

**Peace from below: Governance and peacebuilding
in Kerio Valley, Kenya***

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ABSTRACT

Under what circumstances can non-state actors become successful local peacemakers? A growing body of research documents the involvement of non-state actors in local conflict resolution in Africa. However, there is large variation in such actors' power, legitimacy, and ultimately their ability to contribute to conflict resolution. The ways in which contextual and dynamic factors at local and national levels, and in particular the relationship between non-state and state actors and institutions, affect local conflict resolution are not sufficiently understood. To address this gap, this paper analyses the peace process addressing a long-standing conflict in Kerio Valley, Kenya. The analysis illustrates how the failure of the state to provide security and basic services led non-state actors to fill important roles in governance. Through this process, they were endowed with legitimacy and power which enabled them to play key roles in a peace process that led to a mutually acceptable peace agreement.

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INTRODUCTION

Studies of communal conflict in different African contexts have shown how the central state, through omission or commission, fails to provide security for local communities¹. For different reasons, the central government may neglect to intervene to address local violence, or may even actively take sides in the conflict (Abdulrahman & Tar 2008; Elfversson 2015). As a consequence, the state's legitimacy is eroded, and local communities turn to other actors or institutions to ensure stability and safety (Hagmann & Péclard 2011). In many such situations, empirical evidence suggests that locally anchored peace processes, led by non-state actors with an in-depth understanding of the context and with less reliance on material power, are more successful in promoting peace at the local level than state-led peace processes (Abbink 2000; Chapman & Kagaha 2009; Farah 1999; Menkhaus 2008). This is in line with an emerging body of research on 'hybrid political order' which contends that successful local governance and peacebuilding can emerge in the absence or shadow of the state (e.g. Boege *et al.* 2008; Raeymaekers *et al.* 2008).

However, the specific conditions under which constructive non-state peace processes can arise have been less explored. Meagher (2012: 1077) has criticised existing studies for uncritically 'emphasizing the "strength of weak states"', and calls for research which analyses empirically the relationship between governance and legitimacy and that identifies the determinants of constructive non-state engagements (*ibid.*: 1074). Meanwhile, existing research has to a large extent focused on weak or failing states. The conditions for non-state actors' involvement in local peacemaking in situations where the state is relatively strong remain undeveloped, despite the fact that empirical evidence suggests that such engagements are common in such contexts as well. This paper argues that to better understand the involvement of non-state actors in local peace processes, and the type of roles they are able to play, we must take into account their previous

involvement in local governance and their relation to the conflict actors. Furthermore, rather than leaving the state outside of the analysis, we need to acknowledge how local and national political dynamics influence the strategies and resources available to local peacemakers.

Kenya provides a fruitful context for analysing the conditions under which non-state actors become involved in local conflict resolution. It has a strong central state, but at the subnational level there are areas that have seen little involvement by this state in governance. Governance is here understood as ‘the administration of access to and provision of rights, services and goods’ (Eckert *et al.* 2003: 19). While the provision of services (including security) by the state has been uneven, a range of non-state actors perform governance functions: customary institutions have been given partially formalised roles, and numerous civil society organizations (CSOs) and non-governmental organizations (NGOs) are involved in service delivery and conflict management at different levels.² Kenya has since independence had a vibrant civil society and the past few decades have seen a rapid growth in the number and influence of NGOs, echoing developments in many other countries in the region (cf. Brass, 2012; Doornbos 2010).³ This paper analyses the role of non-state actors involved in governance and peacebuilding in Kerio Valley in northwest Kenya. Here, a long-standing conflict between the Marakwet and Pokot communities escalated into deadly confrontations during the 1990s, coinciding with a broader pattern of communal violence in conjunction with Kenya’s transition to multi-party elections. The conflict’s culmination in March 2001 was followed by a locally driven peace process which resulted in a peace agreement and restored peaceful interactions between the communities.

The study traces the role of different non-state actors in the conflict resolution process. In order to analyse the sources of power and legitimacy that these

actors used in their peacemaking activities, the paper draws on the concept of ‘negotiating statehood’ (Hagmann & Péclard 2011). This approach enables an empirically grounded, process-oriented analysis which focuses on how different actors involved in governance mobilise material and symbolic resources. Hagmann & Péclard promote an interpretative approach which takes into account that statebuilding and governance are historical processes, that state and society are not clearly separable categories, that power and governance have both material and symbolic dimensions, and that governance entails a continuous legitimization process (*ibid.*: 3-5; cf. Migdal 2001). Drawing on this framework allows a closer examination of the ways in which non-state actors can gain leverage and legitimacy for their role in a peace process. The analysis shows how the process of reaching a peace agreement between the Marakwet and Pokot, through a combination of modern and customary conflict regulation mechanisms, was negotiated by actors with varying degrees of formal power, and how the roles these actors could play was affected by their previous actions as well as by political dynamics and socially embedded structures.

The analysis is based on interviews and observations carried out during fieldwork in March 2013 and February-March 2014.⁴ To verify factual accounts concerning the conflict and its resolution, the primary accounts by local residents and participants in the peace process were complemented by secondary sources, including academic works, news articles and reports by relevant NGOs. In Kerio Valley, interviews were carried out in the localities Chesongoch, Kolowa, Chepchoren, and Tot. Interviewees were selected through a snowballing technique, with multiple strategically selected entry points to obtain the insights of people with different perspectives. In addition to the interviews, informal discussions and participant observation helped inform the analysis. Interviews were also held with government officials, religious leaders and NGO workers in Nairobi, Nakuru and Eldoret, strategically selected because of their role in the peace

process or their particular insights into the case (for a complete list of interviews, see the reference list). The interviews were semi-structured, and in Kerio Valley most of them were carried out with the help of a translator.⁵ Overall, given that peaceful relations had reigned for a long period, most people appeared comfortable to talk about the conflict. However, the passing of time may also distort interviewees' recollection of past events; the economic and political context has also changed, which may affect how the past is interpreted and presented (cf. Fujii 2010). Importantly, descriptions of which actors and institutions were important or not may be coloured by subsequent developments, such as the ongoing devolution in Kenya. These concerns were kept in mind and contentious issues discussed with others knowledgeable about the case.

The paper continues by tracing the history of conflict and governance in the area of study, focusing particularly on the period from 1992 until the culmination of conflict in 2001. As the ambition is to understand a dynamic process, a narrative is appropriate to trace the origins of the conflict and the involvement of different actors (Migdal 2001). Next, the peace process and the different actors involved are analysed. In line with the negotiating statehood framework, the analysis shows that non-state actors involved in conflict resolution in Kerio Valley were able to draw on symbolic and material sources of power at both local and national levels, enabling them to help foster a mutually acceptable peace agreement. The final section concludes and highlights avenues for further research.

CONFLICT AND GOVERNANCE IN KERIO VALLEY

The Marakwet and the Pokot are sub-groups (or tribes) of the Kalenjin, a recently constructed identity drawing together a number of culturally distinct groups with a shared Nilo-Hamitic ancestry and similar customs.⁶ They inhabit neighbouring areas in the Rift Valley in northwest Kenya. The Marakwet traditionally inhabit the northern part of Elgeyo-Marakwet County and number around 200 000, while the Pokot number around 700 000 and mainly live in Baringo and West Pokot Counties. Kerio Valley lies between the Tugen Hills to the east and the Elgeyo Escarpment to the west. Along the Kerio River which flows through the valley, violent conflict has characterised the relations between the Marakwet to the west of the river and the Pokot of Baringo County to the east.

[Figure 1 about here]

In general, the Marakwet pursue a mixed farming and cattle-rearing livelihood, and are not nomadic, whereas Pokot often have a nomadic or semi-nomadic livelihood (Greiner 2013). Among both groups, cattle are highly valued; in addition to basic sustenance, they play important ritualistic and social roles (Cappon 2003). Pokot and Marakwet share many other characteristics in terms of customary social organization. Both are internally organised into clans, and generationally into different age-grades (Kipkorir 2008). Authority within the community is tied to gender, age and status, with male elders traditionally exercising authority over the younger men and women who are not allowed to take part in community decision-making (Cappon 2003). Customary law and community self-governance exists alongside statutory law, manifested at the local level through the office of Chief. Chiefs were introduced in Kalenjin communities during the colonial period; they are appointed by the Public Service Commission and may not engage in party

politics, and they must be persons of high standing among the local community (Chiefs' Act 1998 [2012]). In turn, Chiefs collaborate with village elders in day-to-day local governance. Land in Kerio Valley is mainly communally held and allocation within the communities has traditionally been based on clan affiliation (Kipkorir & Kareithi 2013). Today communal land is in some places being converted into private property, and at times land tenure is unclear with overlapping customary, national and local administrative rules (Moore 2008: xv).

The Marakwet and Pokot communities have for long lived side by side. Borders between the communities were fluid before being delimited along ethnic lines by the colonial administration (Bollig & Österle 2008; Greiner 2013). Dominant narratives suggest there was historically a relatively stable coexistence: while violent conflicts took place at times, these were usually quickly managed or resolved. Relations between the groups were regulated by elders, who would meet to negotiate about access to resources and about how to resolve cases of violent conflict (Cappon 2003). The historical relationship between the groups is commonly described as having 'always' involved some level of raiding and violence, but with significant escalation only during recent decades: particularly since the early 1990s the raids became more violent, involving more killing and destruction of property, and retaliatory attacks led to a further increase in conflict intensity (Cheserek *et al.* 2012; Kamenju *et al.* 2003). This general description of the conflict history was uniformly supported by local residents interviewed in 2014.

Increasingly violent conflict

In order to provide a background for the analysis of the role of state and non-state actors in the peacebuilding process, this section discusses the causes and dynamics of the conflict and the way different actors have responded to it. On a general level, livelihood conflict

between communities in the region has in the post-colonial period been compounded by national and regional developments, as well as retaliatory spirals at the local level. Since the beginning of the 1970s, there has been an influx of small arms and light weapons from conflict-ridden countries in Kenya's neighbourhood (Kamenju *et al.* 2003: 39; Mkutu 2008). Most commentators describe the early 1990s as a key turning point in the conflict, marking a new level of escalation. In early 1992, there was an unprecedented large-scale raid, but government response was limited, fuelling retaliatory dynamics (Kimisoi 2013 int.; Marakwet-11 2014 int.). The peaks in conflict intensity appear to correlate with national elections (1992, 1997, 2002), and several analysts have connected these escalations to political orchestration of the violence (Kamenju *et al.* 2003; KHRC 2001; Report 2014). Residents in the area interviewed in 2014, however, mainly deemphasised the role of national politics when describing the conflict history. According to the Kenya Human Rights Commission (KHRC 2001: 26), the conflict claimed over 700 deaths between 1991 and 2001, but this figure may be inflated. According to several interviewees, some accounts of the conflict have been exaggerated; one explicitly argued that some organizations released reports that inflated death tolls in order to legitimise, and fundraise for, their own conflict resolution initiatives.

Most analyses of the conflict refer to a combination of underlying causes for the conflict, including economic, sociocultural and political factors. The area where the groups live is characterised by competition over scarce natural resources (land/pasture and water). This scarcity, in turn, is compounded by droughts and diminishing water supplies and pasture, leading to increased competition. The conflict has to a significant extent centred on border demarcations and access to pasture around the Kerio River, which makes up the boundary between communities but with better land on the Marakwet side (KHRC 2001; NCKK & SNV 2001). At the time of the 2001 culmination of violence, the Pokot

were challenging the border and arguing it should run several kilometres west of the river. Displacement of people following raids and attacks also compounded uncertainty and disputes about borders.

Many analysts, as well as local people interviewed, emphasise the role of cattle rustling and – to varying degrees – related customs and ‘war culture’. Historically, cattle rustling has been accepted by the communities as a way of life, connected to cultural functions such as rites of passage and acquisition of dowries, as well as restocking of communal herds. Among the Pokot, high bride prices have oftentimes motivated raiding (Weiss 2004). Raiding is carried out by the young unmarried men – the *moran* – with the blessing of the (male) elders and spiritual leaders, while women play an important informal role in encouraging (or discouraging) raiding. With the influx of arms and ‘commercialization of cattle raids’, involving networks of entrepreneurs and local officials, the scale and destructiveness of raiding has increased (Greiner 2013; NCKK & SNV 2001). Some analysts argue that the role of commercial interests has been overemphasised and that the main impetus behind raiding is cultural (Mutsotso *et al.* 2014).⁷ However, others have pointed out that cultural, commercial and political dimensions all coexist today to the effect that raiding is unprecedentedly destructive, and that describing cattle raiding only in terms of traditional or cultural practices can be a way of condoning illegal behaviour and denying basic human rights (*IRIN* 27.3.2014; KHRC, 2001). It should be kept in mind that commentators may have different reasons for highlighting specific aspects of conflict; for instance, elders may wish to emphasise traditional cattle raiding practices, as their role in managing conflict is strongly associated with such dynamics. Meanwhile, a portrayal of violence as ‘tribal’ and ‘traditional’ can be used by authorities to downplay its importance and political dimensions (Greiner 2013; Raeymaekers *et al.* 2008: 13).

Concurrent with the increasing acquisition of arms and the apparent commercialization of raiding, many analysts note that customary conflict management structures have been weakened. Elders used to have a strong role negotiating about return of cattle following raids, but in recent decades cattle are often sold and cannot be returned, which prompts harsher reprisals. Furthermore, local leaders – both customary and ‘modern’, e.g. elders, spiritual leaders, chiefs and councillors – have at times been complicit in raiding, protecting culprits and undermining peace initiatives (Cappon 2003; NCKK & SNV 2001). Overall, most analysts concur that there has been an erosion of customary leaders’ authority over time. According to dominant narratives, there was a time when elders would meet if severe violence erupted, and negotiate a peace agreement which would be respected by all segments of the communities, enabling peace to last for a long time (Marakwet-11 2014 int.). However, elders and rituals no longer command the same level of respect, especially among youth (Cappon 2003). Some also argue that the customary regulation mechanisms were not created to tackle the type of destructiveness that comes with modern weapons nor the dynamics of commercialised raiding, but rather to deal with more limited cases of conflict and violence (NCKK & SNV 2001). The real or perceived involvement by some elders in encouraging commercialised raiding (Weiss 2004) likely contributed to eroding the legitimacy and effectiveness of elders’ peace initiatives.

Government bias and neglect

Strategic interests on behalf of the central government affect how it responds to local conflicts (Boone 2014). With this point in mind, the role of the central state in relation to the Kerio Valley conflict can be interrogated both in terms of fuelling the conflict (directly or indirectly), and in terms of its strategies (effective or ineffective) for conflict

management. Firstly, the limited state presence and the influx of small arms for both offensive and defensive purposes over time resulted in a climate of insecurity further compounding the conflict. Overall, Kerio Valley (like other remote areas in Kenya) has suffered from a lack of effective government security provision due to inadequate resources, bad infrastructure and low priority on the national agenda. As a partial remedy, the state established armed 'home guards' (Kenya Police Reservists, KPR) but these were at best ineffective and at worst further increased the level of insecurity. According to some sources, all the appointed KPR were Pokot, i.e. the government armed one side in the conflict but not the other. More broadly, there is a perception that the government (under President Moi) was biased in favour of the Pokot and did not respond even-handedly to attacks and raids. One version of this argument holds that the government saw the Pokot, who were renowned 'warriors', as valuable agents of privatised violence and therefore deliberately kept them well armed (Kamenju *et al.* 2003; KHRC 2001; NCKK & SNV 2001; this perception was also articulated by many interviewees). Members of the Pokot community held important positions in the cabinet and security forces, whereas the Marakwet were essentially unrepresented. Moi himself came from East Baringo and had a strong support base there (Kamenju *et al.* 2003).

The extent to which bias was active or passive is disputed; one interviewee reasoned that there was no active orchestration of violence as such, but rather a permissive political environment. He argues that the Moi government was reluctant to intervene for several reasons. Firstly, Moi generally saw local violence as welcome evidence of his claim that political liberalization would have harmful effects. Furthermore, a powerful Pokot advisor had the President's ear, and raiders therefore made the calculation that they could attack with impunity (Marakwet-11 2014 int.). However, others have argued that the main driver behind the violence was active repression of opposition elements. Although

both groups belong to the Kalenjin community which has generally been seen as uniformly supporting Moi's party KANU (a notion problematised by Lynch 2011), Marakwet were perceived as opposition supporters because they favoured multipartyism, and in 1997 a sizeable share of the Marakwet community voted for the opposition (*ibid.*: 234-236). Protection and impunity for raiding activities has also allegedly been used as a way of 'buying' votes (Weiss 2004). On the local level, there were strong allegations that local politicians were manipulating and using young men for instrumentalist violence (Kamenju *et al.* 2003; such claims were supported by several interviewees). Inflammatory ethnic language was used by politicians during election campaigning, without any punishment or reprimand (NCCCK & SNV 2001).

While the Marakwet perceived that they were being targeted for political reasons, there was simultaneously a strong feeling of marginalization among the Pokot, because the Marakwet were relatively more educated and their areas more developed. Historically, more investment and development projects had taken place in Marakwet areas than in Pokot areas. Poverty and unemployment also resulted in a high presence of idle youth especially in Pokot areas. Furthermore, heavy-handed disarmament operations in Pokot areas in the 1980s, entailing significant loss of lives and cattle, represented a strong source of grievance and suspicion vis-à-vis the central government (Lynch 2011: 132). Overall, then, there was a strong subjective sense of discrimination on both sides, as well as a culture of fear, insecurity, polarization and mistrust.

The limited government presence in the area meant that its responses mainly took the form of reactive deployment of security forces following attacks – often with delay, and at times overpowered by well-armed raiders. Judicial procedures were not seen as an effective way to address the violence, since people were too afraid to bear witness and Chiefs did not cooperate to hand over suspects (NCCCK & SNV 2001). As mentioned

previously, the arming of ‘home guards’ as a way to provide security largely backfired – allegedly, some would hire out their guns in exchange for a percentage of the stolen cattle (Kilimo 2014 int.). Following the escalation of conflict in 1992, the authorities convened some public meetings (*barazas*) to make peace among the communities, but these had little positive impact. While a peace meeting was taking place in one location another location might be attacked, and participants at a *baraza* could use the meeting as an opportunity to survey the amount of livestock in that location (Marakwet-11 2014 int.).

The culmination of violence in 2001

In early 2001, after a drought hit the Pokot grazing lands in East Baringo, Pokot herdsmen grazed their cattle on the Marakwet side of Kerio River. This encroachment was considered particularly affronting to the Marakwet since some of the animals the Pokot were grazing were apparently cattle recently raided from the Marakwet (Marakwet-11 2014 int.). A series of minor raids and attacks, by both sides, took place during February (Report 2014). The final trigger leading up to the major attack on 12 March was a raid carried out by Marakwet youth who then killed or sold the animals, leaving none to be stolen back by the Pokot (Pokot-3 2014 int.). Following this raid, Pokot youth regrouped and carried out a large-scale attack near Chesongoch. Reportedly, authorities were alerted to the imminent risk of a major raid, but no action was taken to prevent the attack. On the morning of 12 March, hundreds of heavily armed raiders attacked Murkutwo location, leaving around 50 people killed (Macharia & Chesos 13.3.2001).⁸

The government responded to the Murkutwo attack on 12 March by deploying General Service Unit (GSU) personnel, but they arrived at the scene only after the raiders had retreated with the stolen animals and none of the attackers were arrested (Chesos 22.4.2001).⁹ Although a security team was deployed to search for the attackers

and army units were deployed to prevent further violence, the government was criticised for its failure to take strong action. Pokot people in some areas fled, fearing retaliatory attacks (Achieng' 26.3.2001; *Daily Nation* 18.4.2001). In April, the government convened a 'reconciliation meeting' in Tot, attended by President Moi who announced that the government would increase the security force presence in the area and launch an operation to collect illegal firearms. However, disarmament was strongly opposed by Pokot elders, who feared the community would then be left at the mercy of the well-armed Karamojong from Uganda. Marakwet leaders were sceptical of the campaign's ability to end raiding, claiming they needed to maintain their own self-defence capabilities, and called the President's announcements at Tot a 'public relations exercise' (Chesos 22.4.2001). Overall, interviewees in 2014 did not believe that the government interventions in 2001 had any effect beyond a short-term stabilization of the area. Given the previous track record of insufficient responses, as well as overall grievances held by the local population vis-à-vis the government, this is not surprising. Reportedly, when the one-month amnesty for return of illegal arms expired, only one gun had been handed in (*Daily Nation* 17.5.2001).

TOWARDS PEACE IN THE VALLEY

A few months after the Murkutwo raid, elders from both sides took the initiative to begin a dialogue process (Pokot-2 2014 int.; Pokot-3 2014 int.). This process is investigated as an example of negotiating statehood, and the following section analyses the ways in which the actors involved legitimised their role. Hagmann & Péclard note that ‘numerous social groups of different social standing, organizational capacity and political influence’ take part in political processes, and that they draw upon material resources as well as symbolic repertoires as sources of power and legitimacy (2011: 8-9). This observation resonates well with what occurred in the locally driven peace process in Kerio Valley. As illustrated below, local community leaders and religious actors were able to draw on both types of resources in building support for the peace process.

Legitimizing peacemaking

Government shortcomings both in security provision and in terms of service delivery more broadly have over time resulted in other actors filling parts of these functions. The strengthened position of the *moran* ‘warriors’ relative to the elders can partly be understood in light of the poor security situation. In addition to being aggressors or troublemakers, the *moran* were probably also seen as the most important security providers among their own community, as reflected in the self-armament of the communities and the resistance to disarmament campaigns. Meanwhile, since colonial times, churches – notably the Catholic Church and the African Inland Church (originally the African Inland Mission) – have played important roles in the region (Kipkorir 2009). Their expansion and missionary activities from the 1930s onward relied heavily on the provision of education and health services. This filled clear gaps in local service delivery and increased local

citizens' respect for the churches, giving them a strong influence over the increasing number of converts (Kipkorir 2009; Zablon 1992). As the conflict escalated, faith-based organizations (FBOs) played a notable role in trying to mediate between the communities. The National Council of Churches of Kenya (NCCCK) since 1993 mediated and promoted dialogue between the two sides (Songok 2014 int.). Activities took the form of *barazas*, support to local development committees, workshops and seminars. Similar activities (peace workshops, local dialogue etc.) were organised by other FBOs, including the Catholic Justice and Peace Commission (CJPC) which began its involvement in peace-promoting activities between the groups in 1995 (Kimisoi 2013 int.; Korir 2014 int.). Finally, several NGOs conducted development projects in the area, and included some peacebuilding activities in their work. However, peace work by religious actors and NGOs was inhibited by the high level of insecurity in the area. For instance, in 1999 a Catholic minister attempting to facilitate dialogue was killed by raiders (Church minister 2014 int.). At the height of the conflict many organizations withdrew entirely from the area, and only a few actors, notably Catholic and Anglican churches, retained a presence and continued to provide services (Kamenju *et al.* 2003).

A Marakwet peace elder describes how in 2001, elders first began campaigning for peace within their own community and building support for a dialogue process, before establishing contact with their Pokot counterparts (Marakwet-11 2014 int.). The CJPC was approached to facilitate meetings between the two sides.¹⁰ The ability of the church to serve as the mediator can be attributed to several factors. First, and perhaps most important, it was perceived as a neutral actor: as opposed to local politicians, elders and businessmen, the church had not been involved in encouraging or facilitating raiding, and it had no political or financial interests related to the continuation of conflict. It was also disconnected from national level politics; as noted by Lynch, the churches had a high

degree of autonomy from the state and often served as a key forum for open political debate (2011: 125). At the same time, the church's role in local development, education and other service provision was a source of power and legitimacy. The CJPC as well as other church actors had for a long time been involved in peace work in Kerio Valley, and had had a chance to build up trust among the parties. However, the new dialogue process marked a change from earlier CJPC activities, which had focused on peace education and bringing Marakwet and Pokot representatives to Eldoret for workshops. July 2002 saw the first direct peace negotiations, at the Chief's camp in Kolowa, which mainly focused on the parties venting their anger. After this initiation of dialogue, a series of meetings between 15 elders from each side followed. Church officials acted as mediators, with a focus on convening and facilitating meetings; at times they also conducted 'shuttle diplomacy' (Kimisoi 2013 int.; Korir 2014 int.).

In addition to high trust, the timing was also a source of strength for the mediators. At this point, it appears there was a 'mutually hurting stalemate' conducive for the initiation of negotiations (Zartman 2001) in the sense that the conflict had reached a level of intensity and destruction that communities felt was no longer bearable. Partly, this related to the fact that the Marakwet, initially much less well armed than the Pokot, had by now acquired substantial numbers of AK-47s (Kamenju *et al.* 2003). For the Marakwet, the Murkutwo attack certainly marked a level of escalation that was unbearable, but it is possible that the conflict also had reached unacceptable levels for the Pokot; interviewees suggested that the Pokot had begun to perceive they were losing out due to the violence (e.g. Pokot-7 2014 int.). At the same time, national developments provided a context that may have been seen as conducive to change at the local level. The Modogashe declaration in April 2001 – the culmination of a state-led peace process among pastoralist groups in northeast Kenya – marked increased acceptance and institutionalisation of local

peacemaking based on customary conflict regulation mechanisms (Odendaal 2013). With the Modogashe declaration and the concurrent establishment of a National Steering Committee on Peace Building and Conflict Management (NSC), the government of Kenya adopted a new approach to dealing with cattle raiding conflicts whereby customary conflict regulating mechanisms were endorsed and local peace committees were designated a key role (Odendaal 2013; Njuguna 2013).

Initially, responses to the peace process among the broader community varied, especially among the youth. As noted, the role of elders is ambiguous and their authority is sometimes questioned. In particular, analysts argue that as younger community members find alternative means to achieve status (i.e. through ‘commercial raiding’ and political connections), they are less motivated to bow to the elders’ will (Capon 2003). In keeping with customary practices, youth and women could not take part in deliberations between the elders. However, measures were taken to anchor the process in the broader community: the elders and Chiefs would hold consultative meetings before talks, and then come back to the community and report about the proceedings (Korir 2014 int.; Marakwet-11 2014 int.; Pokot-7 2014 int.). Overall, interviewees agreed that the elders involved in the negotiations were generally perceived as valid representatives of the communities. Initially, many among the youth were reluctant to end raiding; this is reflected in a number of deadly incidents taking place during 2002 (Report 2014). Eventually, however, broader support for the peace process was established. A Pokot man who claimed to be one of the initiators of the process recalled that curses were used to ensure the youth’s compliance with the peace process (Pokot-6 2014 int.). Significantly, regardless of their general attitudes towards elders, interviewees overwhelmingly embraced the fact that the peace process was anchored in their local customs rather than directed from the ‘outside’. From

the interviews, it is clear that the 'symbolic repertoire' of local ownership played a crucial role.

The dialogue process culminated in a peace agreement in October 2002, known as the Kolowa declaration. It took the form of an oral declaration of a number of terms, sealed by ritual means through slaughtering a cow and drinking its blood; several interviewees emphasised that this ritual ensured that anyone breaking the agreement would be cursed. The ceremony took place at Kolowa Bridge, at the riverine border between the communities. The agreement stipulated compensations in the form of cattle to be paid in cases of theft and killing (Kilimo 2014 int.; Marakwet-2 2014 int.). The fines can also be translated into money. These compensations were based on customary conflict regulation mechanisms. However, a key component of the agreement (and a departure from customary mechanisms) was that responsibility for the act of raiding or killing was individualised, meaning that the person who had committed the act should be held responsible, rather than revenge being taken against the entire community (Marakwet-8 2014 int.). The agreed penalties also combined customary compensation with criminal liability to be enforced by the local administration. While criminal responsibility is individualised, the community jointly raises the animals for the fines; this way, the system creates incentives for communities to prevent their youth from raiding (Kilimo 2014 int.). These stipulations were in line with those in the previously mentioned Modogashe declaration, which essentially formalised a legal compromise on behalf of the central government (Odendaal 2013): a delegation of conflict management to customary authorities while affirming the role of the judicial system in dealing with certain offenses.

The Kolowa declaration also contained regulations concerning grazing. Pokot should not be denied to graze their animals on the Marakwet side during the dry season, but their elders and Chiefs must first approach the local leadership to make arrangements.

Village peace committees were formed during the peace process, and local government then took over coordination of these. The peace committees became tasked with ensuring implementation and were mandated to work closely with local administration and security agents (Musumba 2013). Chiefs would function as a link between peace committees and the administrative branches of government. In order to ensure high-level support for the agreement, government representatives were invited to the ceremony; the meeting was chaired by the Rift Valley Provincial Commissioner (PC) and attended by the MPs for the concerned areas, as well as hundreds of civic leaders (Pokot-6 2014 int.; Kaino 17.10.2002).

The peace process that began in 2001 hence succeeded where previous attempts had failed: moving from a situation of total polarization and high hostility to the conclusion of a mutually acceptable peace agreement which provided for relatively peaceful relations. First of all, the peace process was successful in terms of halting the violence between the groups. Apart from a few incidents, mainly in 2002, the relationship between the groups has essentially been non-violent since then (Report 2014; UCDP 2014). Notably, despite continuing violence between the Pokot and other groups, especially Turkana, peace remains with the Marakwet. Nearly all the local residents interviewed in 2014 suggested that they saw renewed violent conflict as unthinkable or very unlikely. Especially those respondents who inhabit the borderlands between the two communities downplayed the possibility of renewed conflict, potentially reflecting a higher level of trust as a result of frequent interactions. A very old Pokot woman living close to Kerio River claimed that the current peace is something she has never witnessed before in her lifetime (Pokot-8 2014 int.). Most interviewees argued that there are viable mechanisms to deal with events that could cause renewed tension; the terms of the Kolowa declaration are respected, cattle theft is seen as an individual crime rather than something

carried out by an entire community, and elders hold regular meetings where issues such as grazing rights can be discussed.¹¹ Respondents described that numerous interactions (such as trade, intermarriages and collaborative development projects) take place on a daily basis, in stark contrast to the situation at the height of the conflict.

The role of state and non-state actors in peacemaking

The non-state actors involved in the local peace process interacted with, and were affected by, state actors both at the local and national level. National elections in late 2002 resulted in a change in government, and on the national level, Mwai Kibaki and the National Alliance of Rainbow Coalition (NARC) took over power from Moi's KANU government. As mentioned above, there was a strong perception that the Moi regime was either passively or actively enabling the violence; in line with this, several interviewees emphasised that it was only after this change in government that peace could prevail in the long run. On the more local level, new Members of Parliament were elected who would serve important roles in the peace process: Linah Jebii Kilimo for Marakwet East Constituency, and Asman Kamama for Baringo East. These politicians came together to hold joint peace meetings, and made clear their support for the Kolowa agreement. In turn, they successfully lobbied for support from the central government for the peace process, including improved security provision (Kubasu 2013 int.). The accounts of most interviewees reflect a perceived shift in government responsiveness, stating that 'the government now came after the perpetrators' of raids (e.g. Pokot-7 2014 int.). This appears to have been in large part a result of the constructive interaction between community leaders, the local MPs, and the central government. Kilimo suggests that the Kibaki government was very supportive in the sense of providing the resources needed for the

continued peacebuilding process. It also relates to the acceptance of customary conflict resolution mechanisms even when they clashed with the government's conventional practices (Kilimo 2014 int.).

Consistent with these developments, some analyses have concluded that it was national political developments that brought peace to Kerio Valley. However, as noted earlier, many local interviewees downplayed the role of politics in the conflict and its resolution and focused on local, day-to-day realities such as access to water and pasture, limited alternative livelihoods, and self-defence. Many also underlined the way customary institutions and the culture connected to cattle rearing holds a central place in local people's understanding of the conflict. Given the key role of cattle raiding and access to grazing in the conflict, it was crucial that a peace agreement deal with these aspects in a way that was acceptable to the local population. Previous responses to the conflict from the political centre did little to address these local realities, and as such failed to lay the ground for an improved relationship between the communities in conflict. In line with the analytical framework presented in the introduction, a history of neglected governance and perceived bias in relation to the conflict meant that the state was perceived as neither legitimate nor neutral. Hence, it is unlikely that state representatives could have mediated between the conflict parties in a meaningful way.

In line with a process-oriented and empirically grounded approach, the success of the Kerio Valley peace process can be described as consisting of two main phases: the first phase was the locally driven dialogue, facilitated by trusted church leaders, which culminated in a peace agreement; the second phase was the continuous implementation of this agreement, entailing the management of minor violent incidents (i.e. spoiler management) as well as the provision of peace dividends which also served to further increase interaction and trust between the communities. During both phases, the

central government's approach towards the conflict is of key importance. During the first phase, whether as a result of an active strategy or of limited capacity, the government allowed a space for a locally driven dialogue, facilitated by non-state actors, to take place. Local interviewees generally emphasised the importance that the peace process began with the local leaders, the elders, and that support from other actors was then built successively. During the post-agreement phase, the new Kibaki government continued to provide support for the use of traditional conflict regulation mechanisms, while simultaneously providing increased security and infrastructure. Without these shifts in government responsiveness, individual cases of raiding and violence could likely have spiralled out of control. The fact that there are credible threats of sanction if peace is violated means that the communities are better able to trust each other and to cooperate. A number of NGOs and other actors also provided support through development projects addressing some of the underlying causes of conflict. These efforts represented tangible peace dividends and further strengthened the support for peace.

Symbolic and material sources of power and legitimacy

The empirical study illustrates dynamic intersections and interconnections between customary and formal institutions, and how actors in a context of limited state presence can adapt these institutions to suit their purposes and context (cf. Lund 2001). The framework proposed by Hagmann & Péclard draws attention to the fact that negotiation takes place in multiple arenas (2011: 5). From this perspective, the peace process concerning relations and land rights between the Marakwet and Pokot (the object of negotiation) took place in two key negotiation arenas: at the local level in the form of direct talks between the conflict parties, but also in the interactions between the local level and the central state. In turn, the actors involved were able to draw upon different resources – material and

symbolic – to legitimise their roles. At the local level, elders were crucial in the peace process; despite claims that their role has been eroded, they were successfully able to draw upon existing cultural repertoires and their customary roles as community leaders and peacemakers. The ritual elements of the peace ceremony at Kolowa underlined this success of customary authorities in renegotiating their role in the context of legal pluralism. At the same time, the rituals can be viewed as an enactment of local ownership, which was seen as a key legitimisation of the agreement. The role as mediator was played successfully by church representatives, who could draw upon multiple sources of power and legitimacy: their long-standing role in governance in the form of service provision, their steadfast work for peace and development even when many other actors had withdrawn from Kerio Valley at the height of the violence, their autonomy and non-bias, and religious symbols and ceremonies. The importance of religious rituals in building support for, and sustaining, peace should not be underestimated: several interviewees saw it as crucial that ‘God authorised peace’ and some suggested this was more important than the role played by local and political leaders (e.g. Pokot-8 2014 int.). Hence, both customary and religious leaders successfully drew upon symbolic repertoires as sources of power.

Elders and church leaders had tried to promote peace before 2001 without success. However, by all accounts the efforts after Murkutwo were more coordinated and focused on dialogue to a higher extent than previously. The scale of the Murkutwo raid appears to have underlined for both communities that the conflict had become too costly; this resulted in a high motivation to search for a peaceful solution, a fact that in turn constituted a source of leverage for the mediators.¹² Also, the changed tactics by the church, to work for grassroots-based dialogue rather than bringing representatives to remote conference locations, appears to have made its interventions seem more relevant and legitimate to the people involved in the conflict (cf. Eaton’s 2008 critique of

superficial engagements by NGOs involved in the ‘business of peace’). An approach based on local custom gained strength and legitimacy from an ongoing broader process of delegation of authority, which illustrates that the direction that institutional change takes should not be taken for granted. In this sense, the adoption of the Modogashe declaration at the national level institutionalised and legitimised customary conflict regulation mechanisms – an example of the ‘dynamic and, at least partly, undetermined processes of state (de-)construction’ (Hagmann & Péclard 2011: 6) that changed the rules of the game and provided another source of legitimisation for the elders. At the same time, elections were approaching and people may have anticipated regime change (at any rate, there was certainty that Moi’s rule was ending), perhaps providing a new sense of optimism about the viability of peace in the future.

Summing up, the actions and inactions by the central state before 2002 allowed a space for a locally driven dialogue, facilitated by non-state actors, to take place; in a sense, it opened up the negotiation arena at the local level. Local people interviewed in 2014 generally emphasised the importance that the peace process began with the local leaders, the elders, and that support from other actors was then built successively. In turn, the government’s responsiveness after the political transition was important for the longer-run implementation of the Kolowa declaration.

CONCLUSION

The Kerio Valley peace process illustrates how non-state actors can play key roles in the resolution of local violent conflict, and how they can strengthen their position if the central state is unwilling or unable to provide services and security. By tracing the conflict's history and applying the lens of the negotiating statehood framework, the analysis shows how non-state actors gained legitimacy and power which provided a foundation for their role in conflict resolution. As noted in the introduction, the potential role for non-state actors was affected by their previous involvement in local governance, their relation to the conflict actors, and local and national political dynamics. A history of providing important services, as well as a neutral role in relation to the conflict, enabled Catholic Church officials to act as legitimate mediators. Elders and customary conflict resolution mechanisms were empowered both by national processes that led to a stronger recognition of customary law, and by their own ability to draw on symbolic capital.

The case of Kerio Valley underlines how the dominance of the state in governance and peacebuilding should not be taken for granted. Even in Kenya, which has a relatively strong central state apparatus, there are places where other actors perform key governance functions and hence become important in dealing with local conflict; similar examples can be found in Nigeria, Ethiopia and Uganda (Buur & Kyed 2007; Raeymaekers *et al.* 2008). The analysis hence underscores the importance of an empirically grounded and historically anchored approach in explaining the emergence and characteristics of local peacebuilding processes. It underlines the importance of both material and symbolic resources in legitimizing peacemaking, while also underlining how this process takes place in several arenas at once, at both local and national levels. These processes are constantly ongoing. In Kenya, implementation of devolution under the 2010 constitution underscores this fact, as new local institutions are set up and actors at different levels seek to create or

entrench positions of influence. Concurrent with oil exploration and a major development and infrastructure project, the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) corridor, this generates and intensifies conflicts particularly over land, while simultaneously creating new prospects for peacemaking and good governance at local levels (Menkhaus 2015). Through directing attention to the actors, arenas and objects of negotiation, Hagmann & Péclard's framework provides a tool for analysing these developments.

From a policy perspective, the analysis suggests that donors and practitioners should avoid state-centrism and consider the multifaceted character of local governance. Furthermore, analysing empirically the conditions under which non-state actors can serve as legitimate peacemakers becomes important in a broader context where several African states are taking formal measures to delegate local conflict management to customary authorities (Buur & Kyed 2007). Such arrangements have also been adopted in post-conflict transitional justice processes, such as in East Timor, Sierra Leone and Rwanda where customary reconciliation mechanisms were incorporated alongside statutory law (Shaw *et al.* 2010).

This analytical lens may also help explain why the activities of NGOs and other non-state actors are at times unsuccessful or, at worst, counterproductive. Dave Eaton (2008) shows how 'peacebuilding NGOs' working among pastoralist groups in East Africa have often failed to reduce violence or promote lasting peace agreements. As the negotiating statehood framework suggests, attention to the involvement in different aspects of governance over time, and to both symbolic and material sources of power and legitimacy, may help indicate the type of role different organisations and actors can play. Further research should probe the limits of local peacemaking by comparative studies and

by investigating cases where non-state actors have been less successful in promoting conflict resolution.

NOTES

¹. Communal conflict is here defined as violent conflict between non-state groups that are organised along a shared communal identity; the groups involved are not formally organised rebel groups or militias but rather the confrontation takes place along the line of group identities (cf. Brosché & Elfversson 2012).

². As pointed out by many analysts of ‘customary institutions’ in Africa and elsewhere, custom is neither static nor by definition ‘traditional’; instead, it is understood here as procedures that are perceived by local communities as connected to their culture and practice, often in contrast to formal state institutions (cf. Mac Ginty 2008).

³. Recent stricter regulations regarding the funding and activities of NGOs, within the context of new security laws in the face of increased Al-Shabaab activities, may pose a challenge to this development.

⁴. The fieldwork has been approved by the Swedish Ethics Review Board (Etikprövningsnämnden, EPN).

⁵. The translator was a young Marakwet man who was born in the area, but had lived elsewhere since before the time of the worst violence between the communities and had pursued an academic career, which limited the risk that interviewees saw him as partial to the conflict. My own presence generated some attention, especially by children who were thrilled to interact with the ‘mzungu’ (white person), but never in a negative sense but rather people appeared eager to share their experiences and local knowledge.

⁶. Before 1940, there was no recognised ‘Kalenjin community’ or ‘ethnic group’. The formation of such a community was spearheaded by a small group of Nandi and Kipsigis leaders who sought to unite the various Nandi-speaking tribes into a larger and more politically significant community. For a detailed analysis of this process, see Lynch 2011. The Pokot and Marakwet communities are in turn made up of subgroups speaking different dialects. The Marakwet consist of the Markweta, Almo, Endo, Cherangani, Kiptani and/or Borokot (Kipkorir 2008: 1; Moore 1986: 10). The term ‘Marakwet’, generally used to refer to the larger group, is derived from the subgroup ‘Markweta’.

⁷. Many interviewees supported this notion.

⁸. The number cited in different sources ranges from 43 (Report 2014) to 58 (Kamenju *et al.* 2003; KHRC 2001), the absolute majority of them Marakwet villagers.

⁹. The GSU is a paramilitary unit. It has several times faced accusations of voter intimidation and other human rights violations (e.g. Lynch 2011: 108).

¹⁰. Different respondents give slightly different accounts of the initiation of this dialogue process; some emphasise that the initiative came from the elders, whether others suggest the CJPC actively took on the role as facilitator. However, Catholic Church officials themselves emphasised that they only began to mediate after they were asked by the communities to do so (e.g. Korir 2009: 2).

¹¹. I was able to attend such a meeting during fieldwork. It was held under a tree close to the river, east of Chesongoch, and was attended by around 40 Pokot and 30 Marakwet men. The meeting was convened and presided over by the local Assistant Chief, as part of his regular duties. Different elders took turns to speak; the one who currently had the word would stand up, holding a walking stick. The main issues discussed at the meeting were grazing rights, cases of stolen or missing cattle, and the question of schooling for Pokot children (Marakwet men urging their Pokot counterparts to send the children to school rather than keep them at home to help with the cattle). The discussions included heated arguments as well as jokes and laughter.

¹². In his work on 'ripeness', Zartman emphasises that the existence of a mutually hurting stalemate or a ripe moment for negotiations does not automatically predict neither the onset, nor the success, of negotiations; rather, the moment must be seized and nurtured by conflict parties and mediators.

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FIGURES

Figure I. Map of the case study area within Kenya. Created using Google Maps.

