

Dislocated Narratives and Kenyan Life Fragments: political violence, nationhood, and *justice in flux*

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After Mboya¹, Kenya's official languages: English, Kiswahili, and Silence... There was also memory... No one would emerge to ask after men who had been erased. It was as if they had never been born... But there was also memory."²

'We can't say we are safe here. Even that day, we thought we were very safe.'

Starting in the last week of 2007, violence engulfs Kenya, as the results of the presidential elections that opposed the incumbent Mwai Kibaki to his challenger Raila Odinga are announced. After an early Odinga lead in the tally of votes, the electoral commission later proclaimed Kibaki as the winner. What then started as spontaneous protests and rioting in Odinga's stronghold in the Nyanza Province soon became more organized and widespread. These attacks initially targeted ethnic groups – mostly Kikuyus – seen as supporters of Kibaki, and revenge attacks led by the Kikuyu *Mungiki* gangs and other youth against ethnic groups perceived as supporters of Odinga – mostly Luos and Kalenjins. The post-electoral violence killed over 1,300 people and displaced over 600,000 Kenyans from their homes. An estimated 78,000 houses were burnt.⁴

In Kiambaa, a small village on the outskirts of Eldoret, in the Kalenjin-dominated Rift Valley, dozens of Kikuyu families had sought refuge in a church, the Kenya Assemblies of God (KAG). Then, a mob showed up, barricaded them inside the building, pulled out cans of gasoline, and set them on fire. Dozens were burned to death. That was New Year's Day, 2008. On the February morning in 2016 when I set out to visit the church site, almost everyone I talked to in Eldoret tried to discourage me from doing so, and politely refused to give me clear indication on how I may find the site. The location is not on Google Maps. After two hours of walking on muddy streets in Kiambaa – it had rained the previous two nights and the streets were literally

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¹ Tom Mboya – an ethnic Luo – was a trade unionist and charismatic political leader. His assassination in 1969 sparked riots in Kenya, pitting the Luo and Kikuyu communities against each other. Many Luos saw Jomo Kenyatta's hand in Mboya's assassination.

² Owuor, Yvonne Adhiambo (2014). *Dust*. Knopf, pp. 273-74.

⁴ Truth, Reconciliation, and Justice Commission of Kenya, 'Final Report', 2013.

swampy with red mud – I came across Victor Nderitu, a Kikuyu moto taxi driver – and, I would later learn, an operator of a small pig farm – who agreed to take me there for a fee.⁵



We arrived at the site. The KAG church was no more. It is now a cemetery, a burial ground. A short wall in front and a chained gate at the entrance, wires around the rest of the plot. Two headstones with the names, dates of birth, and death of the people buried there:

SAMMY.IRUNGU.GITHUKU
BORN 27/10/2003 DIED 1/1/2008
KAG FIRE VICTIM.

Sammy was a child.

⁵ These interviews were conducted by the author in Nairobi, Nakuru, Eldoret, Kiambaa, and Kisumu, between January and April 2016. The names of the respondents have been changed, because of the sensitivity of the issues discussed and their safety concerns.

EDITH.MUMBI.GITHUKU
BORN 3/1/1964 DIED 1/1/2008
K.A.G. FIRE VICTIM.

Edith was a mother.

A few wooden crosses lie flat on the ground – UNKNOWN – They are spread around the plot. There is no commemorative stele, no memorial, and no monument to witness this history. These crosses are the only testament, the burden on the conscience of the living, the safeguard of the events that happened in that church on that morning. In her novel, *Dust*, Yvonne Adhiambo Owuor reminds us that there is memory. In Kenya, there are silences, but also murmurs. Kenya's official languages: English, Kiswahili, and Silence. *Dust* weaves into those silences, the murmurs and the ghosts of Kenya's political violence over decades, wherein sinuous and overlapping timelines evocate tragic events from the colonial period to the last days of December 2007, when the country was tearing itself apart – once again.





I ask Victor whether he would be willing to speak to me about his recollection of the events on that fateful first day of the year 2008. He says:

The victims, they came to hide in the church. It was like 10 am. So men went away to find food, to find work. But the women and children were here in the church. So all of the sudden, there are warriors who came burn down the place... So the people who burn this church they were the people from the neighboring village... First of all, [my family] ran away from that place where we were staying. But we didn't come to this church. We went to a school down there, a Catholic school. So we went to hide there for three days. After that we went to Showgrounds. So we stayed there for one year. After that we went to a camp in Naivasha. I finished Class 8 in that camp.⁶

Victor came back to Kiambaa three years ago, alone, while his family has resettled in Elgon View, not far from Eldoret. I ask him whether he feels safe living in Kiambaa now. He replies:

We can't say we are safe here. Even that day, we thought that we were very safe. But all the sudden we started hearing screaming, screaming, and [there was] smoke. I don't think the violence will start again, but although it will not start – you know Kikuyus and Kalenjins are now one thing, they are friends. What I mean by that is *politically*. The

⁶ Interview with Victor Nderitu. Kiambaa, 10 March 2016.

people, the Kalenjins, are regretting [what they did here]. They say those who burned the church, burned the houses, in Kalenjini, burning the houses is a curse. When you burn a house you are cursed. So these guys had a covenant with the elders. The elders told them, go and chase the strangers...because you know this is Rift Valley, and these farms are for the Kalenjins, long time ago. They said they should go and kill *men*. But these guys came and killed women and children. So that was a curse. So many of them are mad, many died...⁷

While riding the motorcycle on these treacherous muddy streets on the way back to the main road, Victor tells me that they love the mud here. 'It's good for farming,' he adds, before laughing out loud when I said that in Senegal, my home country, our economy is mainly based on fishing and tourism – without the wildlife.

Dislocated and (In)Visible identities: where's the homeland?

In Eldoret, James Kiplagat, who operates a guesthouse through Air BnB where many researchers and journalists descend following – or in anticipation of – episodes of electoral violence, tells me, 'you know, the Europeans and Americans don't know Africa, they don't know Kenya. You know, people are poor here, so they would do anything to get some money. They would claim that they are [Internally Displaced Persons (IDPs)] just to get money. But nobody chased them. That's just false stories.' I suspect James is lumping me in the group of 'Europeans and Americans' who do not know Africa. I'm from Senegal, where I was born and grew up. Although I have been living in the US for the past 15 years, I claim Senegal as my home. But I travelled to Kenya with my American passport, because I could get a visa on arrival at Jomo Kenyatta International Airport. As a Senegalese, my visa application would have to be sent all the way to Nairobi for approval from the Director of Immigration Services. Senegalese citizens do not go on safari, so why bother making it easy for them to travel to Kenya?

As a student of international politics, my overlapping identities as a Senegalese, an African, an American citizen, a western based scholar, have different resonances with conducting research on political violence in Kenya. I came to this specific research project via bifurcation. In fact, when starting graduate studies, I refused to study comparative politics, or area studies, in spite of – or because of – my background. My stance was meant as a defiant position against academic expectations and conventions that I must or should study and conduct research on my *home*. I opted for international relations instead of area studies, African or Senegalese politics. But writing a dissertation on the politics of international justice, and focusing on the International Criminal Court (ICC) meant that Africa, and specifically, Kenya, had to be on my path. Also, not being a Kenyan meant that I would be perceived as neutral by the parties in the conflict in Kenya, but also I could be spoken to occasionally as an 'African brother.'

The eruption of violence in Kenya was the culmination of unresolved social, economic, and political grievances which seeds were planted during the British colonial period. We often assume that in modern nation-states, citizens are free to settle and strive in any part of their country. Yet, eruptions of political violence are reminders that nationhood and belonging are

⁷ *ibid.*

permeated with exclusionary citizenship. Kenya's political landscape is in fact a patchwork of former provinces where during episodes of crisis some Kenyans are welcomed while others are chased back to their 'ancestral homeland,' a concept that is carved into the national map and discourse, and tagged to specific identities. The instances of political violence tell us that such construction of nationhood is but a tenuous narrative permeated by murmurs, silences, and memories of displacement.

Massive displacement has punctuated Kenyan political and economic development, whether in the aftermath of political or ethnic violence, land grabbing, development projects, or wildlife preservation efforts. Over decades, the IDP camps have indeed become emerging spaces of marginalized communities. Those displaced are almost always among the poorest and most vulnerable in the nation, even prior to their displacement, which explains that in Nairobi, the 2007-08 victims were exclusively located in the slums. 'That night,' Owuor writes, 'in a furtive ceremony, beneath a half moon, a chubby man will mutter an oath that will render him the president of a burning, dying country.'

In the city of Nairobi, during the early days of the post-electoral violence, the dislocated sought refuge in public parks, stadiums, church grounds, and police stations. Elsewhere around the country, disenfranchised communities set up their camps by the main roads, such as the Nairobi-Nakuru highway, making themselves visible. Many among the displaced did not feel safe to return home, so they formed self-help groups, pulling together their grant money to buy land and resettle themselves elsewhere. More than eight years after the events, other victims of the violence are still in limbo, living in transitional or semi-permanent camps, waiting to be compensated and resettled by the government.

But there is also an ethnic dimension to dislocation, displacement, and IDP identity. When the violence erupted, those who went to the camps and lived under tents were mostly Kikuyus, who were expelled or fled from the Kalenjin 'homeland' in the Rift Valley towards the Central Province, the Kikuyu ancestral 'homeland.' Because the IDPs in camps were mostly Kikuyu, the idea became that Kikuyus were the main victims. It is in this context that a vocabulary of displaced identity emerged, wherein the Luos who went back to Nyanza Province were labelled as 'returnees,' rather than IDPs, and many Kalenjins who went and lived with relatives were called 'integrated IDPs.'

Having roots planted in an area, an ancestral homeland, tends to be a place where one can revert to in times of crisis, or be forced to return to. However, these ancestral homes that are tied to singular ethnicities result from narratives and practices implemented by the British colonial domination. In an attempt to control the land and its resources and to administer its occupants, the British colonial administration set off motions that redrew the Kenyan map by forcibly displacing not only individuals but also ethnic communities and resettling them elsewhere. For instance, British settlers took over the farming lands in the White Highlands, forcing many Kikuyus to leave, in search of new farming land and because of the imposed taxes. Many of them settled in the Rift Valley. To this day, Kenyans refer to these generations of Kikuyus that have settled outside of the Central Province as 'diaspora Kikuyus.'⁸

The usage of expressions such as 'diaspora Kikuyus' highlights discursive practices and

⁸ See Wamai, Njoki (2014): 'First Contact with the Field: Experiences of an Early Career Researcher in the Context of National and International Politics in Kenya,' *Journal of Human Rights Practice*, p. 6.
DOI:10.1093/jhuman/huu012

narratives that have survived their colonial legacy and still shape the understanding of how Kenyan citizenship is a negotiated construct across different provinces. Such discursive practices are also significant in the negotiated relationships between the ‘hosts’ and the ‘newcomers,’ thus creating a national map that is permeated by narratives of belonging and tolerated presence. This map of ethnic communities was enshrined at independence in the 1963 Constitution, referred to as the Majimbo (provinces) constitution because it established a system of governance divided into 8 provinces tied to ethnic communities. But today, as in the past, not everyone in Kenya has a home – beyond the place where they actually reside. Therefore, the idea of ancestral homeland, although being present in the national and collective discourse, is muddled when confronted by individual narratives. This contestation and renegotiation of belonging or being rooted to an ancestral homeland is exemplified by the conversations I had with many Kenyans in the aftermath of the 2007-08 post-electoral violence. As Samuel Irungu explains:

Kikuyus’ homeland was the White Highlands; they were displaced from there by the British. Some of them relocated to the Kalenjin areas, thus viewed as strangers. When the British left, those lands were re-attributed to members of the elites, the former land owners remained landless. For many Kikuyus, there is not really a ‘home’ in the sense that there is one for the Kalenjins. For many Kikuyus, when they move to somewhere else, they are gone. They look for new opportunities in their new locations and they establish themselves there. For instance, if I was evicted from Nairobi, I do not really have a home to go back to. So there is also an economic dimension to the explanation that many Kikuyus were in tents during the [post-electoral violence], unlike many Kalenjins who went home or were taken in by extended families.⁹

While Samuel Irungu, a well-traveled university lecturer, was making that statement in Nairobi, I was thinking about another conversation I had with a local Kalenjin journalist in Eldoret, the epicenter of the post-electoral violence, in the Rift Valley. According to David Kiprotich:

Some of these things are affected by culture. For us, Kalenjin, you cannot live in isolation. Even if you went to America, you know where you belong. So if anything happens to you, you go back to your land, to your relatives. So when this thing happened [the 2007-08 post-electoral violence], no Kalenjin stayed in a [IDP] tent because their culture does not allow that. You go to your relatives; you are welcomed there...But the Kikuyus stayed in the camps. Even when their relative dies, they bury them in a municipal cemetery and all that. Kalenjins do not do that. You must be brought home.¹⁰

‘We call ourselves New Canaan Village... This is home now.’

Eight years later, one of the most visible scars of the post-electoral violence is the displacement and re-settlement – or lack thereof – of the victims. In Nakuru’s Pipeline IDP camp, along the

⁹ Interview with the author. Nairobi, March 2016

¹⁰ Interview with Kavid Kiprotich, Nakuru, March 2016,

Nairobi-Nakuru highway, I sought to understand how the victims of the violence explain its causes and where they situate the responsibilities. Peter Kariuki, a resident of the camp, says:

Our friends the Kalenjins are very stupid. They are our friends but very stupid. Once you plant hatred in their minds, all they can think of is war and nothing else. I have kids in school. A boy in college and two others in high school. Will I think of how to pay school fees or think about war? Will I fight for stupid things? Fighting for nothing? The idiot you are fighting for already has his life in order, he is travelling in cars and has a good life, yet you can't even afford shoes, aren't you an idiot? We the Kikuyus were blessed with wisdom. If it were the others, the violence would still be going on.¹¹

The camp, populated by displaced Kikuyus, is located on the outskirts of Nakuru, the former capital of the Rift Valley Province. But as Peter makes it clear, they had first lived deeper in the Rift Valley, in Makongeni, working in a sisal plantation, and 'when [they] were there, you know, the Kalenjin dominate that area. It's *their* home.' Peter's story and that of his neighbors are real. Yet, there is a widespread belief that many people who claim to have been displaced by the violence may just have invented their stories to be eligible for government compensation. The discussion of who is genuinely a victim of the political violence and who is fraudster takes ethnic dimensions as well. Not only does the state cast doubt on the plight of the victims, the populations also have their own reservations, especially given the ICC intervention.

Back from visiting the church-turned-graveyard in Kiambaa, I head to the Sirikwa Hotel, in the Eldoret city center, a gathering spot for Kenyan journalists and their sources, a place where bits of information are exchanged in hushed tones. I'm here to chat with David Kiprotich, a local journalist who had put me in touch with another very well connected journalist in the area, named Michael. I have been chasing Michael for the past two days, as he seems very reluctant to discuss anything related to my research on the ICC, political violence, and Kenyan politics. This is the Rift Valley.

In the meantime, a white lady was sitting with two guys at the table near us, in the poolside garden. A little later, a short guy joined them. David whispers to me, 'Do you know the guy that just came in? The short one?' I did not. David insists, 'You must have seen him in The Hague.' I had been at the ICC headquarters conducting field research two summers ago. Now I'm trying to think who this guy that I'm supposed to know is. David gives up, 'That's Sang!' I jump in my seat. Oh my God, that's him! As part of my research, I have spent countless hours reading and writing on the Kenya's Deputy President William Ruto and former journalist Joshua Arap Sang's prosecution at the ICC for crimes against humanity. I have seen Sang's pictures many times, but it never occurred to me, until that encounter, that I did not actually recognize his face. Here, Sang is wearing a large shirt many sizes bigger than his bulky frame, baggy dark jeans, and a baseball hat. He is unremarkable in this setting. He's not the well-dressed man in a dark suit and tie sitting in The Hague court.

David is visibly nervous to be sitting with someone researching the ICC, in the Rift Valley, where you would probably find the highest number of ICC critics per capita in the world, and in close proximity to someone on trial for crimes against humanity. He tells me that we need to move to a table further down. I don't want to move. I want to get closer. I want to ask Sang about his indictment and trial for crimes against humanity. Did he use his radio station to incite

¹¹ Interview with Peter Kariuki, Nakuru Pipeline IDP Camp, February 2016.

the violence that left 1,300 Kenyans dead? But I can't. As much as I want to go introduce myself to Sang, and speak with him, I could also see the fear in David's eyes. This is his community. He's concerned for his safety. In Eldoret, speaking to outsiders about the ICC is risky. Witnesses had disappeared. Others had recanted, or refused to testify. So, as we move away, I manage to snap a picture of Sang from my cellphone, and I update my Facebook status. For the following half hour, I sat with David at a distance, while observing Sang chatting with two men and the white lady. People would stop by at his table, shake his hand or give him a hug. Some even took pictures with him. This is his turf. He is a local celebrity. He is on trial for crimes against humanity. But this is not The Hague.

'If Ocampo took any statements, it was from the wild animals that he went to see.'

In the Nakuru Pipeline IDP camp that the residents have renamed New Canaan Village, I'm sitting in Peter's home. The Kikuyus who resettled in this camp were mostly workers in sisal plantations in Molo and Makongeni, deep in the Rift Valley. Peter, his family, and some 4,700 Kikuyus have settled here since the 2007-08 post-electoral violence. Each family received a 10,000 shillings (about \$100) compensation from the Kenyan government. The families pooled the money together and purchased the 6 hectares of land where the camp is established, and decided to stay there permanently. He says:

This is Kenya and the Kenyan law says that I can stay anywhere so long as I don't stay in your place. So if there is violence again it will be a different story because there are those who went back. We will not let them be evicted and come back here again.¹³

His wife lifts up the door's curtain, greets us, and tell him something. She then leaves, heading to church, I assume, given her dress and the fact that it was Sunday morning. We resume our discussion. In his summarily furnished room, Peter – and Moses who lives in a nearby camp – answer my questions in English, but the conversation switches to Kiswahili when the ICC topic comes up. Peter raises his voice. On the walls of his living room made of undulated zinc sheets, Jesus watched over us. A rectangular poster of a beautiful house, in the middle a green garden, with a picnic table and chairs, hangs. The caption reads, 'All great achievements require time.' Patience, rewards, dreams of a better life. As I listen to their stories, fears, hopes, nightmares, I see how their lives yearn to be normal, but they are etched in the yet-to-come, and the yet-to-be. Or maybe it is the could-have-been. Speaking with these displaced persons who have faced naked violence and have lost friends and family members, I'm reminded of my own stability and anchoring that allowed me to travel to this place. These people are sharing their stories with a stranger, who has nothing to offer them but to record their predicament. I'm reminded of the deep precarity of the human condition, and I wonder about the futility of my research project.

¹³ *ibid.*



In a serious and forceful tone, articulated in Kiswahili, I hear, with the help of an interpreter, that the ICC is the enemy, flaming tension, creating chaos, orchestrating hatred, and charging the wrong suspects. Peter asks, ‘An old man like Francis Muthaura, a man of seventy something years, being charged with rape...!? Don’t you think that that was done to irritate people? Charging him with rape and killing people was aimed at annoying the community. That was a way of making the country go into war.’¹⁴ These victims believe that the ICC is going after the wrong suspects, but also that the ICC wants to foment war in Kenya. Moses tells me, ‘My own son was pierced by an arrow by one of his classmates. So saying Uhuru [Kenyatta] and [Deputy President] Ruto were the perpetrators is sheer nonsense.’ I wouldn’t learn of this until days later, when I received the written translation of the Kiswahili part of the interview. Did I miss an opportunity to ask him follow up questions? Would I have told him how sorry I was for his loss? Did he think I was insensitive about his grief? I would never know. I still have his phone number, but never called to ask him the details of the story of his son being pierced by an arrow by one of his classmates. But, despite his personal tragedy, Moses opines:

¹⁴ On 15 December 2010, then- ICC Prosecutor Luis Moreno-Ocampo announced charges for crimes against humanity against six individuals – referred to as the ‘Ocampo Six’: Uhuru Kenyatta, then-Kenyan Deputy Prime Minister; William Ruto, then-minister of higher education; Francis Muthaura then-head of the public service; Major General Hussein Ali, then-Commissioner of Kenyan Police; Henry Kosgey, then-Member of Parliament; and Joshua Arap Sang, former journalist at Kass Fm.

The ICC is a political court. Because they did not come to get information from the grassroots. They got their statements from the Human Rights Commission and the civil society. They also paid people to give witness statements. We were affected by this. When [ICC Prosecutor] Bensouda¹⁵ came here, we told her that the people who were taken to the ICC were not the perpetrators... So, if they had come to the ground and asked us what was happening we would have told them the truth. But they flew people to Europe and hid them there calling them key witnesses. If they were really victims, they would not have hidden their names. They would have identified themselves and what camp they stayed at... All we hear is witness one, witness five, witness nineteen. What's that? I asked Bensouda in person when she was here, why they hid their identities. If I was asked to give a statement, I would identify myself... and identify the perpetrators. But no one did that.¹⁷

Peter says essentially the same when he states that 'when Bensouda came here, we met at the grounds back here. We told her that she did not fathom the extent of issues she had been burdened with by [the former ICC Prosecutor] Mr. Ocampo. Because when Ocampo came to take witness statements, he did not come here at the camp. He was a tourist. He went to see wild animals. If he took any statements it was from the wild animals he went to see.'¹⁸

Closing the books

The day that the ICC terminated the cases against Ruto and Sang, cheers erupted in Nairobi's business district. The only two remaining suspects from the original 'Ocampo Six' were off the hook. Effectively, no one had been held accountable at the ICC for the post-electoral violence. But, Kenya has not put into place local mechanisms of accountability either. Eight years. So much energy and resources spent to reckon with the many lives taken. Back to square one where communities are yet to be mended. I asked a media figure in Kenya whether the ICC had been a distraction for the country. He replied:

There was a concentration on the ICC, it has been overplayed since 2007. But the [new] Constitution was meant to help to deal with some of those issues. People expected some local mechanism to deal with those who were not taken to the ICC. People expected the [Kenyan] High Court to deal with those crimes. But there has been no effort to bring about that process. Yet, within the communities, the victims know very well some of the perpetrators. There is still fear between the victims and the perpetrators, yet there is no justice process to ensure that the perpetrators are brought to the book.¹⁹

I found that the Kenyans whom the ICC claimed to serve when it intervened are often left asking questions that suggest that justice is selective and unevenly distributed. Many victims believe that

¹⁵ Fatou Bensouda replaced Ocampo as the ICC Prosecutor in December 2011.

¹⁷ Interview with Moses Maina, Nakuru Pipeline IDP camp, February 2016.

¹⁸ Interview with Peter Kariuki, Nakuru Pipeline IDP camp, 14 February 2016.

¹⁹ Interview with author (name redacted), Eldoret, March 2016.

the ICC colluded with certain groups, including the so-called civil society to push for an agenda that was not theirs. In my conversations with victims of the violence in Nairobi, Nakuru, Eldoret, Kiambaa, and Kisumu, many questioned the ulterior motives of the ICC. Although the benefits promised by the ICC to victims of international crimes are unprecedented in terms of ending impunity, delivering justice, and setting up compensation and rehabilitation programs, the risk of leaving promises unfulfilled is especially high. With the termination of all the Kenyan cases at the ICC, and none of the suspects found guilty, the Court can't order compensation for the victims. No guilty verdict means no crime, means no compensation. And the nail on the coffin came in the form of the Chamber stating that 'the view that victims must be able to express their views and concerns on matters of reparations does not mean that this Chamber is the right forum to entertain such views and concerns.'²¹ While Judge Eboe-Osuji dissented²², the termination of the Kenyan cases at the ICC effectively foreclosed any possibility of reparations being ordered by the Court on behalf of the victims, this coming on the heels of the Kenyan state having failed to put in place adequate mechanisms for compensation.

The page is turned; the books are closed. Kenya's tragedies, as Owuor narrates, long to be forgotten. One of her characters tells his daughter, 'For the good of the country, we know, *nyara*, that to name the unnameable is a curse.' In Eldoret, when I told David of my intention to go visit the Kiambaa church site, he had said 'the [church] that was burned was a small one, tiny, with wooden windows. Now they replaced it with a big stone building. What was destroyed was a small church. [Building a new church on the site] could have been a way of trying to move on, not reminding the neighbors. But now there is no more evidence, the evidence disappeared.' A new church has not been rebuilt on the site. The evidence is still there.

²¹ See 'Decision on the Requests regarding Reparations,' para 7. Available at: https://www.icc-cpi.int/CourtRecords/CR2016_04798.PDF

²² See Judge Chile Eboe-Osuji's dissenting opinion here: https://www.icc-cpi.int/RelatedRecords/CR2016_04805.PDF