

**Putting Hate Speech in Context:
Observations on Speech, Power, and Violence in Kenya**

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When I visited Kenya in August 2008 many people expressed their high hopes for Barack Obama in the upcoming election and for close U.S./Kenyan relations afterwards. But they also spoke about their fears. Many were convinced that Obama could be attacked or killed during the campaign. They anticipated violence to follow if he won, or if he lost. Their views of the election were framed by their experiences of multiple forms of post-election violence in Kenya just 8 months prior, which had left over 1000 individuals dead and perhaps half a million displaced.¹ I tried to calm their fears by noting that measures were in place to protect the candidates. But I found my own fears rising. As the election neared, U.S. political discourse began to resemble that heard in Kenya prior to the 2007 election: strongly partisan media, especially on talk radio but also on mainstream television channels. Public discourse included denigrating depictions of candidates, especially Obama, who was targeted through negative euphemistic references to “his background” and insulting puns and wordplays, like Osama/Obama and NObama. After election day, when friends in Kenya sent me emails expressing relief that no violence had broken out, I realized that I too was relieved.

I venture to say that analysts rarely compare the Kenyan election of 2007 to the U.S. election of 2008. Rather, the Kenyan election is compared to elections and political transformations that witnessed hateful speech and extreme violence. Initially, the violence in Kenya was described as a revolt against disputed election results, but when

observers began to identify ethnic patterns to the violence, the comparisons to the Rwandan genocide flowed swiftly through the international media. Although some of the hate messages sent around in Kenya urged adherents to treat their opponents “like Rwanda”, the neighboring nations are so different in terms of history, ethnicity, and politics that Kenyan journalists and other close observers rejected the comparison to Rwanda and sought to make sense of violence that had deep roots in Kenyan politics, social relations, and history.

In both Kenya and Rwanda hate speech had been broadcast over vernacular (local language) radio and other media, yet among the many differences between the two conflicts was the extensive use of SMS (also known as text messages) to communicate hate in Kenya. This exploitation of new media quickly became emblematic of the Kenyan conflict. The extensive media and scholarly attention to this shocking use of text messaging in the midst of violence perhaps over-emphasized the role it may have played in causing or furthering the violence among Kenyans. Hate speech in its many forms--text messages, radio broadcasts, leaflets, and speeches--certainly had multiple effects as the conflict unfolded; it likely incited individuals to use violence, galvanized groups against one another, and injured many of those who heard it. However, as the numerous reports and commentaries on the election violence note, these instances of hateful speech should not be confused with the root causes of the Kenyan conflict, which lie in the disputed election (and previous electoral disputes), inequality, economic decline, and long-standing conflicts over land and political power (see, e.g., Kiai (this collection); KNCHR 2008).

Given the prominence of negative speech in the Kenyan conflict, any analysis of the case requires attention to the relations among speech, power, and violence characterizing the situation, even as it must resist the tendency to assume that hate speech caused the violence. Rather, the precise role played by hate speech is best explored in context. Only through appreciating the contextual specificity of speech in relation to violence in the Kenyan case and others can the implications for prevention, redress, and reconciliation be determined. Responses taken in Rwanda for instance, such as prosecutions for incitement through hate speech or criminalizing the use of ethnic terms, might be less effective in the Kenyan context. Accordingly, my discussion focuses on the role of local context in shaping the effects and implications of hate speech. In the next section I briefly describe the circumstances of the 2007 Kenyan election violence and the claims made about the role of hate speech in particular. A subsequent section offers a theoretical approach to speech, power, and violence that emphasizes context as shaping the meaning and implications of speech. The paper continues with several observations about the history of speech, power, and violence in Kenya in order to highlight how specific features of the local context might shape the development of appropriate and effective approaches to redress, reconciliation, and prevention. Analyses designed to illuminate the role of speech in extreme violence should examine features of local context--including histories of speech, power, and violence as presented below--in order to avoid comparisons that gloss over significant differences and thus to develop more effective techniques of prevention of violence or responses in its aftermath.

Speech, Power, and Violence in the 2007 Kenyan Election

The numerous reports by national and international organizations that document the threatening atmosphere and violence before, during, and after the election all mention the role of hate speech as a feature of the conflict (see, e.g., Bayne 2008; EU 2008; IREC 2008; Kiai (this collection); KNCHR 2007, 2008). The rhetoric of politicians and political operatives prior to the election made it clear that voters should organize along ethnic lines and defend ethnic interests, a tactic also used in the 2002 election.² The public discourse, including by leaders, allowed voters to take for granted that ethnicity would be a significant factor in the elections. Some of the political rhetoric went beyond identifying groups and their interests to denigrating particular ethnicities by using familiar stereotypes of their qualities or behaviors, such as laziness, acquisitiveness, and callousness. Other papers in this collection confirm that when leaders (political, military, religious, or other) produce this kind of speech, and thereby make it acceptable for public discourse, their actions can be highly influential and can open the door for other, more nefarious ethnic slurs and intimidation.

In Kenya, vernacular radio stations allowed the broadcast of messages that directly incited ethnic hatred and perhaps violent action (for discussions of the role of media in the violence, see, e.g., Gachigua 2008; Ismail and Deane 2008; Mwalongo 2008). The key infraction seems to be that inexperienced announcers allowed callers to vent their views and plans on the open airwaves. Sometimes the language was veiled, sometimes not. In some instances, the stations were controlled by political operatives. Commentators

have argued that these messages gained special legitimacy through being broadcast over the radio, which is a particularly valued and authoritative technology. The claim is made by some that these broadcasts spurred people to violent action who might otherwise have stood on the sidelines.

Text messages spread hateful views rapidly and may have helped leaders to enact plans for violence on a large scale. The public was bombarded not just with hateful and derogatory depictions of politicians and of ethnic groups but also with the idea that it was acceptable to express hatred electronically and to share that expression much more widely than would be possible for an ordinary individual prior to the advent of this new medium. Pervasive texting of negative speech also allowed for the participation of Kenyans living in the diaspora, who might have had less involvement in, and impact on, all aspects of the election.

The distressing conclusion of many of the reports is that some instances of violent behavior were likely motivated by encounters with hateful speech in the form of political addresses, radio, and text messages. In the months before the election, leaders in Kenyan civil society called attention to the growing rhetoric of hate. They feared that it was an indication of the potential for violence and that, if not stopped and sanctioned, could contribute to violence on a massive scale. The possibility that a precursor of violence was identified yet not addressed in a way that prevented conflict is a disturbing legacy of the Kenyan situation that begs questions: Was the opportunity to prevent conflict missed when government officials and civil society failed to intervene in the early dissemination

of hate speech? What efforts, if any, would have made a difference? Answering these and the other pressing questions that underpin future prevention, redress, and reconciliation requires looking more deeply into contextual features of the situation. A discussion of theory helps point toward the areas of context that might be relevant to the Kenyan case and others.

Theorizing Context in Relation to Speech, Power, and Violence

In order to even begin to think about prevention of violence through prohibiting hate speech, we need to identify the phenomenon at issue. Hate speech, hateful speech, and negative speech, as used above, are general terms for epithets, ethnic slurs, insulting language, name-calling, derogatory references, inciteful speech, and many other forms of language that marginalize and denigrate. But defining hate speech precisely is a tricky problem. The very same phrase that one might use in a self-deprecating joke can be heard as denigrating when uttered by someone of a different ethnicity. Joking about ethnicity is more common in some societies than others and can take different forms depending on the cultural and linguistic conventions that guide both humor and insult. Kenyan humor is legendary. Clever punning, wordplay, and use of code-switching and accents often make fun using ethnic themes. Some of the most well-respected Kenyan humorists wield phrases—such as “son of the slopes”—that, when uttered by others, could be heard either as ethnic pride in originating from a particular mountainous area or as a denunciation of those not sharing the ethnic affiliation.³ Identical phrases move from in-group humor to out-group castigation or threat along a continuum tracking the speaker’s intention. Does a

societal tendency to joke about ethnicity make it easier to produce ethnic slurs or ethnic violence? Or does it simply make it harder to identify the truly injurious utterances or relatedly those that promote violence? Such joking is certainly evidence that, in Kenya and elsewhere, people are capable of a variety of expressions about ethnicity, and that many of those fall short of hatred.

Intent to harm is behind most legal definitions of hate speech. If someone is joking, they're joking, but mounting a call to violence against others is clearly something different. However, a simple continuum with innocent uses of language about ethnic affiliation on one end and hateful speech uttered with intent to incite harm against a group on the other end becomes much more complicated once violence or the credible threat of violence forms the context for speech. Very simple statements, such as "I am a son of the slopes" uttered in the midst of killing on the basis of ethnicity, become extraordinarily powerful and mean something altogether different from their use in more peaceful times. Certainly no longer humorous, and possibly threatening, "I am a son of the slopes" begs questions, such as: "Are you?" "And if you are, what are you going to do about it?" Even seemingly benign language can contribute to fueling violence once violence has already started and the context for hearing and interpreting is far from ordinary. My point here is that intent, though a good guide to most harmful instances of speech, is only one aspect determining the role of language in relation to violence. The power of particular utterances, including their power to incite or justify violence, is shaped by the context in which those utterances are spoken. Certain utterances achieve terrifying power, in the right context. In a climate of ethnic animosity, statements of

ethnic pride are indistinguishable from insults against one's opponents. And the converse is also true: even the most hateful or inciteful speech remains benign, if it has no audience or if its audience is firmly and explicitly determined to keep the peace.

To acknowledge that the power of certain utterances varies depending on the context is not a trivial observation. Communications, especially in situations of ethnic, political, class, and gender diversity, are complex and fluid endeavors. In Kenya and elsewhere, language is integral to the construction of these categories and constitutive of relations of identity and difference (see, e.g., Foucault 1980; Yieke 2008). The attribution of a negative characteristic to a politician hailing from a particular ethnic group positions oneself (one's own ethnic group, and the politicians from one's group) as possessing more positive traits. Yieke (2008) documents how utterances that urged people from particular ethnic groups to return to their region of origin expressed a "politics of inclusion and exclusion" that related directly to longstanding land disputes and the movement of ethnic groups. Certain references were not newly invented for the election violence but rather resembled statements made about people from surrounding nations who had entered Kenya as refugees or economic migrants and were no longer welcome. These individuals--castigated as "foreigners" and "visitors"--were clearly positioned as having no entitlement to Kenyan residence. Using such terms in reference to Kenyan citizens has the effect of suggesting that they too can be disenfranchised from civil rights, land, residence, and even identity as Kenyans. Note here that seemingly ordinary terms such as foreigner and visitor gain hurtful power when used in a context of xenophobia or ethnic mobilization.

Those who engaged in negative speech during the 2007 election violence voiced not just the well-worn and familiar stereotypes of commonly circulating ethnic jokes about lazy or lascivious politicians, but they also used cold, dehumanizing language. They called people “spots” or “weeds” that needed to be cleansed or pulled out. They referred to people as animals (e.g., mongoose) or insects (see, e.g., Mwalongo 2008). The use of dehumanizing epithets, as well as the refusal to speak of certain groups of people as humans, are key indicators that groups in conflict may have become locked in axiological opposition (Rothbart and Bartlett 2007). The rationale implicit in the use of dehumanizing, value-laden language is: “We are the good and they are the evil. We are the people and they are the animals. We are the worthy and they are the killable.” Such dualistic rhetoric tends to be an indicator that significant violence is possible. Some uses of dehumanizing language may operate as fighting words that incite violence in self-defense by those who experience insult and threat. Relatedly, these words also offer an ideological justification for those--either speaker or hearer--who might engage in physical violence. As an aside, for words to cause or justify violence, that is, to have a specific effect, technologies of violence must also exist. Words alone may heighten emotions, but when people decide to engage in violence they must have the tools (even rudimentary) and the organization (even haphazard) to do so. Case studies continue to provide insight into the conditions that give rise to massive violence.

The hardening of oppositional perspectives, especially the use of dehumanizing language, presents a moment ripe for intervening to prevent violence. Prior to the Rwandan

genocide, extensive radio broadcasts using dehumanized images served to indoctrinate some of those who carried out the violence. Such uses of language offer a key warning sign that the groups might be poised for violence. But with respect to Kenya apparently axiological hate speech has a rather shallow history. Strict dualistic oppositions have been relevant in certain moments or contexts, such as the famous rivalries between Kikuyu and Luo or Kalenjin and Kikuyu. However, the multiplicity of groups and a history of cross-cutting alliances has meant that axiological dehumanization has never been sustained on a large scale or over time (Harnett-Sievers and Peters 2008). This important aspect of the Kenyan context should be appreciated. The presence of political coalition-building means that Kenya also has a history of co-operation across ethnic and linguistic lines of difference, a point to which I will return.

Instances of speech that directly advocated violence, including violence against people from particular ethnic groups, also occurred during the Kenyan conflict. Leaflets and radio messages urged people to use violence against others. These were unambiguous criminal acts that demanded government intervention, including through Section 96 of the Kenyan Penal Code which outlaws (among other acts) language calculated to bring death or injury to any person or community of persons (Kenyan Police Sets Up Center to Monitor Hate Speech 2007). Those who produced such speech while having the means to unleash large-scale violence are arguably responsible for the crime mentioned above as well as crimes against humanity. As other contributors to this collection argue, whether those who speak the words of hate also hold positions of power is crucially important in

determining the potential effects of those words and ultimately the extent of the speaker's culpability.

Although many uses of negative ethnic speech may not have risen to the legal level of incitement of physical violence, it is important not to underestimate or diminish the “violence” that hateful speech can do to relationships among people. Even in instances where physical violence did not occur, hateful speech likely created deep societal and interpersonal ruptures. These debilitating effects will need to be attended to in the aftermath of the violence, even if the relation between hate speech and violence is not viewed as directly causal.

Some have called on the Kenyan government to criminalize hate speech well beyond instances of speech that make clear calls for violence (see, e.g., Mute 2008). The debates over this strategy, which have been extensive, turn in part on the difficulty of defining hate speech and distinguishing it from similar utterances, as described above. But other factors should also be considered before drawing conclusions about what might be done toward prevention or remedy.

Three Histories of Speech, Violence, and Power in Kenya

The three brief histories below chart relations among speech, power, and violence in Kenya in the areas of language about ethnicity, government power over and control of expression, and speech and violence in the sphere of gender relations. They are intended

to provide a richer context for examining the 2007 election violence. These observations might also illuminate the relative efficacy of particular remedies, such as criminalizing hate speech, prosecuting leaders who promoted hate, or engaging the citizenry in dialogues about ethnicity.

The history of speech about ethnicity in Kenya has seen dramatic shifts. In the 1980s ethnicity was not an overt public discourse. Newspapers and broadcast journalists never mentioned tribal affiliations. One's ethnic affiliation was not a topic for interpersonal conversation, except among intimates. The government prohibited most groups of people from narrating their experiences as ethnic histories, such as the loss of land under colonialism or political disenfranchisement in the post-colonial era. Recounting most ethnic histories was difficult, and overt expressions of ethnic pride had little place in a public sphere that had rendered them subversive. Covert references to the ethnicity of oneself and others was, however, quite common depending on the circumstances. If ethnic references might advantage a person, they were marked, and ethnicity was frequently the subject of euphemism and joking as previously described. The discourse of ethnicity shifted in the 1990s, when violent clashes emerged along ethnic lines and resulted in thousands of deaths and displacements. Ample evidence confirms much of the violence was engineered by powerful leaders seeking to divide the population, gain access to resources, and solidify control. When these clashes broke out, the language of ethnicity did as well. Ethnic groups and ethnicity were targeted for blame (as was multiparty democracy), and the decades of silencing ethnic histories, ethnic pride, as well as negative speech seemed far away.

This recent history of language about ethnicity helps to make sense of the hate speech that accompanied the election violence in 2007. Kenya has been characterized by very limited multi-ethnic public space for positive expressions of ethnic affiliation or, relatedly, for the overt negotiation of ethnic relations and the meaning of ethnicity in the post-colonial nation. Most of the positive speech about ethnicity has occurred in intra-group contexts (such as vernacular theater, radio, and publications) and any broader public discussion has emphasized the negative. This has meant that key questions have never been posed: What is the basis of ethnic differences? Is ethnicity merely one among many forms of identification that bind and separate Kenyans? What are the alternatives to ethnic politics? With respect to this last question, Kenyans have repeatedly crossed ethnic lines to form political coalitions. Yet multi-ethnic political strategizing has not led to an open or transformational national discussion of the role of ethnicity. Young Kenyans, especially those living in multi-ethnic contexts, are struggling to position themselves in relation to ethnicity. An article titled “When You Google ‘I Hate Kikuyus’”, offers numerous postings from Kenyans writing about prejudices and hatreds but also feelings of uncertainty and anger at the role ethnicity has played in their lives. They express a desire to belong and also guilt in taking pride in family and background. Some reject violence, while others embrace it. A few reveal keen understanding of how ethnicity has been used as a tool of political manipulation. This short piece in a progressive journal suggests that perhaps the world wide web offers a nascent public sphere in which a national conversation about ethnicity that has yet to happen might somehow be forged.

The second history is that of a more general Kenyan government control of expression, especially political expression. To the extent that the recounting of certain ethnic group histories was seen as a threat to the state (e.g., those that alleged bad treatment by the post-colonial government), these would fall under the category of speech that was heavily regulated. Throughout the regime of Kenya's second President, Daniel arap Moi, many actions of political expression were treated as criminal, such as political organizing, meetings between potential political allies, and leaflets outlining political agendas. After the attempted coup in 1982, severe repression of political opposition ensued. Among those rounded up were lawyers, journalists, educators, and opposition politicians. The silencing of dissent was pervasive; even uttering the President's name put one in danger. After so much repressive silencing the bursting out of multi-party political campaigns--and political speech--in the late 1990s must have felt liberatory to many.

My argument is not that after a period of state repression people grabbed the chance to speak and said everything that had been bottled up, including hateful speech. I am suggesting the more complex argument that Kenya has a history of forbidding speech. Political repression of speech has created a situation in which the very act of saying the unsayable can be stimulating and politically resonant. Breaking speech barriers is, for Kenyans who have experienced silencing, a means of crossing a line, of rejecting the silencing rule of a corrupt state, of transgressing norms. Bold and outrageous speech symbolizes that the status quo is no longer acceptable and that rules can be ignored or defied. When these rules have been oppressive, then uttering speech that subverts them might feel productive and justified. This kind of argument helps me to explain why so

many individual Kenyans might have been caught up in sharing hate-filled messages and what might have motivated them to forward a disgusting SMS message or to write a hateful blog. Transgressing norms of speech and decency might have been among the ways of expressing deep frustration at a political and economic situation stagnated by corruption and oppression.

The third relevant history concerns speech, violence, and gender relations. Gender violence, including rape, hate speech, and genital mutilation, occurred as part of the 2007 election violence in Kenya, but it has been difficult to determine the dimensions. Especially in the days after the height of the violence there was considerable silence and silencing about sexual assault. Some would say it was thugs taking advantage of the situation rather than the systematic denigration of women, whether along political or ethnic lines.

The history of derogatory public expressions about women is not unrelated to the violence that happened around the election and to the emergence of ethnic hate speech. Similar to much of the rest of the world, Kenyan media includes pornographic images and discussions that are demeaning to and dehumanizing of women. Pervasive derogatory language offers the message that such speech is acceptable treatment of fellow Kenyans.

Some epithets combine gender discrimination with ethnicentrism. Specifically, those epithets that comment on the suitability of a political candidate depending on whether he had been circumcised or not addresses both ethnic and gender relations of power. When

people are criticized for their lack of circumcision as evidence of their demeaned ethnicity, the insult is as much targeting masculinity as ethnicity. A history of sexist use of language makes that terrain of insult more readily available and makes certain ethnic slurs doubly demeaning. Ndungu (2008:120) argues that before any fundamental changes are introduced in the wake of the election violence, reforming gender relations, specifically directing attention to the crisis of masculinity caused by unemployment that has precluded men from sculpting a masculine identity around productive employment (perhaps rather than ethnic prowess), must also take place.

These three histories further delineate the dimensions of the threat that hateful speech itself can pose and its relation to violence in the Kenyan context. As the concluding section suggests, those developing approaches to prevention or remedy would do well to consider these aspects of the local context.

Conclusion

In the aftermath of the election violence of 2007 and in preparation for upcoming electoral activities, Kenyan human rights organizations have called for broad scale political and economic reforms designed to address the root causes of the conflict. Responses from the government have been slower than many local and international observers would prefer. Though very difficult to achieve, reforms targeting political corruption, the abuse of military and police power, economic inequality, and a broken social contract are necessary to achieve long term national stability. At the same time

reforms targeting hate speech might be usefully addressed as a secondary goal. Given the histories recounted above, redress and reconciliation in the wake of hate speech might be pursued through three areas for action.

First, analysts, academics, government officials, and rights workers will want to revisit those instances when dehumanizing speech was used and seemed to be followed by direct violence. They may want to assess whether any particular type of intervention--the phone company's decision to counter the speech with messages of tolerance (e.g., Kenya: One Nation, One People) or compelling local leaders to denounce egregious utterances--might have been effective in pre-empting the violence and in handling future instances.

Second, as mentioned previously, human rights groups have called for additional regulation of hate speech. The call to limit expression does not sit well in a place where the criminalization of many forms of political speech has been a major strategy of repression. These recommendations are being given careful consideration, and the hesitancy is warranted. Regulating hate speech that falls short of advocating violence might be a deterrent to many undesirable activities but the costs could be high. Such regulations could be misused to silence opposition or could have a generally chilling effect on political and social discourse. Kenyan human rights groups tried to pass hate speech law prior to the election and Parliament turned it down. Politicians and members of the public expressed real concern about closing options for political expression. This may have been a missed opportunity, but the violence might have been more severe in the

face of limits on expression by a government with a history of political repression. And this might still be the case.

Kenyans will need to work out whether additional regulation is needed and whether to pursue it through the Constitution, new laws, international bodies, or some other approach. Here the comparison with the United States might be instructive. For the most part the U.S. has limited the legal regulation of hate speech. (European nations are much more explicit in their limits on certain topics.) But, as the experience of trying to regulate hate speech on U.S. college campuses has shown, the effort to develop new law in this area led to a vigorous debate that was productive in changing social norms. Even though the Supreme Court struck down college regulations of hate speech, campuses themselves institutionalized and experienced greater degrees of tolerance. Having the national debate over the laws may have made law unnecessary; in the process of debating, new norms emerged (Gould 2005). It may be that the current discussions of hate speech and legal regulation in Kenya may shift public norms.

As a final area for action, activities could be designed to broaden the public space for discussing ethnicity in productive ways. Dialogues, media presentations, and the recounting of histories of inter-ethnic cooperation could all be considered. In the wake of the violence, none of these are easy to pursue and might not be possible until more time has passed. But, for instance, a national dialogue on ethnic relations could be a useful parallel to addressing root causes as described above. Relatedly, efforts toward post-violence remedies, including reconciliation among groups, should include an explicit

discussion of the relations among speech, power, and violence and the context and histories behind the recent expressions of hate. Kenya is not alone in needing such a conversation; the United States and other nations would benefit from attention to the power of hateful language to effect violence in various forms.

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¹ Ndungu identifies five distinct types of violence that characterized the Kenyan situation in 2007. These included 1) Spontaneous outrage and protest against a result perceived to be massively flawed; 2) Organized and orchestrated violence; 3) Revenge attacks; 4) Police violence and excessive use of force; 5) Criminal gangs and general lawlessness (Ndungu 2008).

² History of ethnic relations. Presidents, ethnic groups, voting. Citations.

³ The reference “son of the slopes” is a version of veiled ethnic joking used by the beloved Kenyan humorist and political activist, Wahome Mutahi, to raise consciousness about ethnocentrism and political oppression.