to find a solution and re-establish a regulation mechanism for the political-economic system to function again had been expressed by all sides, PNU's behaviour in those mediation efforts did not suggest a serious contribution to the success of the talks, at least at the beginning of the process. In light of Diamond's argumentation on the third failure in decision-making, the lacking attempt to seriously solve the problem, he points out that

The perpetrators know that they will often get away with their bad behavior, especially if there is no law against it or if the law isn't effectively enforced. They feel safe because the perpetrators are typically concentrated (few in number) and highly motivated by the prospect of reaping big, certain, and immediate profits, while the losses are spread over large numbers of individuals (p. 427)

No doubts that the profits Kibaki and some of his closest allies were reaping while in power were big, certain and immediate. For them it is

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thus 'rational' to try to stay in power no matter at what costs, as him and his closest allies can advance their own interests through depriving others of significant participation in the political-economic system. At the time of the election fraud, Kibaki was in charge of executive power which means he could be sure that laws against such behaviour will not be enforced against himself. He was probably also convinced that he would get away with this behaviour because throughout his entire political career, Kenya's leaders always got away with it. In the context of self-enriching elites operating in a way to maximise their own personal benefit, it is argued in the Nairobi-based Sunday Standard that

Elections are manipulated to produce crowing winners because that is the way things are done; opponents are rubbed off to remove obstacles to desired immediate goals because it is instant and it produces immediate openings. [...] Collective resources are concentrated and unevenly distributed to demonstrate the instant efficacy of ethnic leadership (Sunday Standard, 03/02/2008, p.26)

In light of those observations, it was arguably "rational" for Kibaki not to try to solve the problem, as the only possible solution was an agreement with ODM, which would entail sharing the gains of the political-economic honey-pots. This, however, is not "rational" for someone who is convinced to get away with his perpetrations.

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The fourth of Diamonds categories of failure in decision-making is the failure to solve the problem even when trying to do so. On 28 February 2008, roughly a month after the start of Kofi Annan's mediation, the Kenyan leadership seemed to have embarked on a process to avoid the fourth category of failures. Kibaki and Odinga signed an agreement outlining a power-sharing deal between PNU and ODM in form of a grand coalition. At the time being, both seemed serious to try to solve the problem. The power-sharing agreement, and thus the sharing of the political-economic honey-pots, was a fundamental step towards avoiding the fourth category of failure and re-establishing a regulation mechanism for Kenya's political-economic system. Brokered by Annan and Tanzania president Jakaya Kikwete, the deal included a programme to address issues such as constitutional and land reform, and thus aimed at tackling long-term underlying issues, such as Kibaki's 11th sheep that had been on the commons all along.

Conclusion

Despite previously existing fractions in the constitution of Kenya's political-economic system, the magnitude and violence of the crisis came largely as a surprise, causing the temporary breakdown of Kenya's political economic system and costing the lives of more than 1000 Kenyans and Kenya its appeal as a political role model in Africa. The consequences are wide-reaching, ambivalent and highly complex. The Kenyan crisis seems to have initiated a tendency amongst African Heads of State towards



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abandoning the hitherto sacrosanct principle of non-interference in another country's political affairs. Whilst election irregularities were preferably covered with a veil of silence at African Union summits in the past, the Kenyan situation was heavily debated at the summit in Addis Ababa in January 2008, just as the Zimbabwean elections irregularities at the follow-up summit in Sharm El-Sheikh in June/July 2008. The success of Kofi Annan in mediating a power-sharing deal in Kenya appeared to have set the tone for similar power agreements on the continent, as African demands to Zimbabwe illustrate. Through the 'panel of eminent African personalities' led by Annan, Kenya's leaders managed to transcend – or at least postpone – the immediate crisis in early 2008. Clearly, the societies (in particular the leaders') responses to its problems mattered. As Diamond points out earlier in the book, this is the only one of his five factors for societal collapse which proved significant in all cases. Failures in decision making can make the situation worse and speed up the process of societal collapse, whilst successful decision making can halt it.

As shown above there were several significant failures in decision-making in the Kenyan context of the post-election crisis. At the end of February 2008, however, Kenya's leaders made a decision to avoid the fourth category of failure. Without any doubt, it was a major step to avert societal collapse for the time being, but whether longer underlying problems in Kenya can be solved will depend on the commitment to finding a solution and further successful decision-making. Those decisions will have to be made by Kenya's political elite and will eventually



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determine if the country can avert societal collapse. Kenyan's are longing for successful decision-making on part of their leaders, as a commentator expressed before the deal was signed: "Where are the leaders who will put selfish gains aside and accede to the higher commitment to serve and honour a country's craving for peace?" (quoted in Daily Nation 18/02/2008c). Kenya certainly has a no shortage of capable leaders, however, the questions remains if they manage to put their selfish gains aside.

References

Diamond, Jared. 2005. *Collapse. How Societies Choose to Fail or Survive*. London: Penguin

Gray, John. 1998. Global utopias and clashing civilizations: Misunderstanding the present. *International Affairs* 74 (1), pp. 149-163.

Daily Nation. 2008. *Maathai says State has failed on security*. 23/01/2008. Nairobi

_____. *Post-election crisis: Kenya can learn from flying geese*, by Betty Maina and Arthur Muliro. 01/02/2008. Nairobi

_____. *Kenyan leaders have always ignored the people's voices*, by William Ochieng. 18/02/2008a. Nairobi



_____. *The folly of ignoring reality for long*, by Mwandawiro Mghanga. 18/02/2008b. Nairobi

_____. *Let not arrogance and careless talk derail peace search*, by Mildred Ngesa. 18/02/2008c. Nairobi

Sunday Standard. 2008. *The perils of short term thinking*, by John Mulaa. 03/02/2008. Nairobi

The Sunday Times. 2008. *Kenya's geographic and political rift*, by Marc Doyle. 03/02/2008a. Kigali

_____. 2008. *There is a struggle for Kenya underway*. 03/02/2008b. Kigali

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