

The *Janus* Face of the State: The Dialectic of Sacrifice *Versus* Personal Gain and Electoral Conflict in Kenya (1991-2022)

Abstract

This article interrogates the structural paradox of Kenya's political economy, where the modernization of democratic institutions since the reintroduction of multiparty politics in 1991 has coincided with persistent electoral volatility and systemic elite predation. Departing from traditional institutionalist perspectives that attribute instability to weak enforcement or ethnic animosity, the study advances the "Dialectic of Sacrifice and Personal Gain" as a theoretical framework to explain the recurrent crisis of the post-colonial state. Through a qualitative documentary analysis that synthesizes political sociology with forensic evidence from commissions of inquiry, fiscal audit reports, and judicial rulings (1991–2022), the article argues that electoral conflict is the inevitable consequence of two irreconcilable imperatives governing Kenyan politics. First, the "Vocation of Sacrifice" compels elites to perform a narrative of moral custodianship and communal redemption to secure the legitimacy required for mobilization. Second, the "Material Imperative" necessitates the illicit capture of state resources to finance the vast patronage networks that sustain this legitimacy. The collision of these forces transforms the state into a singular engine of class formation, where the loss of political office equates to economic ruin and social exclusion. Consequently, elections cease to be administrative contests and devolve into zero-sum existential wars, as elites leverage violence to secure the state power necessary to satisfy both the moral expectations of their base and the material requirements of their survival. The analysis further demonstrates that the 2010 Constitution and the introduction of devolution have not resolved this contradiction but have instead decentralized it, replicating the predatory logic and its violent outcomes within forty-seven county governments. Ultimately, the article concludes that true stability in Kenya will remain elusive until the purpose of political power is effectively decoupled from the necessity of private accumulation.

Keywords: Kenya, Electoral Conflict, Dialectic of Sacrifice, State Capture, Neopatrimonialism, Political Economy, Devolution, Performative Legality.

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Introduction

The trajectory of Kenya's political development since the restoration of multiparty democracy in 1991 presents a profound analytical puzzle that centers on the durability of conflict amidst institutional reform. Ostensibly, the state has underwent a comprehensive modernization of its institutional architecture, transitioning from the rigid authoritarianism of the single-party era to a constitutional order replete with checks and balances. The reintroduction of competitive pluralism in the early 1990s was heralded as a definitive break from the monolithic control of the Kenya African National Union (KANU), signaling an era where political legitimacy would presumably flow from the ballot rather than the baton (Throup & Hornsby, 1998). This optimism was further bolstered by the 2002 transition, where the peaceful transfer of power from Daniel arap Moi to Mwai Kibaki appeared to confirm that Kenya had consolidated its democratic gains after decades of false starts (Ndegwa, 2003). Yet, this institutional formalism has failed to arrest the phenomenon of electoral conflict, which remains a persistent and often violent feature of the political landscape.

A forensic examination of the political economy reveals that this persistence of conflict is not merely a symptom of weak enforcement or ethnic animosity, but the logical resultant of a specific structural contradiction. Despite the promulgation of the transformative 2010 Constitution, which sought to decentralize resources and curb executive excess, the drivers of political competition remain dangerously volatile (Cheeseman et al., 2020). The recurring crises of electoral credibility and state-instigated violence suggest that the country is trapped in a paradox of permanent transition. This article posits that electoral conflict in Kenya is the inevitable consequence of a political economy where the state serves as the primary engine of class formation (Mueller, 2008). Consequently, the democratization process remains a "struggle without end" precisely because the stakes of controlling the state, and the ability to accumulate resources through it, are existentially high (Murunga & Nasong'o, 2007).

To explain the inevitability of this conflict, this article advances a theoretical framework conceptualized as the **Dialectic of Sacrifice and Gain**. We argue that the maintenance of political power in Kenya requires the simultaneous satisfaction of two irreconcilable imperatives, which together generate the friction leading to electoral violence. First, to secure the **Moral Legitimacy** necessary for voter mobilization, elites must perform the vocation of "Sacrifice," framing their leadership as an act of custodianship, suffering, and redemptive service to the community (Branch,

2011). Second, to secure the **Material Reproduction** of this power, these same elites must adhere to the imperative of "Gain," which necessitates the illicit capture of state resources to finance the vast patronage networks that bind constituents to their patrons (Kanyinga, 2014). It is the tension between these two variables, the need to project moral purity while engaging in predatory accumulation, that turns the electoral cycle into a flashpoint for conflict.

The collision of these forces transforms elections from administrative contests into zero-sum existential conflict. Because the "Gain" required to sustain the "Sacrifice" can only be accessed through capture of the state, the loss of political office is equated with economic ruin and communal exclusion (Ajulu, 2002). This dynamic incentivizes the use of violence as a rational political strategy; elites mobilize their ethnic bases in a "do-or-die" struggle to capture the state, promising the rule of law to win votes while preparing to subvert it to survive. This duality echoes the historical tension between the peasantry's expectations of equitable development and the elite's drive for capitalist accumulation, a divergence that has defined the post-colonial state's crisis of relevance (Barkan, 1994).

Through a qualitative documentary analysis, this study synthesizes political theory with historical forensics, drawing on commissions of inquiry, audit reports, and court rulings, to demonstrate how this dialectic produces electoral conflict. By tracing the continuity of this logic from the Moi era to the post-2010 devolved system, the analysis argues that constitutional reforms have failed to mitigate conflict because they have not resolved the underlying purpose of power (Hornsby, 2013). Ultimately, the article contends that until the dialectic is broken, and the reproduction of power is decoupled from the predation of the state, Kenya's elections will remain violent struggle for accumulation masked as democratic competition.

Theoretical Architecture: The Moral Economy of Electoral Management Bodies Hybrid Regimes and the Logic of Electoral Conflict

To bridge the analytical gap between the normative expectations of liberal democracy and the empirical reality of Kenya's persistent electoral violence, one must abandon the reductive view of corruption as merely a pathology of governance. Instead, the accumulation of public resources by the political elite must be understood as a structural necessity that directly fuels the "Dialectic of Sacrifice and Gain," creating a volatile environment where conflict is inherent to the transfer of power. This section establishes the theoretical architecture for the study, synthesizing the

sociological bifurcation of the African public sphere with the material imperatives of neopatrimonialism to explain why Kenyan elections frequently devolve into existential struggles.

The foundational logic of this conflict-generating dialectic is best illuminated by Peter Ekeh's theory of the "Two Publics." Ekeh (1975) argued that the colonial experience created a unique schism in the African public realm. On one hand stands the "civic public," the amoral apparatus of the state (civil service, military, police); on the other stands the "primordial public," the moral sphere of kinship and ethnic community. The critical dysfunction arises because the duties and obligations of the individual are owed primarily to the primordial public, while their economic sustenance is derived from the civic public. In this arrangement, plundering the civic public is not viewed as theft, but as a legitimate extraction of resources to be channeled back to the primordial public in acts of communal service. This bifurcation creates the structural basis for electoral hostility: because the state is the sole provider for the primordial public, the contest to control it becomes a defense of the community's survival. Losing an election means the community is cut off from the "civic" reservoir, a prospect that justifies the use of violence to protect the conduit of resources.

This extractive relationship transforms the nature of political authority into what Max Weber (1978) conceptualized as patrimonialism, where the distinction between the private property of the ruler and the public treasury collapses. In the Kenyan context, this manifests as neopatrimonialism, a system where rational-legal bureaucracies exist on paper, but real power operates through personal networks of loyalty and exchange. Under this regime, the occupation of state office is treated as a prebend, a right to income, rather than a purely administrative function. The election, therefore, is not a competition for policy implementation but a high-stakes struggle for access to the state's granary. As the "Gain" becomes the prerequisite for political life, the "struggle without end" described by Murunga and Nasong'o (2007) intensifies, creating a "winner-takes-all" environment that invites violent contestation.

Jean-François Bayart (2009) expands this materialist logic through the concept of the "politics of the belly." This metaphor extends beyond mere gluttony; it signifies a complex system of assimilation where political power is defined by the capacity to "eat" (accumulate) and, crucially, to "feed" (redistribute). In this moral universe, a leader who does not "eat" is viewed not as honest, but as impotent; a leader who eats but does not share is viewed as a sorcerer or a tyrant.

Consequently, the accumulation of wealth is the primary mechanism for social vertical mobility and political survival. The state becomes a "rhizome" of personal networks where resources flow downward to secure allegiance. This dynamic explains the desperation visible during campaigns: the leader must capture the state to maintain the flow of resources to his "belly" and his network. If he fails, the network collapses, and his political death is assured. Thus, the "Material Imperative" of gain is an inescapable condition of leadership that makes peaceful concession irrational.

However, this system requires a legitimizing ideology to function, which brings us to the concept of the "moral economy." E.P. Thompson (1971) and James C. Scott (1976) argued that non-elite populations defend a "moral economy" based on traditional rights and the expectation that elites must guarantee the minimal survival of the community. In the Kenyan context, this moral economy dictates that the legitimacy of a "Big Man" rests on his ability to launder illicitly acquired state wealth into socially acceptable "development" for his ethnic constituency (Lonsdale, 1992). The "Dialectic of Sacrifice" is the performance of this laundering. As John Lonsdale (1992) noted in his analysis of *Mau Mau*, wealth becomes virtuous only when it is "sweated" or sacrificed for the collective good. Therefore, the electorate does not necessarily punish corruption; they punish "selfishness." A politician who protects the public purse but offers no patronage is violating the social contract. This expectation traps the politician: to avoid the violence of his own base, he must engage in the violence of state capture.

This dynamic creates a perverse incentive structure where "disorder" becomes a political instrument. As Chabal and Daloz (1999) argue, elites may actively cultivate institutional weakness because a functioning, transparent state would sever the pipeline between the civic and primordial publics. Consequently, "disorder", manifesting as ethnic clashes or militia mobilization, is not a systemic failure but a calibrated political instrument used to secure the gate. Furthermore, Achille Mbembe (2001) suggests that this creates a specific "aesthetics of power," where the grotesque display of excess by the elite serves to discipline the population. Ultimately, the intersection of these theories reveals that the Kenyan state is stuck in a trap where the "Sacrifice" is the fee paid to the community to hold the gate, and the "Gain" is the toll collected at the gate. Until the moral locus of the citizen shifts, the structural necessity of accumulation will continue to drive the electoral conflicts that define the regime.

The Vocation of Sacrifice: Rhetoric, Custodianship, and the Genesis of Electoral Conflict

If the illicit accumulation of resources constitutes the material "hardware" of Kenyan politics, the "Vocation of Sacrifice" serves as the incendiary "software" that operationalizes this machinery for electoral conflict. The Kenyan political leader is never merely a technocratic administrator; he is invariably constructed as a messianic figure, a custodian of communal destiny whose authority is predicated on a narrative of personal suffering and redemptive service. This section argues that the performance of sacrifice is not merely a legitimizing aesthetic but a strategic weapon that directly precipitates electoral violence. By framing the pursuit of power as a moral crusade against existential threats, elites transform the electoral cycle into a zero-sum dialectic: the victory of the "Savior" ensures communal survival (Sacrifice), while defeat implies catastrophic exclusion from state resources (the loss of Gain). Consequently, the rhetorical elevation of the leader to a semi-divine custodian renders compromise impossible and conflict inevitable.

The genealogical root of this conflict-generating rhetoric lies in Jomo Kenyatta's anthropological treatise, *Facing Mount Kenya*. Here, Kenyatta (1938) established the Gikuyu conception of leadership as "seership" and custodianship, where the leader acts as the spiritual and material guardian of the tribe's land and lineage. However, upon ascending to the presidency, this custodianship was weaponized. His political capital, derived from his "sacrifice" at Kapenguria, became a tool of exclusion. The slogan "Suffering without Bitterness" was not merely a call for unity but a hegemonic demand for obedience. This immediately birthed its dialectical antithesis: the narrative of betrayal. Jaramogi Oginga Odinga's *Not Yet Uhuru* established the enduring template for opposition politics that fuels pre-election tension: the "Savior in Waiting." By positioning himself as the conscience of the nation who sacrificed personal wealth for ideological truth, Odinga (1967) created a binary that defines Kenyan elections to this day: the Incumbent as the Custodian of Order versus the Challenger as the Liberator. This binary precludes a middle ground, ensuring that every election is fought as a battle between good and evil, a framing that readily mobilizes supporters for physical confrontation.

This messianic script was revitalized and intensified during the democratization struggles, transforming the 2010 Constitution from a legal text into a contested site of moral aspiration. As Ghai and Cottrell Ghai (2011) argue, the Constitution was drafted as a "peace treaty" promising redemption from the "imperial presidency." However, the dialectic of sacrifice and gain subverted

this promise. Elites quickly learned to appropriate the language of constitutionalism ("Sacrifice") to mask their continued predation ("Gain"). This gap between the performed morality of the new order and the reality of persistent accumulation created a volatile disillusionment. Political competition became a struggle over who genuinely embodied the spirit of the Constitution, with each side accusing the other of desecrating the "sacrifice" of the second liberation. This moralization of the political contest stripped opponents of legitimacy, framing them as enemies of the state who must be stopped at all costs, thereby laying the psychological groundwork for electoral violence.

The 2013 and 2017 elections provide the clearest empirical evidence of how this vocation of sacrifice drives conflict. The Jubilee Coalition in 2013 mastered the art of "sovereign sacrifice" by framing the International Criminal Court (ICC) indictments not as legal proceedings, but as a neocolonial assault on the Kenyan people. Uhuru Kenyatta and William Ruto transformed their personal legal jeopardy into a collective national martyrdom (Lynch, 2008). This narrative effectively radicalized their base; voting became an act of defense against foreign aggression, and any internal opposition was branded as betrayal. Similarly, in 2017, the National Super Alliance (NASA) explicitly adopted biblical imagery, with Raila Odinga casting himself as "Joshua" leading the Israelites to Canaan (NASA, 2017). This was not a metaphor for policy but a theological promise of deliverance from the "Egypt" of Jubilee's corruption. Such rhetoric raises the stakes of the election to absolute levels. If the leader is "Joshua," then his defeat is not a statistical loss but a spiritual catastrophe for the community. This logic justifies the rejection of results and the subsequent mobilization of youth for violent protest, as the defense of the "Savior" is equated with the defense of the community's future.

The 2022 election witnessed the mutation of this logic into class warfare through the "Hustler Narrative." William Ruto successfully weaponized the concept of sacrifice by shifting the axis of conflict from pure ethnicity to a hybrid of class and tribe. The *Kenya Kwanza* manifesto was framed as a covenant with the "suffering majority", the *boda boda* riders and *mama mbogas*, against the "dynasties" who had never known hardship (Kenya Kwanza, 2022). This narrative did not reject the politics of the belly; rather, it promised that the "Hustler" would finally be empowered to "gain." The conflict potential here was stark: by framing the election as a revolt of the "sacrificial" poor against the "gluttonous" rich, the campaign validated aggressive

confrontation. Nanjala Nyabola (2018) identifies this as "digital performativity," where social media amplified these binaries, creating echo chambers where the opponent was dehumanized.

Ultimately, the vocation of sacrifice serves a specific function in the dialectic of conflict: it acts as the moral camouflage for the material imperative. By wrapping themselves in the robes of Joshua, the Liberator, or the Hustler, elites generate the intense loyalty necessary to seize the state. However, because this legitimacy is built on the promise of total redemption (Sacrifice) which requires total control of state resources (Gain), the possibility of defeat becomes existential. The "Savior" cannot lose without his community losing their access to the national cake. Therefore, the rhetoric of sacrifice ensures that the path to power is paved with the threat of violence, as the electorate is conditioned to fight not just for a candidate, but for their very survival in a predatory state.

The Material Imperative: Financing the Machinery of Electoral Conflict

If the "Vocation of Sacrifice" provides the moral camouflage for political legitimacy, the "Material Imperative" constitutes the logistical engine that propels the state toward electoral conflict. The performative rituals of the "Savior", mobilizing ethnic coalitions, sustaining vast patronage networks, and purchasing loyalty in the "primordial public", require a magnitude of liquidity that the legitimate private sector cannot supply. Consequently, the state is transformed from a regulator of economic activity into the primary reservoir for accumulation. This section argues that the "Gain" derived from state capture is not merely for private enrichment but is structurally required to finance the "Sacrifice" of the campaign trail. This necessity creates a direct causal link between corruption and violence: because the war chest for the next election must be filled through the predation of public coffers, the control of the state becomes an existential imperative. Losing power signifies not just a change in administration, but the closure of the accumulation taps, a prospect that drives elites to utilize violence to secure their hold on the "national cake."

The historical trajectory of multiparty politics in Kenya reveals that grand corruption is often the precursor to electoral instability. The "Goldenberg Affair" of the early 1990s serves as the foundational case study of this dialectic. While technically a financial scam involving fictitious exports, the *Report of the Commission of Inquiry into the Goldenberg Affair* implies a far darker political utility: regime survival in the face of competitive pluralism (Republic of Kenya, 2006). Facing the unprecedented threat of a united opposition in the 1992 elections, the KANU regime

required an immense infusion of capital to fracture rival coalitions and monetize the loyalty of its base. The billions siphoned from the Central Bank were not merely stolen; they were weaponized. This capital financed the "Youth for KANU '92" (YK'92) lobby group, which played a central role in the commercialization of voter violence and the instigation of ethnic clashes in the Rift Valley. Thus, the "Gain" from Goldenberg was the direct financier of the "Sacrifice" required to keep the regime in power, establishing a precedent where economic crimes are the necessary logistics for electoral warfare.

This structural imperative creates a continuity of extraction that transcends specific regimes, ensuring that the pre-election period is always characterized by frantic accumulation. The transition to the NARC administration in 2002 was predicated on "zero tolerance" for corruption, yet the "Anglo-Leasing" scandal emerged almost immediately. As documented by John Githongo, this scandal involved phantom security contracts designed to raise funds for the incoming elite (Githongo, 2006). The timing is critical; the "Githongo Dossier" reveals that this accumulation was driven by the fracturing of the ruling coalition. The Kibaki faction, needing to counter the rising influence of the LDP wing led by Raila Odinga, resorted to the same predatory tactics as their predecessors to build a war chest for the looming constitutional referendum and the 2007 election. The "Material Imperative" thus subverted the reform agenda, as the need to "eat" in order to "feed" the political machine took precedence over stability, setting the stage for the catastrophic violence of 2007.

In the Jubilee era (2013–2022), the mechanics of the "Gain" evolved from phantom contracts to the manipulation of the development budget itself, a shift David Ndii (2018) characterizes as "highway robbery." The aggressive expansion of infrastructure spending provided a new frontier for accumulation, where inflated project costs created fiscal space for kickbacks. The "Special Audit Report on Procurement" regarding the National Youth Service (NYS) illustrates how the Integrated Financial Management Information System (IFMIS) was manipulated to siphon funds (Office of the Auditor General [OAG], 2016). These funds were critical for oiling the campaign machinery of the "Hustler" and "Dynasty" factions alike. The direct correlation between these mega-scandals and the electoral cycle is undeniable; the theft intensifies as the election approaches because the cost of "Sacrifice", of convincing the electorate that the leader is their provider, escalates. The KEMSA scandal during the COVID-19 pandemic further demonstrated how

emergency procurement was weaponized, turning a health crisis into a commercial opportunity for the politically connected to stockpile resources for the 2022 contest.

Beyond liquid capital, the "Material Imperative" manifests through the capture of land, the ultimate store of value and a potent trigger for conflict. The "irregular allocation" of public land functions as a currency for political patronage when cash is scarce. Jacqueline Klopp (2000) describes this as "pilfering the public," noting that land grabbing is used to cement alliances and reward militias. However, this form of "Gain" directly fuels post-election violence. By dispossessing one group to reward another, elites manufacture the grievances that they later exploit to incite "community defense." The "grabbed state" described by Manji (2012) is thus a state perpetually at war with itself, as the distribution of stolen land creates permanent fault lines between communities.

Longitudinal data from Transparency International Kenya (2022) confirms that corruption perception indices stagnate precisely because the "Gain" is intrinsic to the political market. The electorate, conditioned by the dialectic, expects the leader to be a "provider." Consequently, a politician who fails to capture the state to "feed" his constituents is viewed as having failed in his "Vocation of Sacrifice." This expectation traps elites in a predatory loop: to win, they must promise to protect the community; to protect the community, they must have resources; to have resources, they must loot the state; and to loot the state with impunity, they must never lose an election. It is this terrified logic, that the loss of power leads to the loss of wealth and liberty, that transforms the ballot box into a site of existential struggle.

The Collision: Electoral Conflict as the Inevitable Synthesis

The structural tension between the moral vocation of "Sacrifice" and the material imperative of "Gain" reaches its critical mass during the electoral cycle. It is at this specific juncture that the dialectic ceases to be merely a mechanism of internal governance and transforms into an engine of high-intensity conflict. Because the state functions as the singular reservoir for the accumulation described in the previous section, the contest to control it is not interpreted by political actors as a routine administrative turnover, but as a moment of existential attrition. In this matrix, the "Sacrifice" promised to the electorate, the protection of community interests and dignity, can only be fulfilled if the leader successfully secures the "Gain" of the presidency. Consequently, the collision of these two imperatives creates a scenario where the loss of political office is equated with economic ruin and communal erasure. Conflict, therefore, is not an aberration of the system;

it is the logical method of arbitration in a political economy where the winner takes all, and the loser pays with their livelihood.

This volatility is structurally predetermined by the fusion of executive power and resource distribution. Gabrielle Lynch (2011) articulates this through the lens of ethnic citizenship, noting that communities perceive the presidency not as a national office but as an ethnic property essential for survival. If "our man" occupies the seat, the community is inside the radius of "Gain" and the "Sacrifice" is validated; if he loses, they are cast into the wilderness of exclusion. This binary creates a zero-sum environment where the development of one region is viewed as the deprivation of another. Elites actively cultivate this anxiety, weaponizing the dialectic by framing electoral defeat as collective starvation. Thus, the mobilization of violence is rationalized not as aggression, but as a necessary form of "community defense" to preserve the capacity to eat.

The 2007–2008 post-election crisis serves as the definitive empirical manifestation of this collision. The violence was not a spontaneous breakdown of order but the terrifying resolution of a campaign defined by the rhetoric of existential threat. Peter Kagwanja (2009) describes the prelude to this crisis as "courting genocide," where populism and ethno-nationalism were fused to informalize violence. The mobilization of the "41 against 1" narrative was a strategic deployment of the dialectic: it framed the election as a moral crusade (Sacrifice) to reclaim a stolen nation, while simultaneously organizing militias to forcibly redistribute land and resources (Gain). The *Report of the Commission of Inquiry into Post-Election Violence* (Waki Report) provided forensic evidence that this violence was often planned, financed, and directed by political elites who understood that maintaining or acquiring the state was worth the cost of social rupture (Republic of Kenya, 2008a). The "Gain" accumulated in the pre-election period was used to purchase the means of violence, militias, pangas, and transport, demonstrating how the material imperative directly finances the conflict.

Furthermore, the institutional framework designed to mediate this competition collapsed because it was engineered for control rather than arbitration. The *Independent Review Commission* (Kriegler Report) noted that the electoral machinery was overwhelmed not just by incompetence, but by the sheer weight of the stakes involved (Republic of Kenya, 2008b). When the margin of victory is the difference between total immunity and potential prosecution, or between massive accumulation and bankruptcy, regulatory bodies like the Electoral Commission of Kenya (ECK)

are subjected to pressures they cannot withstand. The result was a contest where the process itself became a weapon, leading to a situation where the official results were contested not in the courts, but in the streets, resulting in over 1,000 deaths. The breakdown was inevitable because the "Material Imperative" demanded a victory that the "Vocation of Sacrifice" could not ethically concede.

Even in subsequent election cycles, the shadow of this collision has dictated the terms of engagement. Human Rights Watch (2008) documented how the state security apparatus, rather than acting as a neutral arbiter, was drawn into the conflict to protect incumbent interests, while opposition supporters engaged in "defensive" ethnic cleansing to stake their claim to the "Gain." Although overt violence subsided in 2013 and 2022, the threat of it remained the primary mobilization tool. The National Cohesion and Integration Commission (NCIC) observed that the patterns of conflict merely shifted from direct confrontation to localized intimidation, as the fear of a recurrence of 2007 disciplined the electorate into rigid ethnic blocs (NCIC, 2013).

Dercon and Gutiérrez-Romero (2012) further argue that the triggers of this violence are deeply rooted in the long-term marginalization and land grievances that remain unaddressed precisely because the dialectic prioritizes short-term accumulation over long-term structural reform. The political class uses these grievances to incite violence during elections (Sacrifice) but abandons them once the "Gain" is secured. Thus, the collision is cyclical. As long as the state remains the primary avenue for wealth and the only guarantor of security, elections will continue to be interpreted as survival events. The conflict is not an accident; it is the structural price of a political economy where the "Vocation of Sacrifice" writes checks that only the "Material Imperative" can cash, and the currency of payment is often blood.

The Decentralization of the Dialectic: Devolution and the proliferation of Localized Conflict (2013–2022)

The promulgation of the 2010 Constitution was heralded as the institutional antidote to the zero-sum pathology of the central state, designed to disperse political power and ostensibly lower the existential stakes of the presidency (World Bank, 2012). Theoretically, this diffusion of resources should have dismantled the "Dialectic of Sacrifice and Gain" by severing the singular link between ethnic exclusion and the control of Nairobi. However, a longitudinal analysis of the post-2013 landscape suggests a more cynical outcome: devolution did not resolve the structural contradiction

of Kenyan politics; it decentralized it. The "winner-takes-all" logic has metastasized, replicating the predatory habits of the national elite within forty-seven new baronies. Consequently, the electoral conflict that was once concentrated at the national level has fragmented into dozens of localized wars, as the struggle to capture the devolved "Gain" to perform the local "Sacrifice" drives a new wave of intra-county instability.

The emergence of the County Governor as the new locus of authority perfectly illustrates this transference of conflict. Cheeseman et al. (2016) argue that governors have rapidly established themselves as "local presidents," adopting the performative trappings of the "Big Man", motorcades, titles, and discretionary funds, to project the aura of the "Savior" at the grassroots level. This performance of "Sacrifice" creates an immediate expectation among local constituents that their specific clan or ward will finally "eat." However, this expectation exerts immense pressure on the Governor to deliver tangible patronage to validate his legitimacy. To satisfy the "Sacrifice," the Governor must secure the "Gain," inevitably turning the county treasury into a new "feeding trough." D'Arcy and Cornell (2016) describe this as the "democratization of corruption," but crucially, it is also the democratization of conflict. Because the Governor's seat is now the primary gatekeeper for local accumulation, the competition to occupy it has become as desperate and violent as the race for the presidency.

Forensic evidence from the Office of the Auditor General (OAG) substantiates this replication of state capture as a precursor to local conflict. Annual audit reports from 2013 to 2022 consistently reveal patterns of fiscal malfeasance that mirror national scandals: the inflation of procurement costs, the proliferation of "ghost workers" on county payrolls, and the awarding of tenders to companies owned by proxies of the county executive (Office of the Auditor General, 2022). These are not merely administrative lapses but the logistical preparations for political warfare. The Controller of Budget (CoB) reports frequently highlight the disproportionate allocation of funds to recurrent expenditure and "hospitality," signaling that the county budget is often weaponized to maintain the patronage networks required for re-election (Controller of Budget, 2021). The "Gain" extracted from these irregularities provides the war chest for the incumbent to suppress opposition, thereby ensuring that the electoral contest is fought on an uneven playing field defined by the superior purchasing power of the state captor.

This decentralization of the "Gain" has inevitably led to the decentralization of violence. The conflict that characterizes national contests has trickled down to the ward and county levels, driven by the fear of exclusion from the devolved budget. Hassan (2016) notes that the creation of new administrative boundaries often reified ethnic sub-identities, turning previously dormant clan rivalries into active political fault lines. In counties like Mandera, Marsabit, and Wajir, the dialectic plays out with lethal intensity: the struggle is no longer just about who rules Kenya, but which clan controls the devolved billions. Elfversson (2015) observes that local militias are often mobilized not to fight the national state, but to capture the local state apparatus. Thus, the "Vocation of Sacrifice", the promise to protect one's clan from local marginalization, becomes the rallying cry for inter-clan warfare, transforming elections into high-intensity conflicts that are harder to police than centralized violence.

Furthermore, the post-election period in the counties is defined by a permanent state of institutional combat. The County Assemblies, designed as checks on executive power, have largely mutated into extortion rackets driven by the same material imperatives. Cornell and D'Arcy (2014) argue that Members of County Assemblies (MCAs) have weaponized their oversight role, frequently threatening governors with impeachment not to enforce accountability, but to leverage access to the "Gain." This creates a "hostage" dynamic where the executive must constantly bribe the legislature to survive. The resulting paralysis ensures that the county government remains a theater of elite struggle rather than a vehicle for service delivery, perpetuating the grievances that fuel the next cycle of electoral violence.

The silence on land reform during recent election cycles, as highlighted by Burbidge (2015), indicates that devolution has also served to depoliticize historical grievances at the national level while intensifying land grabbing at the local level. Elites are now able to appropriate county trust land with greater ease, shielded by the rhetoric of "local development" (Sacrifice). The Kenya National Commission on Human Rights (KNCHR) reported that during the 2017 election, significant violence occurred in the devolved units, driven by the exclusionary politics of local majorities against minorities (KNCHR, 2017). Thus, while the 2010 Constitution succeeded in diffusing resources, it failed to decouple power from accumulation. The "Dialectic of Sacrifice and Gain" remains the operating system of Kenyan politics; devolution simply installed it on forty-seven new servers, multiplying the flashpoints for electoral conflict.

Institutional Paralysis: The Logic of "Performative Legality" and the Unchecked Collision

The persistence of the structural contradictions described in this study, where power is sought for accumulation yet justified through sacrifice, is made possible by a specific juridical environment that actively incubates electoral conflict. Kenya does not suffer from a deficit of laws; rather, it suffers from a surplus of "performative legality." This concept refers to the enactment of sophisticated constitutional and statutory frameworks designed not for domestic enforcement, but for international signaling and the management of internal dissent. In this ecosystem, the law functions as a veneer of democratic propriety that obscures the predatory mechanics of the state. However, this deliberate institutional paralysis has a catastrophic side effect: by disabling the regulatory bodies designed to arbitrate the struggle between "Sacrifice" and "Gain," the state removes the safety valves of the political system. Consequently, when the existential stakes of the election rise, there are no credible institutions to mediate the collision, rendering extra-legal conflict the only available mechanism for dispute resolution.

The most glaring manifestation of this conflict-generating paralysis is the systematic sabotage of campaign finance regulation. The *Election Campaign Financing Act, 2013* was legislated to curb the monetization of politics and level the playing field. However, its implementation has been subjected to a ritual of deferral. Parliament, acting as the collective guardian of the "Gain," suspended the Act's operationalization ahead of both the 2017 and 2022 general elections, citing a lack of preparedness (AfriCOG, 2018). This was not a procedural oversight but a strategic necessity; enforcing the Act would have exposed the illicit sources of the "Gain" required to fund the "Sacrifice" of the campaign trail. By deliberately stripping the Independent Electoral and Boundaries Commission (IEBC) of the power to audit campaign funds, the political class ensured that the electoral contest remained an unregulated auction. This financial anarchy directly fuels conflict, as candidates who are outspent by rivals utilizing stolen state funds perceive the process as illegitimate, justifying their resort to violence as a means of leveling the asymmetry.

In the absence of legislative will, the judiciary has been thrust into the role of the ultimate arbiter, functioning as a fragile "pressure valve" for the heated dialectic. Collins Odote (2016) observes that the judicialization of electoral disputes has shifted the burden of legitimacy from the ballot box to the courtroom. The Supreme Court's 2013 ruling in *Raila Odinga v IEBC*, which validated the election of Uhuru Kenyatta despite significant technological failures, was interpreted by many

legal scholars as a decision prioritizing "peace" over justice (Supreme Court of Kenya, 2013). The court acted to lower the political temperature, tacitly acknowledging that challenging the "Gain" of the incumbent could trigger a recurrence of the 2007 violence. Here, the institution capitulated to the threat of conflict, preserving the order but leaving the underlying grievances unresolved.

The 2017 nullification of the presidential election marked a radical, yet ultimately futile, departure from this jurisprudence. In *Raila Amolo Odinga & Another v IEBC*, the Supreme Court asserted that "elections are not an event but a process," famously nullifying the victory of the incumbent due to "illegalities and irregularities" (Supreme Court of Kenya, 2017). While this moment was celebrated as a triumph of judicial independence, the subsequent political fallout exposed the limits of legal intervention in a captured state. The ruling did not resolve the conflict; it intensified it. The executive's response, threatening to "revisit" the judiciary and ignoring court orders—demonstrated that the "Material Imperative" of regime survival supersedes constitutionalism. As Yash Pal Ghai (2016) argues, without a corresponding culture of constitutionalism within the executive, court orders are merely "paper tigers." The resultant boycott of the repeat election and the violent standoff that followed proved that legal institutions cannot contain the dialectic when the loss of power equates to the loss of the "Gain."

Ultimately, this state of institutional paralysis serves the dialectic by creating a buffer zone of "selective inertia." The Law Society of Kenya (LSK) reports have frequently highlighted how the IEBC is structurally incapacitated by late appointments and budgetary constraints, ensuring it remains perpetually unprepared to enforce the *Leadership and Integrity Act* (Law Society of Kenya, 2017). This paralysis allows individuals with questionable ethical records to vie for office, perform the rhetoric of the "Savior," and capture the state, all while the legal system remains technically intact but operationally comatose. The law, therefore, does not bite; it merely barks to validate the regime's democratic credentials. By ensuring that there is no effective referee to blow the whistle on the theft that funds the campaign, "performative legality" guarantees that the game is played without rules, making violence the inevitable final arbiter of the Kenyan election.

Conclusion: Breaking the Dialectic of Conflict

The analytical trajectory of this study reveals that Kenya's recurring electoral instability is not merely an episodic failure of governance, but the logical outcome of a deep-seated structural trap. The "Dialectic of Sacrifice and Gain" functions as a self-perpetuating engine of conflict where the

requirements for obtaining power, performative custodianship, are fundamentally at odds with the mechanisms for sustaining it, predatory accumulation. Throughout this analysis, we have demonstrated that the "Vocation of Sacrifice" transforms the election into a messianic struggle for ethnic survival, while the "Material Imperative" ensures that the state remains the singular reservoir for the economic resources required to wage this struggle. Consequently, the state remains Janus-faced: it turns a visage of democratic benevolence towards the voter while simultaneously directing a gaze of extractive intent towards the treasury, creating a friction that inevitably sparks violence at the ballot box.

This duality ensures that electoral cycles remain high-stakes crises rather than routine administrative turnovers. Schedler (2013) conceptualizes this condition as the "politics of uncertainty," where the rules are known but the outcomes are existentially terrifying because the loss of office equates to economic oblivion. In Kenya, this fear is the primary driver of conflict. Because the "Gain" is necessary to fund the "Sacrifice," the incumbent cannot afford to lose, and the challenger cannot afford to wait. The 2010 Constitution, despite its transformative ambition, has been subsumed by this logic. As Lumumba (2008) presciently noted, the search for a constitution is futile if it is not accompanied by a "constitutionalism of the heart", a normative shift that values the document beyond its utility as a ceasefire agreement. The decentralization of this logic to the counties and the paralysis of regulatory institutions further confirm that legal reforms alone cannot withstand the pressure of the dialectic.

Ultimately, breaking this cycle of violence requires more than legislative tinkering; it demands the radical decoupling of political authority from economic survival. Claude Ake (1996) warned that democracy in Africa cannot succeed if it remains irrelevant to the material struggle of the masses or if it serves merely as a mask for elite circulation. True stability will only be achieved when the state ceases to be the sole guarantor of wealth, thereby rendering the pursuit of power a matter of service rather than a desperate flight from poverty. Until the "Material Imperative" is dismantled, the "Vocation of Sacrifice" will remain a hollow performance, and the specter of conflict will continue to haunt the Kenyan ballot box, turning every election into a potential war for the soul, and the purse, of the nation.

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