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DEMOCRATIZATION IN KENYA

Keywords: Kenya, elections, democratization, political systems, civil society

This article attempts to investigate and analyze challenges and prospects facing Kenya in its quest for democratization and construction of a viable state and cohesive society. Kenya before the post-2007 general election was viewed as an oasis of peace in a turbulent region, a situation that was enabled by stalled political transitions that never before turned to widespread violence. The post independence politics has orchestrated an ideology that does not favour democratization of the state and giving more power to the civil society. The article will seek to highlight how lack of a democratic system of government, where virtues like compromise, cooperation and consensus building are nurtured, and transitional politics in Kenya have been deeply polarized along regional and more prominently ethnic lines. Political parties, general elections results and the constitutional review tussles are cases in point. The civil society has a role to play in initiating and guiding debate on policies and their implications for a peaceful society, which in turn helps to create the type of environment in which normal political conflict and competition can be resolved without violence. Among the actors that the article will give attention is the church and other organizations. The questions this article will seek to investigate are: what impact have the political systems and the civil society had on promoting the values of compromise conciliation, consensus building and tolerance in an ethnically polarized society. Has the civil society been partisan or neutral to ethnic interests? How and when do civil societies become engaged in politics? Can it be an integrative force in nation (state) building? The answers to these questions will constitute the focus of our investigation.

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Демократизация в Кении

Ключевые слова: Кения, выборы, демократизация, политические системы, гражданское общество

В статье анализируются проблемы, с которыми сталкивается Кения на пути демократизации и построения жизнеспособного государства и единого общества. До всеобщих выборов 2007 г. Кения рассматривалась как оазис мира и стабильности в неспокойном регионе, что было обусловлено политическими преобразованиями, никогда ранее не приводившими к насилию. Политика независимой Кении привела к возникновению идеологии, не благоприятствующей демократизации государства и эффективному формированию гражданского общества. Авторы показывают, как отсутствие демократической системы правления, в рамках которой важное место занимали бы компромисс, сотрудничество и достижение консенсуса, раскололо общество по региональному и, что еще более заметно, этническому признакам. Об этом свидетельствуют деятельность политических партий, результаты выборов и споры об изменении конституции. Гражданское общество должно инициировать и направлять дебаты по политическим вопросам, что, в свою очередь, позволит избежать насилия в условиях политической конкуренции. Рассматриваются, в частности, следующие вопросы: каково влияние политических институтов и гражданского общества на упрочение таких ценностей, как достижение мира посредством компромисса, консенсуса и толерантности в этнически поляризованном обществе? Занимало ли гражданское общество нейтральную позицию или становилось стороной в межэтнических спорах? Как и когда гражданские общества начинают активно участвовать в процессах принятия ответственных решений? Могут ли они быть объединяющей силой при строительстве нации (государства)? Поиск ответов на эти вопросы – цель данного исследования.

The historical development of Kenya as a state has been marked by, among other important changes, the transition from colonial power to the people, from multi-partism to single and back to multi-party system, and a series of constitutional amendments, comprehensive review, a launch of a new constitution and back to demands for its review.

Kenya became a legitimate state after attaining independence, however, the challenges experienced in quest of state cohesion reflect on the tentative nature of its internal popular legitimacy. Internal legitimacy of government in Kenya since independence has always been questioned through political party alignments and protests from the civil society. However, the demands are overshadowed by the need for political stability which leads to them being negotiated. The negotiations can be with individuals, political parties and ethnic groups. The article analyses Kenya's transitional politics to understand if there have been false or minimal change that encourage change of governments and not regimes, which become a hurdle to democratic growth and enhancement of popular legitimacy.

The article attempts to shed some light on this phenomenon by looking at major socio-political and economic events in Kenya. We note that advancement of democracy seems to continuously compete with other interests and goals.

The Political Legacy of the State. The past general elections and the constitutional review process beckons the question how deep rooted is the fourth wave of democratization[1] in a country like Kenya? Drawing on Olson's and Soderberg's work, the dynamics and outcome of the fourth wave of democratization have raised questions that expose relatively unexplored theoretical frontiers[2]. The empirical experiences of democratization in Kenya like in most African states seem to refute some of the assumptions and predictions found in mainstream theoretical works on democratic transitions and democratization as well as in policy-related documents influenced by these writings.

The debate on what role the colonial factor plays in post-colonial Africa has not ceased to surface. Kenya like every other state that has moved from colonialism to independence has sought to shape its inherited institutions to the changing circumstances and ideals of its independence. According to Gertzel, in seeking to move away from the colonial past, the state was concerned with needs of the independent society[3], Kenya being no exception in Africa was just a creation of colonial rule, the country lived under colonial policies that were calculated more to facilitate control than create a nation state. When political independence was conceded, the colonial creation was transformed into a post-colonial state. A scenario developed whereby the new state borrowed substantially from the colonial state. As Ochieng and Atieno-Odhiambo put it:

"It is generally accepted that independent Kenya did not effect a major ideological or structural break with the colonial state and that all she did was to expand the former colonial administrative and economic infrastructures"[4].

The inherited infrastructures and the efforts to modernize them to meet the expectations of the newly independent society have been the pre-occupation of post independent leaders. What the struggles for *Uhuru* (freedom) yielded immediately was political freedom, which is the capture of the state power in 1963. For most Kenyans the attainment of independence was meant to mark a transition from the realm of necessity to that of building a democratic state strongly committed to Pan-African ideals and world peace[5]. The inability of the state to radically depart from the colonial policies and do away with their institutional structures compounded with the lack of capability to fulfil the aspirations of the population as in the Weberian sense of its meaning and the pillars of a democratic state wanting. This occasioned the lack of legitimacy in the eyes of the people. This "legitimacy gap" in Kenya has created a state of "infinite transitions". A myriad of challenges have hampered pragmatic transitions from a colony to a democratic cohesive and legitimate state.

The post-colonial state in Kenya like in the majority of the other former colonized states is weak. The weakness is attributed to the state-building process. According to Ohlson and Soderberg, a weak state is weak in terms of low levels of socio-political cohesion and political legitimacy and may further be exacerbated by the lack of essential capabilities at the hands of political leaders that are deemed essential in order to overcome this structural weakness and build strong states[6].

In Kenya the state weakness nurtured a particular political style of governance that risked further undermining the state and making it less, not more, inclined to development and democratic reform. The "invented Kenya"[7] lacked the defining properties of a state which include "unchallenged control

of the territory within the defined boundaries under its control, monopolization of the legitimate use of force within the borders of the state, and the reliance upon impersonal rules in the governance of its citizens and subjects"[8]. From this position the question of legitimacy is crucial. There is a growing number of the poor, nepotism, negative ethnicity, corruption and an upsurge in violence.

Who's State? – Legitimacy at a Crossroad. A close look at Kenya's birth and state building process revolves around the search to construct a legitimate state. Attainment of independence through international recognition was achieved, but the need to attain internal sovereignty is still a process in the making, hence the contested issue of legitimacy.

A state contains three inter-linked components, the physical, the institutional basis and the idea of the state[9]. An examination of Kenya shows that the physical basis of the state, which includes defined territory, population, resources and wealth, is unquestionably present, but the other two components, the institutions of the State and the idea of the state, are not clearly defined. Institutions comprise the whole machinery of government including its executive, legislative, administrative, and judicial bodies as well as laws, procedures and norms which they operate, while the idea of the State provides a mechanism of persuading citizens to sub-ordinate themselves to the State's authority. Buzan argues that strong and vividly held ideas serve to bind the State into an entity and provide the needed socio-political cohesion which gives legitimacy to the State entity. He contends that "If the ideas themselves are weak or if they are weakly held within society; or if strongly held but opposed, ideas compete within society: then the State stands on fragile political foundations"[10]. In the Kenyan situation, the defective remnants of colonial institutions/policies and the divided allegiance of their members due to divergent group/ethnic interests affects what Holsti refers to as the vertical and horizontal dimensions of legitimacy. Vertical dimension established the connection, the right to rule, between society and political institutions and regimes, while the horizontal dimension defines the limits of and criteria for membership in the political community that is ruled[11].

If vertical legitimacy is thus the belief by the population in the rightfulness of the state and its authority to rule the state, in Kenya, such a belief has been wavering. Consent of one form or another on matters of state performance and expectations has never been automatically attained. Immediately after independence the newly born state faced the problem of internal recognition. One illustration of this is the North Eastern Province war of cessation. After the suppression of the rebellion the region became alienated from the main stream of national development. Ogot in analyzing Moi's politics of populism refers to how the communities of the North Eastern Province had not been fully incorporated into mainstream politics of the State till the 1980s.

For a long time for example the North Eastern Province of Kenya was referred to simply as *Shifta* areas and many of the inhabitants of the region did not feel they were part of Kenya[12].

According to Ogot, one of the causes of the feeling of alienation which was beginning to develop among some sections of Kenyans was the distance which had gradually developed between the 'government' (bureaucracy) and the people. He supports this view with the argument that a section of the population felt that important decisions affecting their lives intimately were being made by a bureaucracy which they neither participated in nor controlled[13]. During the Kenyatta and the later days of Moi's regime saw a great deal of centralization of power in the hands of the Executive. In both regimes there was quite a big section of the population who felt they were being sidelined or marginalized.

Kenya being a heterogeneous community is still struggling to transform the socio-cultural diversity of its people into a unified strong state. How the diversity has been handled has affected the achievement of horizontal legitimacy. The state has been an arena for competing groups for power and resources therefore, receiving partial allegiances by members of society. Furthermore, the state has sometimes alienated one group from another. In Kenya the various groups and communities within the State have not well developed a cohesiveness that enhances acceptance and tolerance towards each other. The reoccurrence of ethnic conflicts across the country in multi-ethnic areas attest to the failure of the State to cultivate horizontal legitimacy.

From independence the issue of who is in power (leadership) tended to over-shadow other important components of state building. Suspicion mainly on ethnic identification has been the decisive factor in whether to support or sabotage a particular regime. The political system has been "the winner

takes it all". This creates a situation that institutionalizes exclusions, sidelines one or some groups in terms of participation, access to power, and allocation of resources. Indeed those who are excluded find it hard to extend loyalty either to other groups or to the state. The lack of horizontal legitimacy within the society has, therefore, led to the erosion or withdrawal of loyalty to the state and its institutions, and those that feel they are excluded seeking for alternative power centres within to counter or undermine the political legitimacy of the regime.

The type of leadership of post-independence governments has been characterized by *neo-patrimonialistic tendencies*. According to Weber, patrimonialism is a situation in which the objective interests of the State are indistinguishable from subjective interests of the ruler of the regime in power. Ohlson and Soderberg define the characteristic features of neo-patrimonialism as the incorporation of patrimonial logic into modern bureaucratic institutions[14].

In such cases rulers ensure the political stability of the regime and personal political survival by providing security and selectively distributing services. Former President Moi's regime is frequently cited as having manifested neo-patrimonial authority[15]. The personification of the state and selective distribution of resources has been a common phenomena in Kenya and therefore the widely used anecdotes of "our own" and "our time to eat" in Kenya's politics. Ngunyi argues that since independence there has been an emergence of a strong patron – client network. During Kenyatta as Chief Patron, the ruling elite had to create elaborate "economies of affection" in the form of ethno-regional patronage networks[16]. Under Moi, the patron – client relations shifted significantly. He asserts that, apart from the use of prebends and dirigisme to keep clients afloat, Moi used patronage networks to denigrate political actors that he happened to be uncomfortable with[17]. In his analysis of the two regimes he observes that while Kenyatta used the "loyalists" as his closest clients to attain regime stability, Moi created "ethno-regional denigrators" to serve as conduits for the disbursement of patronage; while Kenyatta's recruitment of clients was based on the "politics of inclusiveness", Moi's recruitment of clients was solely on the politics of denigration[18].

Kenya's third President Mwai Kibaki started his first year politics in office with his "hands off style" of running the Government, but Kenyans got wary of a strong cliché surrounding the President with strong powers, a reminiscence of Kenyatta's regime. The struggle for power and influence within the ruling coalition, the National Rainbow Coalition (NARC), that was swept to power mainly by the "vote for change" euphoria was consumed in in-fighting because of the contagious Memorandum of Understanding (MOU), which was entered before the election but was not honoured by those who were in the "inner cabinet" of President Kibaki's government. A section of the population got disappointed and felt the government was not transparent and accessible as would be desired. In many quarters one heard of the "Mount Kenya Mafia" close allies and right hand men of President Kibaki. In Kenyatta's days such a group was referred to as "The Kiambu Mafia", and during Moi's era the "Nyayo stalwarts". In all the three governments they had a strong power clique surrounding the *Mzee* (elder).

Regime experiences in Kenya like in most African countries has shown that central political power has not reached a stage where it is separated from the strong crisp of localized and personalized political contests, supporting Job's argument that legitimacy in many post-colonial States in third world countries continues primarily to rest on practices of redistribution, in spite of changes in the formal political outlook[19].

Closely related to regime type is the role of the civil society. The questions are how effective is the civil society in transforming the Kenya state? Or, ultimately, how has the state acted upon or manipulated the civil society in its quest to sustain its legitimacy? Does a weak state lead to a weak civil society?

The Highs and Lows of the Civil Society. The term civil society has evolved significantly from that in the 16th and 18th centuries. The issue of what constitutes the civil society has dominated the academic discourse; however, there is a commonly used definition. It is defined as:

An intermediate associational realm between the State and family populated by organizations which are separated from the State, enjoy autonomy in relation to the State and are formed voluntarily by members of the society to protect and extend their interests or values[20].

The variation in state formation process of countries and popular culture gives the civil societies a unique and peculiar characteristic. Groups may vary between modern interest groups and traditional organizations, formal organizations and informed social networks, political institutions and advocacy groups and those outside the political system, between legal and open associations, secret or even illegal organizations and networks, and between associations that accept the political situation and those that seek to transform it[21]. In Kenya, like in most African countries, effective penetration by the state in all regions and sectors of society has not been uniformly felt. Traditional institutions and networks nurture a bond of unity through necessity in the citizenry. Ottaway and Carothers assert that in the struggle for independence it gave rise to voluntary political associations, peasants' movements, labour unions, and ethnic welfare associations, many of which became political when channelling their protests against colonial rule and later through the call for independence. After independence, some of these organizations became integrated into the state, whereas others proved too strong to be subordinates and thus survived as an alternative institutional framework alongside with the state[22]. Like its active role in the decolonization process, the civil society has played an instrumental role in the democratization struggle that was heralded with the end of the Cold War. The developments within the civil society in Kenya attest to the alignment and re-alignment in Kenya's polity. The question to ask is whether the civil society in Kenya has been a political actor – bargaining for the government of the day or versus the government. Hence the civil society's participation depends on the relationship between the civil society and the political parties in the state.

The struggle for independence witnessed complementarities of the political parties and the civil society. Where regional or ethnic interests threatened to strangle the nationalist movements, especially in the party politics, such groups like the labour movement managed to successfully rally Kenyans irrespective of ethno-religious background. The trade union movement though with a Luo Secretary General had a nationwide support. Among vocal rights activists who advocated for the people's rights were Kenyans who had read law.

According to Gertzel, varying tribal attitudes towards the future prevented the emergence of a unified countrywide movement and divided it into separate groupings. Tribal groups became conscious of their separate and often conflicting interests. The main causes being the governmental emphasis since the 1920s upon district political associations, the restrictions imposed upon political organization in the 1950s, and the land question[23]. Party associations, therefore, followed ethnic/regional or peculiar interests, significant economic and social differences. The land issue, for instance, became a point of contention even before independence. The fear about economic and political position was the source of a growing political consciousness among the Rift Valley Kalenjin and the Coast people. Hence, the 'larger' and 'smaller' tribes' politics emerged and to date influences Kenya's politics.

A look at Kenya Africa Union (KAU) formed in 1944: even when Kenyatta had become its President in 1947, it had failed to establish itself throughout the country though its leader commanded countrywide respect. It remained basically a central province association. Oath taking in KAU further alienated it from the rest of the country. Other parties that followed all had a regional or ethnic feature. Tribal and economic interests dictated the alliance, for instance, between the Kalenjin of the Rift Valley and the people at the Coast, a move that saw the birth of Kenya African Democratic Union (KADU) in 1960. In September 1962, the Sabaot people from the Mount Elgon area formed the West Kalenjin Congress (WKC). The WKC was opposed to the recommendation of the Regional Boundary Commission to include Sabaot country in the Western Region, instead of being in the Rift Valley Region with the rest of the Kalenjin. Another ethnically-based party, the African People's Party (APP), was born, a political vehicle for Paul Ngei, who broke away and formed his own party because he felt he had not been accorded the appropriate national power and status by the KANU leaders[24]. Later, KANU was to suffer another split occasioned by the break away from the party by political heavy weights led by Oginga Odinga, Bildad Kaggia, Achieng Oneko, Joseph Nthula, Zephania Anyieni, Tom Okello Odongo and Oduya Oprong to form Kenya People's Union (KPU). The argument behind the breakaway being the failure of the government to implement policies made public in the KANU manifesto of the 1963 General Elections[25], which mainly dealt with the issue of redistribution of government resources.

During the emergency when political associations were proscribed or later when they were deeply divided due to ethnic interest, one major organization that emerged and was able to cut across and appeal to all regardless of status or group identity was the labour movement. The trade union movement leaders agitated for political rights and social justice[26]. Tom Mboya, the General Secretary of the Federation of Registered Trade Unions had become a leading spokesman for the Nationalistic course[27] . It is worth noting that at this juncture in Kenya's history the civil society acted at its best as a political actor in collaboration with other nationalistic movements. With the attainment of independence crucial staticization of the civil society began and the labour organizations like the rest were gradually designed. According to Ngunyi, in Kenya the civil society is largely a public theatre where elites flex their muscles as their different constituents cheer them[28]. Differentiation along ethnic identities and state patronage has gradually weakened its position vis-à-vis the state, a situation that has created an enabling environment for unchecked power wielding by those in leadership.

The Politics of Self-help. Major civil society miniatures like *Harambee* (self-help organizations and fundraisers) were used by both the Kenyatta and the Moi regime as bases for consolidating power all the way from the grassroots level. Such functions were used to make political statements and, on the other hand, shield the government from its responsibility of delivering the much needed services to the people, a kind of rolling the ball back to the very people.

Self-help first emerged among the Kikuyu in the late 1930s and 1940s to establish educational facilities not provided by the colonial state and to assert for African independence. Self-help was also practiced among the Luo who formed the Luo Thrift Association in the 1940s[29]. Following independence, Kenyatta and his government found not only a way to reducing demands on his government for services through *Harambee*, but a strategy for dealing with local and regional political leaders. A populist leader, J.M.Kariuki, seems to have fully utilized the *Harambee* contributions to his potential supporters who were the cornerstone of his coalition-building strategy[30], an avenue that never went well with the establishment.

Similarly, his populist colleague, Jeanne Marie Seroney, found his efforts to use *Harambee* to develop his constituency and himself politically meeting official resistance. Government objections to Seroney's activities surfaced when in 1975 the Tinderet MP alleged in parliament that he had received a threat that the Government would "crush" the proposed Samoei Institute for vocational and technical education, for which he had raised *Harambee* funds. The local administration was later to refuse him license to fundraise for the institute and an official sanction was provided instead to a newly registered Samoei Boys and Girls *Harambee* Boarding School[31]. His political rival for Kalenjin political leadership the then Vice-President Daniel Arap Moi was instead mandated to fundraise for the new project. In this situation, *Harambee* was used to undermine Seroney at the national level, thus neutralizing his radicalism in issues to do with redistribution of resources, especially land and, on the regional level, the building up of Arap Moi as a Kalenjin political leader, and for the government it assured support from a section of the Rift Valley group.

As the battle for political space heightened between Kenyatta's family "inner circle" and the 'rebels' a means of containing them was necessary. The right to convene *Harambee* meetings came under attack and later issues relating to control of Kenya's security apparatus and parliamentary privileges. J.M. Kariuki in April of 1974 complained to parliament that members of the administration had intervened to stop *Harambee* meetings and gatherings of constituents at which they were present[32]. Though the Attorney General, Charles Njonjo stated that no license for Harambee was needed, disputes about the licensing of *Harambee* meetings evolved into a confrontation between two groups within the government. The family and associates, on the one hand, and other assistant ministers and their allies on the back bench. Among them was a Nyanza member of Parliament G.O.Migure, Nyandarua MP, J.K.Kariuki, and Butere MP, Martin Shikuku. The Vice President in his clarification noted that all *Harambee* proceeds should be licensed a part from church conducted *Harambee*. Furthermore, no politician was to make any speech. This was a nail cast to the opposition's forum for securing alliances with other groups outside their own districts or provinces.

Moi as the Vice-President had directly been involved with the *Harambee* debacles, and no one was as well placed to exploit them. *Harambee* was used to reward, punish or co-opt party hawks and rebels – method of contribution had changed from voluntary 'pulling together' to a kind of mandatory tax.

By the end of Moi's rule in 2002, *Harambee* had totally been transformed into a vehicle for the elites; as Ngunyi put it, to 'flex their muscles'[33].

After the 2002 General Election, a new government was swept into power. Mwai Kibaki became the third president of the Republic. The government immediately embarked on dismantling and outlawing the *Harambee* movement after a commission set up to inquire into *Harambee* pointed out that it was a major form of corruption. The consequences of this Act are yet to be felt by society to determine how noble the decision was. Furthermore, no action has been taken to prosecute those that flout the directive.

With Moi taking over the reins of power in 1978, the autonomy of voluntary private associations were further curtailed. During his tenure ethnic welfare associations were discouraged or even banned; for instance, the Gikuyu, Embu, Meru Association (GEMA). Maendeleo ya Wanawake Organization (MYWO) transformed into a party organ totally losing its initial mandate, while other NGOs came under serious state scrutiny.

From the cited examples of *Harambee* and other organizations, we note that there is no clear demarcation in Kenya like in most African States between social society and the state. The holders of power are not functionally or even politically detached from society[34]. They argue that in Africa the business of politics is conducted along informal vertical channels of relations, such as patron-client relations linking the elites to the rest of the population.

Non-Governmental Organizations. The urge for multi-party democracy during the 1980s saw a growing strength of Kenya's civil society. There appeared a proliferation of non-governmental organizations with a lot of donor aid support. The NGO sector began to be viewed by the state as trying to usurp some of its powers due to its prominent critical leadership, its significant financial resources, its international affiliates and allies, and the simple fact of its independence from the state. The civil society's vocal criticism of the regime saw government in the late 1990s rushing a bill through parliament regulating NGOs through a host of measures (The non-governmental coordination board). The regime's fear towards the NGOs stemmed from the fact that most of the NGOs had their leadership and membership mainly from ethnic groups who felt left out in government and hence supported the emerging course of multi-party politics.

With strong networking and mobilization of donor support, the community of NGOs managed to create a situation where Moi's regime felt it must negotiate rather than dictate. With allies outside the state it forced the regime to enlarge the political space. The opening up of such a political space did not translate to unity within the civil society. The 1982 and 1997 general elections saw political parties divided along ethnic lines despite the civil society's greater organization, a more rigorous press and civil education and civil societies networking. Despite failing to dislodge President Moi from power in the two elections, the civil society remained active and more vocal in advocating for democracy.

The 2002 general elections saw President Moi's twenty four years rule come to an end. But only a year later, after the over recited political slogans for change "Moi must go", and "*Yote yawezekana bila* Moi", the Kenyans bore fruits, and a new government took over; what followed was a systematic co-optation of members of the civil society, making it less critical towards the government.

The 2002 general elections saw the major civil society activists during Moi's regime taking up major political offices in the National Rainbow Coalition Party (NARC) Government of President Mwai Kibaki. Former activists, they became new movers and shakers in government. Being the very people that were advocating for freedom of expression and association, constitutional reform and other human rights demands, the people expected of them to put these ideals into practice. But unfortunately, the road to reforms and deepening of democracy went through a rather bumpy road, a reminiscent of the old days.

A look at the behaviour of prominent government personalities leaves a lot to be desired. For instance former Kenya's Justice and Constitutional Affairs Minister Kiraitu Murungi, who was at the forefront in advocating for a constitutional review that was people-driven, saw the constitution review exercise as a consuming nightmare. As Ndegwa poetically put it:

His bosom friend Yash Pal Ghai, Chairman of the Constitution of Kenya Review Commission (CKRC), has suddenly "grown horns: become state enemy number one! Murungi's pet in constitution review "Wanjiku" (the common citizen), has suddenly turned into an ugly hag[35].

Meanwhile then Transport and Communication Ministers (2003) thought the constitutional review process as being of no urgency or even irrelevant since "our own" is in power (ethnic); indicative is also Paul Muite's sarcastic praise to Raila Odinga that he surely contributed to Kibaki's ascendancy to power but it is his (Muite's) turn to see that Kibaki remained in power.

The Church and Transitional Politics. Apart from individuals mainly in the law fraternity, another civil society that has made an impact in Kenya's state-society relations is the church. The church for long has been an active advocate for reforms and especially for a people-driven constitution. Since independence the public has reacted to the state's penetration of their lives by looking for alternative avenues to influence the policy process. One of such institutions is the church. The church is well placed to be more prophetic in denouncing the social and economic systems which keep people and the country under-developed, therefore, advancing moral principles for justice and peace. Historically, though, the church has at times been used as a tool of oppression and thus compromised by the state; it has also been a place of reason and refuge. The church, notwithstanding its weaknesses, has been an active actor in the democratization process. The church's active participation in issues related to peace, human rights, civil education, and community service make it impossible to separate strictly the role of the church and the state in development endeavour, particularly in regard to leadership.

The church's teaching on leadership as enshrined in the Bible and through evangelism can offer positive contribution to good governance. In Mathew 20:20 – 28 and 1st Kings 12, the concept of the servant leadership challenges the characteristics associated with misuse of power and general dictatorship. Given the role of the church in society, it should therefore with the state as partner provide co-leadership, being the good shepherd of God's people[36]. The role of leaders entails both serving and guiding. In this regard the church's responsibility is to provide support but also be critical of wrongdoings in society[37]. It therefore suffices to note that the church is mandated to expand its jurisdiction through mission to better society. A mandate derived from knowledge that the earth is the Lord's and everything in it, the world and who lie in it[38] and God's demand for all leaders to exercise justice, compassion, and meekness constantly[39]. The contradiction sometimes witnessed of conflict and cooperation between the state and the church like any other conflict has got its own benefits and weaknesses. Likewise, the ethnic question that always comes up in other organizations may at times limit the church's role as a potential force for national (state) integration.

In Kenya, the church nevertheless has made a humble but significant contribution to the political transitions, democratization and lessening of ethnic tensions and conflict. At several instances the clergy have written pastoral letters, given pulpit sermons, participated in national debates, conferences on the constitutional making, truth and reconciliation workshops, visited the head of state, and directly appealed to the government authorities to practice good governance and stand for the truth. In doing this, the church will be responding to the call to be a pillar of truth and God's command that is "you are the salt of the earth; you are the light of the world"[40]. Christians should be able to raise their dissatisfaction with the state without fear, use any democratic and legal means available, while on the other hand be conscious not to hurt other people in their quest for justice. In this regard the role of the Christian intellectuals, politicians and civil servants is of paramount importance.

In the 1980s, for instance, criticism against the tightening of one-party dictatorship was intensified by the catholic bishops, the protestant National Council of Churches in Kenya (NCCK) and the Presbyterian Church of East Africa (PCEA). The Catholic bishops pastoral letters in 1991 and 1992 protested against Moi's style of bad governance and called upon him to respect the wish of the people since the citizens had lost faith in his leadership.

The church used the pastoral letters, sermons, civic education and active participation in public demonstrations during the 1997 agitation for political reform. On 7th July 1997, for instance, the National Convention Executive Council, a civic body fighting for political reforms, teamed up with the National Christian Council of Kenya (NCCK), the Episcopal Conference of the Catholic Church and other social organizations. According to Galia Sabar, the *Mwananchi* (common man and woman) sought earthly support from the church in a context of political authoritarianism and limited avenues of protest[41].

The struggle for a democratic space agrees with the biblical Deuteronomist view that the people should elect their king (leader) as guided by Yahweh, and the leader should not use his office for per-

sonal aggrandizement, nor regard himself as above his brethren[42]. John de Gruchy observes that two interrelated theological themes are fundamental to the understanding of a democratic and just world order. The first being derived from the prophetic tradition, especially as expressed in the Ministry of Jesus of Nazareth and his teaching about the reign of God, and second, the prophetic tradition based on Israel's liberation from slavery in Egypt, and the awareness that Yahweh has a particular predilection for the poor, the oppressed, and for other victims of society[43]. Furthermore, the divine partiality stressed does not mean lack of love for other people, but a concern to overcome social injustices and thus bring about a society in which all people are equally respected as bearers of God's image, therefore, becoming a basis for the establishment and consolidation of democratic societies[44]. The other theological theme is derived from the Christian conviction that God revealed in Jesus Christ his triune (Father, Son and Holy Spirit) fundamental to the understanding of the nature of the Christian *Ecclesia* as an inclusive, participatory, local and universal fellowship, and therefore, as a sign of a just world order embodied in different contexts[45]. As St.Paul wrote, "For just as the body is one and has many members, and all are one body, so it is with Christ by one spirit we were all baptized into one body – Jews or Greeks, slaves or free – and all were made to drink of one spirit"[46]. Thus pluralism and unity are therefore, not incompatible values. De Crunch aptly put, "We are thus able to reflect theologically on human identity, freedom and responsibility, universal values and cultural plurality, the relationship between the Christian *Ecclesia* and democratic politics, national sovereignty, political accountability and economic justice"[47].

In Kenya, the church believed that democratic constitutional making would help resolve most of the political mismanagement in the country, thus the church's involvement in brokering and directly participating in the stalled constitutional review process. In the quest for a new constitution, professionals and the clergy were in the forefront in the struggle for change. The law society of Kenya being composed of legal professionals, and the church, on the other hand, being represented by the National Christian Council of Kenya (NCCK) and the Catholic Justice and Peace Commission (CJPC). Symposiums were organized to chart out the way forward. They were later to be joined mainly by the opposition parties. The Limuru Convention of April 3, and 6, 1997[48], became the seed for the historic Kamukunji rallies, and inter-denominational prayers that have characterized the Kenyan society. The church became involved in the Safari Park meetings and later the Bomas Conference on what should be included in the drafting of new constitution. The church was later to discredit the BOMAS Conference to support the 'Ufungamano initiative'. The stalemate ended with the Sulumeti Commission which was supposed to derive a report on how to come up with a consensus on contagious issues in the constitutional review process.

By 2005 constitutional referendum, the church like the rest of the society was deeply polarized, a situation that persisted till the 2007 post-election violence. Unlike the early days of struggles for multipartism and expansion of democratic space, the church waited too long to come in during the post-election violence. Its involvement to try and lead the flock and give direction compromised the trust of the faithful in regard to justice, peace and accountability. It is now the responsibility of the church to take up this challenge and take the lead in mending fences both at the institutional level and reconciling the members of the flock.

Closely related to Kenya's civil society turbulent political transitional hiccups is the ethnic factor in Kenya's party politics.

The Ethnic Factor in Kenya's Party Politics. Ethnicity and ethnic-based political parties have their roots in the formative years of the struggle for independence. The colonial power took advantage of the multiplicity of ethnic groups in existence by allowing for a limited political association that did not transcend regional boundaries. According to Ngunyi:

From the 1920s when political consciousness in various parts of the country began to boil, the colonial government quickly legalized the registration of *district political* associations with the intention of fragmenting an imminent wave of nationalism cutting across the entire country. It ensured that these associations were not allowed to 'network' with those in other districts so that the interests they were articulating did not extend beyond the purviews of the parochial community[49].

A closer look at the nature of political parties that were formed prior to independence and later shows that in the real sense the colonial administration was only exploiting what they already knew

was of paramount importance in group politics, i.e. that an individual groups' decision to join, start or leave a political party has always been determined through the definition of the situation by an individual or group. A particular ethnic group, for instance, guided by their ethnic elites can decide to join a party if they saw it to be the winning side, start a new party if they felt not catered for by the existing parties, or leave a party if they felt marginalized within. An ethnic group may also form a coalition with another(s) to get an edge over others in election politics, since the ethnic card will determine the outcome of the elections.

Kenyans from all over agitated for independence, but the national coalitions that emerged were deeply fragmented mainly due to land issues and suspicion. The fear of domination by the bigger in numbers ethnic groups bitted the Kalenjin and the Coastal people against the dominant Kikuyu and Luo. Subsequently the parties that emerged followed this line; the Kenya African Democratic Union (KADU) drawing its membership from the minority ethnic groups and Kenya African National Union (KANU) being a predominantly Kikuyu and Luo by membership.

Coalition politics in Kenya along ethnic lines have never been sustainable. Once the common 'enemy' is subdued, in-fighting erupts due to issues of sharing the 'spoils'. Kenyatta's fall out with Odinga after independence meant new re-alignments.

KANU, the national party that won independence through popular support, began to lose "their cohesion and sense of purpose"[50], to use Mazrui's words. This prompted Odinga to form the Kenya People's Union (KPU), a party that was later to be proscribed by the government. Party wars fought along ethnic interests had begun.

Party politics have also been used to usher in reconciliatory gestures between individuals, which automatically spill over to the respective communities they come from. According to Ogot, Moi in his desire to promote national unity and reconciliation appointed a former vice-president and former leader of the defunct KPU party, Jaramogi Oginga Odinga, Chairman of the Cotton Lint and Seed Marketing Board. Another step Moi took was to direct the press to stop referring to people as ex-KPUs. For Ogot "this marked the completion of his reconciliation with the Luo"[51].

With the banning of KPU by Kenyatta's Government in 1969, Kenya became a one-party state, a position that was to last up to 1982, when Odinga and George Anyona ventured into establishing an opposition party. A move that made the government to quickly pass a motion amending the constitution, in which Section 2A was inserted, making Kenya a *de jure* one-party state[52]. Even within the one-party system, ethnicity was always important in shaping intra-party struggles within KANU itself. Kenya was to remain a one-party state till the late 1980s and early 1990s when the third wave of democratization swept through the region, opening up a Pandora's box for agitation for multi-party system. It culminated into the December 1991 repeal of the Section 2A of the constitution, paving way to the return of a multi-party system and alignments and re-alignments along ethnic lines in the struggle to form opposition parties.

Repeal of Section 2A of the Kenya Constitution, immediately saw an array of parties sprung up. The National Democratic Party (NDP) under the leadership of opposition politics doyen Odinga was launched on 13th February 1991. One other party came into being, approximately a month after the Democratic Party of Kenya (DP) led by Mwai Kibaki had been launched on the 25th December 1991.

The common need to dislodge KANU and therefore President Moi from power saw parties either based on multiple organizations of ethnic nature or formation of one dominant party fighting for power. Towards the election of the 1992 general elections the best alternative for the opposition was to merge their parties into one. The popular movements that had transformed themselves into parties gave birth to the Forum for Restoration of Democracy (FORD). The song of a "Second Liberation" engulfed the country. Little did many know that by August 1992 the party was to be at the verge of collapse.

The coalition that appeared from the outside to embody multi-party democracy was in real sense a conglomeration of interests each representing a distinct ethno-regional constituency. Ogot observes that:

Within FORD, there were already ethnic divisions, particularly between the Kikuyu and the Luo. Ethnic claims to leadership had become much more important than Kenya's struggle for greater democratization. Raila Odinga, for example said "No" to another Kikuyu President. George Nyanja, an

architect and a supporter of Matiba, reacted by exhorting the Kikuyu and Kenyans in general to reject a Luo calling him a "traitor" and "an uncircumcised person" (*a kihii*). He swore that the Kikuyu would never be led by a Luo[53].

A leadership struggle in the main FORD grouping between Matiba and the veteran Odinga split the party into two, while a proposed alliance with Mwai Kibaki's DP failed to materialize. The FORD split soon took on an ethnic dimension with many Kikuyu backing Matiba, while Luo remained solidly loyal to Odinga.

One such group was the Thika Caucus in 1993. Paul Muite, having dismissed Raila Odinga and Michael Wamalwa Kijana as leaders who are short-sighted in believing they can take FORD-Kenya to State House through Luo and Bukusu vote, was himself rooting for the Revival of GEMA. Taking into consideration the GEMA vote, the pro-GEMA revival and unity saw it as an avenue to power.

In between the election years at the end of September President Moi, sensing a likely rapprochement between the Luo and the Kikuyu, started wooing the Gikuyu group despite the fact that the community almost rejected KANU at the 1992 general elections. Through the defunct Gikuyu, Embu, and Meru Association (GEMA) and a group composed of the Kalenjin, Maasai, Turkana, and Samburu (KAMATUSA) he meant to solidify this alliance. The GEMA-KAMATUSA initiative was actually intended to reconcile the communities that were involved in the 1992 ethnic clashes in the Rift Valley. Hosting a large delegation of KANU and opposition "elders" from Central Kenya in 1994, Moi intimidated to them that since the Kikuyu and the Kalenjin people were natural political allies, through the cooperation "they (Gikuyu) stood an excellent chance of winning back the Presidency". The Kipipiri by-election of 1995 showed KANU that GEMA was not a reliable partner and lacked commitment to rapprochement. The GEMA-KAMATUSA talks soon collapsed.

Preceding the search for alliance with the GEMA group, Moi had sought cooperation with the late Oginga Odinga, but with his death and Raila Odinga taking his father's mantle in Luo Nyanza politics, the new found cooperation stalled. Raila seemed to have been eager to reconcile and forge an alliance with the Kikuyu just like independence unity. Moi kept seeking the Luo support by appealing to the need to cooperate since that was Oginga Odinga's wish. Succession politics began to be used as a carrot. On March 18th 2002, NDP dissolved itself to merge with KANU. With the Luo support, Moi began to look out again to the major numerically large ethnic groups.

In sharing KANUs top positions, the strategy was to cater for major ethnic groups interest through the allotment of vice-chairmen positions. The Gikuyu had Uhuru Kenyatta, the Luhya – Musalia Mudavadi, the Kamba – Kalonzo Musyoka, and the Coast people – Katana Ngala. All the Chairmen saw themselves as potential successors to President Moi. When Uhuru Kenyatta was proclaimed the favoured successor, he was the least expected candidate having been a novice in politics. The rest protested by declaring their candidature. With Raila Odinga's organizational skills a new party was formed, the Rainbow Alliance.

Personal greed for power and ethic chauvinism within the opposition saw the dejected KANU get back to power during the 1992 and 1997 general elections. In both the 1992 and 1997 general elections the political parties failed to unite in spite of several other opposition unities. In both elections, they lost to KANU even though their shares of total votes were more than KANUs. During the 1997 presidential elections, for instance, about 14 opposition parties combined had 59% share of total votes. Moi and KANU won with 41% share of total votes[54].

Back to the drawing board, each of the major political parties tried to take stock of the defeat. One way was through rival ethnic organizations and/or new alignments, even if it meant with the ruling party KANU. The cooperation entered in March 2002 never lasted till the election month[55].

The change euphoria was soon to see another major political landmark where all the major opposition parties rallying together against KANU. The 2002 general elections saw Kenya with a new coalition government. The question most raised was whether Kenya was now beyond ethnicity. The 2002 general elections saw about 14 opposition political parties and 2 pressure groups together forming a coalition[56]. It fielded one presidential candidate and fielded also single parliamentary and civic candidates. The few groups that did not join the opposition coalition included FORD-People of Simeon Nyachae and a fraction of Social Democratic Party (SDP) led by James Orengo.

An appraisal one year after the election suggested that the coalition was undergoing serious survival test. The pre-election memorandum of understanding (MOU) between the parties that formed NARC had bitted those who are believed to belong to the President's inner cabinet with those who gave the greatest push in dislodging KANU from power but felt marginalized. Since political leaders represent one particular geographical region and the ethnic group or groups residing in that region, what they get from the Central Government should be seen to trickle down to their communities. They are elected on the promise of what resources they "will bring back" from state house to the community. Lack of transparent formula of "redistributing resources" among the NARC affiliated parties saw a rise in distrust and opposition within. Party leaders seemed never to agree on many issues with non-consensus appearing more along ethnic lines. The constitutional review process and the issue of whether NARC should be transformed into one single party or not did provide for such contentions.

The NARC coalition parties, the LDP and FORD-KENYA became sidelined and the argument was that President Kibaki was not honest in regard to agreements reached when the parties came together in order to remove KANU from power. The criticism from the affiliate parties pushed President Kibaki and his inner circle into coming out with strategies to deny NARC's constituent parties legitimacy through public campaigns and to conduct grass root elections not of independent parties but with NARC as a single party.

President Kibaki set the pace when on his visit to the Coast region on 29th December 2003 he declared as obsolete all the individual political parties that made up the ruling National Rainbow Coalition. The immediate reaction of the LDP wing of NARC was to condemn it while the NARC side immediately started organizing NARC grass root party registration. The coalition experienced elite driven conflict of interest, with antagonism driven by ethnic interests. One of the battlegrounds in Kenya's ethnic politics had been the constitution, made and re-engineered to suite given political situations. The 2005 constitutional review referendum gave the final blow to the NARC coalition.

As the 2007 general elections approached, new alliances emerged with the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) being the major contending parties. These were alignments that were offshoot of the groups active during the "Yes" and "No" campaigns for the Wako Draft (Constitutional bill). The 2007 general elections were the culmination of heated political debates since the NARC divorce. The contested presidential results pushed the country into violence. The violence that caused heavy unwarranted destruction of property and loss of life was unfortunate, though it might also have been the only avenue to salvage a halted democracy.

Constitution Amendments and Review Process: Quest for Change, Transition or Status Quo? The independence Kenya Constitution, though with its short-comings, can be said to have been a good document, looking at the background of its historical birth. Nonetheless, the historiography of Kenya's constitution portrays the different fears and tribulations of varying group interest, each depending on a given particular political situation.

The political negotiations that took place during the three Lancaster House Constitutional Conferences of 1960, 1962, and 1963 not only proved unanimity on issues regarding independence but concerns about resources and administrative issues. The representatives from the minority ethnic groups especially saw the need to have a constitution that safeguards them from the domination of the majority. According to Ogot, "It took so long to produce precise (constitution) because the different parties sought to produce a foolproof constitution that would allay the fears of everybody and protect the rights of each citizen"[57]. He points out that the argument forwarded by the KADU parliamentary group was based on regional and group differences and imbalances. The group saw a genuine danger of discrimination and conflict between the different regions and groups. To avoid domination by a political party, or personality, group or tribe, there was need to decentralize state power. This was to be achieved among other means through creation of six regional authorities with legislative and administrative powers[58].

By April 1963, the Kenya Constitution draft was published, but the most contentious issues such as the powers of the regions, the distribution of revenue, the central government's ability or otherwise to dictate to the regions, and the percentage needed in the Senate and lower houses in order to amend the constitution were to be dealt with at the final constitutional conference, which was to be held in London in September 1963, to settle the final form of the Kenya Constitution[59]. A closer look, these

issues reveal that they were issues of power. In the latter constitution conference the aforementioned issues were seen by KANU as seeking for a "*majimbo*" system (federal). The second Amendment to the Constitution of Kenya abolished the office of the Regional President and the powers of the regions. The former regions became provinces headed by Provincial Commissioners, who were appointed directly by the President. This in effect sealed the fate for a *Majimbo* (federal) State and hence the Pro-Majimbo debates.

The succession politics of the 1970s saw a group of powerful GEMA politicians attempt to use the constitution to favour a particular cliché through agitating for constitutional change. Among them were Njoroge Mungai, James Gichuru, Jackson Angaine, Kihika Kimani, Paul Ngei, and Njenga Karume. In their first public meeting on 26th September 1976, they described the existing constitutional arrangement as "all wrong" and opposed the provision which allowed the Vice-President to succeed the President automatically in the event of a reigning president retiring or becoming physically or mentally incapacitated or in the case of his death[60]. The concern to change the constitution was driven more by the fact that in case of anything happening to the Head of State, the vice-president, Moi at the time, would automatically assume power. And Moi being a Kalenjin from a different ethnic group from President Kenyatta's meant power slipping out of the "House of Mumbi" and to some extension the wider GEMA community. The suggestion to change the constitution met with stiff opposition both from a section of the government and the public.

The failure of the movement saved Kenya another amendment of the constitution to suit succession politics. In 1964 the constitution saw an amendment to block Oginga Odinga, then vice-president, from automatically taking over power for the rest of the term in case the President was incapacitated while in office. A new formula was enacted in that if the President died in office, the National Assembly would elect a successor for the remainder of his term[61]. The one other amendment to the constitution on 25th June 1968 targeted Tom Mboya, a popular politician among Kenyans, who had taken over from Oginga Odinga. The amendment stipulated that the vice-president would succeed but only for three months and with reduced powers[62]. Thus the Kenya constitution has severally been amended purely on the basis of entrenching or limiting individuals who are taken further to represent an ethnic group.

With the opening up of political space in Kenya, from the mid 1990s there was a call for constitutional reforms in Kenya. By 1997 opposition groups and civil society groups united in their pressing for constitutional review. In 1998, the mainstream opposition parties (FORD-KENYA, DEMOCRATIC PARTY, SOCIAL DEMOCRATIC PARTY) joined the National Convention Executive Council (NCEC). They established the "people's commission of Kenya", which was later to be referred to as the Ufungamano initiative.

The government under pressure from within and from the international community conceded to the demand for constitutional reforms. The next bone of contention was when it should begin the modalities to be followed. The opposition and the civil society demanded for a new people driven constitution before the 2002 general elections, a target that was never met but the review process though had began. A national referendum was carried out to solicit views on what the people (Wanjiku) wanted in the proposed (2002) storm gathering force and the dissolution of parliament. The constitutional review process was temporarily halted.

Once the NARC government settled in office, the process soon started complete with new platforms. The Ufungamano group whose members were now senior government leaders or political advisers began disowning some of their major ideas (views) regarding a people-driven constitution. As KANU detested all that Wanjiku stood for, a defensive tool to the Ufungamano group had turned out to be a mere souvenir. The Ufungamano was beat against BOMAS (National Constitutional Conference) with the NARC faction of FORD-People and the opposition KANU rallying behind Bomas.

The main issues centred on the disagreement on the devolution of powers. The problem of power sharing that marked the draft of the independence constitution is clear, the need to decentralize power. A position that was not favoured or later nurtured by the post-independence governments. In Chapter 11, Part 174 of the New Constitution[63], its purpose is:

To ensure the democratic and accountable exercise of sovereign power;

To foster national unity by recognizing diversity;

To give powers of self-governance to the people at all levels and enhance the participation of people in the exercise of the powers of the State;

To recognize the rights of local communities to manage their own local affairs, and to form networks and associations to assist in that management and to further their development;

To protect and promote the interest and rights of minorities and marginalized groups at all levels;

To promote social and economic development and the provision of proximate, easily-accessed services throughout Kenya;

To ensure equitable sharing of national and local resources throughout Kenya with special provisions for less developed areas; and

To facilitate the decentralization of state organs and functions from capital territory.

In retrospect these are more less the same propositions that were forwarded by KADU and which the government subsequently nullified through the various constitutional amendments. The attack on devolution of powers started immediately with the first amendment of October 1964 abolishing the office of the Prime Minister, followed by the second amendment which abolished the office of the Regional President and the powers of the regions, and the Seventh amendment of December 1966 which abolished the upper house (Senate). In effect Kenya had been turned into a strong centralized state.

The question that is asked is, if NARC was an opposition party that condemned too much presidential power on the hands of the government (presidency) then what was wrong with the sharing of power both horizontally and vertically among the three arms of Government and from the centre to the grass root administrative level? Why did power sharing issues so divided the NARC government and led to the defeat of the government bill during the referendum of 2005 and the final split in NARC?

The problem has all to do with political power and the power of ethnicity. A vicious struggle for power found its place in this case at Bomas. Former radical supporters of a "people-driven constitutional review process" such as Subukia MP Koigi wa Wamwere, Assistant Minister Kivutha Kibwana, Kabete MP Paul Muite, Nakuru Town MP Mirugi Kariuki, Justice Minister Kiraitu Murungi[64] and Presbyterian Clergyman Timothy Njoya, among others U-turned and become most virulent enemies to the people's driven constitutional making.

The post-2007 coalition government embracing the major contesting parties in the general elections has raised fear on the role of the opposition in checking government and a lack of a strong opposition stalling the review of the constitution. However, the coalition government managed to deliver the new constitution albeit with discontent from those that voted against its adoption in its present form. After the 2013 general elections a new government was sworn in composed of those who had belonged into different camps in the 2007 general elections and in the national referendum on the Constitution. Uhuru Kenyatta was sworn in during the last elections and became Kenya's fourth president. The post-2007 election court cases before the International Criminal Court at the Hague and the "Kenya at Fifty" celebrations are symbolic of Kenya's statehood. Although the 2007–2008 violence exposed that the "fragility of independence and the weakness of the nation-state were laid bare for all to see"[65] and the legacy of history weighed far more heavily in contemporary politics than in any other countries[66], Kenya portrays a state of continuously evolving transitions with managed change.

* * *

Since independence, one of the main pre-occupation of Kenyan leaders has been to build a national political community as a basis for maintaining state power; in essence, the question of legitimacy. In the process of seeking both horizontal and vertical legitimacy, the leadership in contrast has never attained an all embracing and holistic support. The main reason is that the post-independence leaders relied so much on ethnic elitists networking which at most turned out to be selective and exclusive, marginalizing the majority of the populace.

Since independence, one of the basic objectives of Kenya leaders has been to build a national political community as a basis for maintaining state power. The question that has sometimes been asked is about the nature of this political community. Is it to be an all-embracing political community or is it supposed to be selective or even exclusive?

In a situation where democracy does not address the community's demands and does not generate new bases for rational integration and collective identity, the influence of elitist's ideas becomes more

appealing to their ethnic group. The struggle for power among the elites often generates into conflict between their respective ethnic communities.

During Kenyatta's 1963–1978 period and Moi's twenty-four-year rule, the ruling national bourgeoisie affected major constitutional changes that helped them to consolidate political power and to impose their political and economic dominance on the state. In the final analysis these constitutional changes aimed at strengthening Kenyatta's personal rule, and in the process the ruling party, KANU, was neglected, and by extension so was the participation of *Wananchi* in the political process.

From independence the status of political parties at a given political time determines from which ethnic groups the power wielders at that given moment come from. KANU, for instance, enjoyed support of the GEMA group during Kenyatta's regime, and the Kalenjin – during Moi's era. Opposed to this were the Luo who had been in the opposition till the 2002 general elections, when the community as a block supported the government. Ethnic divisions caused by the elite's thirst for power did split the opposition during the 1992 and 1997 general elections. Intra-elite alliances or conflicts translate into ethnic alignments. The coalition of different ethnic groups at the 2002 general elections failed and the new 2008 coalition is still early yet to make a clear appraisal given the storm that the post-conflict violence generated and the new wave advocating for a referendum to review the New Constitution (2010).

The Kenya constitution too has never been spared from the onslaught of ethnic interests. The contentious issues during the 1963 constitution making did surface in the last constitutional reform process. The various constitutional amendments from independence were either to entrench a particular group in power or to disempower (remove) regional powers. The New Constitution that was promulgated in 2010 is already facing demands for a review driven by a group composed of opposition political parties under a political slogan OKOA Kenya seeking for a referendum to change some sections of the Constitution.

To expand the democratic space, there is a need for the civil society to come over strongly as an integrative force in society through exploiting the mandate bestowed on them. It is argued that the church, among other stakeholders, should play this central role.

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[1] Several authors argue that the third wave of democratization took place between 1970s and 1980s and the fourth wave began in the late 1980s i.e. closely related to the end of the Cold War. See Samuel P. Huntington, *The Third wave: Democratization in the late Twentieth Century*, Norman: University of Oklahoma Press, 1991; Maria Ottaway, "African Democratization and the Leninist Option", *Journal of Modern African Studies.* Vol. 35. No. 1, 1997.

[2] Thomas Ohlson and Mimmi Soderberg, *Democratization and Armed Conflicts in Weak States*, Department for Cooperation with Non-Governmental organizations and humanitarian assistance and Conflict Management, Elanders Novum AB, SIDA, 2003. P. 1–9.

[3] Cherry Gertzel, *The politics of Independent Kenya*, Heinemann Educational Books Ltd, Nairobi, 1970, P. 1.

[4] W.R. Ochieng and E.S. Atieno-Odhiambo eds., *Decolonization and Independence in Kenya – 1940–93*, East African Educational Publishers Ltd., Nairobi 1996, p. xiii.

[5] Ibidem.

[6] Ohlson and Soderberg, *Democratization and Armed Conflict in Weak States*. p.10.

[7] "Invention" is a terminology which has been widely used by several authors in reference to nation-state building. See for instance Atieno-Odhiambo, "The invention of Kenya" in *Decolonization and Independence in Kenya* p. 1; David Brandling, *Review of the Invention of Argentina* by Nicholas Shumway, in *New York Times Book Review* (13th October, 1991); Eric Hobswbawn and Terence Ranger (eds), *The Invention of Tradition*, Cambridge, University Press, 1983.

[8] R.H., Jackson, *Quasi States: Sovereignty, International Relations and the Third World*, Cambridge, Cambridge University Press, 1990.

[9] Barry Buzan, *People, States and Fear – An Agenda for International Security Studies in the Post-Cold War Era*, 2nd ed., Hemel Hampstead: Harvester Wheatsheaf, 1991, p. 82–83.

[10] Ibid., p. 79.

[11] Kalevi J. Holsti, *The State, War, and the State of War*, Cambridge, Cambridge University Press, 1996, p. 82–98.

[12] Ogot B.A., "The Politics of Populism" in B.A. Ogot and W.R. Ochieng (eds), *Decolonization and Independence in Kenya*, p. 201.

[13] Ibidem.

[14] Ohlson and Soderberg, *Democratization and Armed Conflicts in Weak States*. p. 13.

[15] See: Joel D. Barkan, "Protracted transitions among Africa's new democracies", *Democratization*, Vol. 7, No. 3, 2000, p. 230; Michael Bratton and Nicolas van de Valle, *Democratic Experiments in Africa: Africa-Regime Transitions in Comparative Perspective*, Cambridge; Cambridge University Press, 1997, p. 61–63.

[16] Mutahi G. Ngunyi, "Building Democracy in a Polarized Civil Society": The Transition to Multi-party Democracy in Kenya", In Joseph Oloke-Onyango, Kivutha Kibwana and Peter Maina (eds), *Law and the Struggle for Democracy in East Africa*, Clari press, Nairobi, 1996, p. 265.

[17] Ibidem.

[18] Ibidem.

[19] Job, Brian L., "The Insecurity Dilemma: National, Regime, and State Securities in the Third World" in Brian, L. Job (ed); *The Insecurity Dilemma – National Security in Third World States*. Boulder, Lynne Rienner Publishers, 1992, p. 18.

[20] Gordon White, "Civil Society, Democratization and Development: Clearing the Analytical Ground", *Democracy* Vol. 1, No. 3, 1994, p. 379.

[21] Marina Ottaway and Thomas Carother, *Funding Virtue – Civil Society, Aid and Democracy Promotion*, Washington D.C.; Carnegie Endowment for International Peace, 2000, p. 4.

[22] Ibidem.

[23] Cherry Gertzel, *Politics in independent Kenya*, p. 7.

[24] *The East African Standard*, 26th April 1966.

[25] See T.J. Mboya, *Freedom and After*, London, Andre Deutsch, 1963.

[26] Ibid.

[27] Mutahi G. Ngunyi, "Building Democracy in Polarized Civil Society: The Transition to Multi-party Democracy in Kenya" in Oleke-Onyango, Kibwana and Maina (eds), *Law and the Struggle for Democracy in East Africa*, p. 257.

[28] Barkan, J., "The Rise and Fall of a Governance Realm in Kenya" in Hyden and Bratton (eds), *Governance and Politics in Africa*, p. 176.

[29] Jennifer A. Widner, *The Rise of a Party-State in Kenya – from "Harambee" to "Nyayo"*, California Press, Oxford, 1992, p. 87.

[30] Ibid., p. 88.

[31] Ibid., p. 100.

[32] Mutayi Ngungi, "*Building Democracy in a Polarized Civil Society: Transition to Multi-party Democracy*" in Kenya in Oloke-Onyango, Kibwana and Maina (eds), *Law and the Struggle for Democracy in East Africa*, 1996, p. 257.

[33] Rene Lemarchand, "Uncivil State and Civil Societies: How illusion became reality", *The Journal of Modern African Studies*, Vol. 30, 2, 1992, p. 178.

[34] Patrick Chabal and Jean-Pascal Daloz, *Africa Works – Disorder as a Political Instrument*, Oxford: James Currey, 1999, p. 1–2.

[35] Ndegwa S, "Shoes on the Other Foot for Reformists" *Daily Nation*, December 12, 2003.

[36] Mathew 20:20 – 28, 1st Kings 12.

[37] Ist Peter 5:3; II Timothy 2:15; Ephesians 5:11.

[38] Psalms 24:1.

[39] Amos 2:7.

[40] John 18:37; Mathew 5:13 – 14.

[41] Galia Sabar, *Church, State, and Society in Kenya: From Mediation to Opposition, 1963 – 1993*, London, Portland, OR: Frank Cass, 2002, p. 3.

[42] Deuteronomy 17:14 – 20.

[43] John W. De Cruchy, *Christianity and Democracy: A Theology for a Just World Order*, Cambridge: Cambridge University Press, 2002, p. 10–12.

[44] Ibidem.

[45] Ibidem.

[46] 1st Corinthians 12:12–13.

[47] *The Economic Review*, March 14–21, 1997, p. 2.

[48] Ibidem.

[49] Ngunyi Mutahi, "Building Democracy in a Polarized Civil Society" in *Law and the Struggle for Democracy*, p. 259.

[50] Ali Mazrui, "Current Socio-political Trends" in Frederick S. Arkhurst (ed), *Africa in the Seventies and Eighties*, New York, Praeger Publishers, 1970, p. 49.

[51] Ogot, B.A., "The Politics of Populism" in *Decolonization and Independence in Kenya*, p. 194.

[52] Ogot, B.A., "Transition from Single-party to Multi-party Political System, 1989–93" in *Decolonization and Independence in Kenya*, p. 239.

[53] Ogot, B.A., "Epilogue 1989–1993" in *Decolonization and Independence in Kenya*, p. 249.

[54] *Daily Nation*, 24th December 2002, p. 19.

[55] http://www.kenyaweb.com

[56] Ogot, B.A., "Epilogue 1989–93" In *Decolonization and Independence in Kenya*, p. 249.

[57] Ogot, B.A., "The Decisive Years 1956 – 63" In *Decolonization and Independence*, p. 70.

[58] Ibid., p. 70.

[59] Ibid., p. 73.

[60] Ogot, B.A., "The Politics of Populism" in *Decolonization and Independence*, p. 187

[61] Goldsworth, David, Tom Mboya, "*The Man Kenya Wanted to Forget*." Nairobi, Heinemann, 1982, p. 269–271.

[62] Ibidem.

[63] *Kenya Constitution* (2010). Nairobi: Kenya Law Reports.

[64] *Sunday Nation*, February 1, 2004, p. 12.

[65] Daniel Branch, *Kenya: Between Hope and Despair, 1963–2011*, New Haven and London: Yale University Press, 2011, p. 289.

[66] Charles Hornsby, *Kenya: A History since Independence*, New York: I.B Tauris and Co. Ltd, 2012.