



# A critical analysis of determinants of Kenya's political liberalization since independence

Meywa Oscar Otele

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# **UNIVERSITY OF NAIROBI**

## **A CRITICAL ANALYSIS OF DETERMINANTS OF KENYA'S POLITICAL LIBERALIZATION SINCE INDEPENDENCE**

**BY  
OTELE MEYWA OSCAR  
C01/0554/2004**

**A DISSERTATION IN PARTIAL FULFILLMENT OF THE COURSE  
REQUIREMENT FOR THE DEGREE OF BACHELOR OF ARTS IN  
POLITICAL SCIENCE AND PUBLIC ADMINISTRATION**

**SUPERVISOR  
FRED JONYO**

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**APRIL/JULY 2008**

## DECLARATION

This Dissertation is my original work and has not been presented in any University for any award


By



.....  
OTELE MEYWA OSCAR

C01/0554/2004

This Dissertation has been submitted for Examination with my approval as a University Supervisor



.....  
FRED JONYO  
(SUPERVISOR)

UNIVERSITY OF NAIROBI  
DEPARTMENT OF POLITICAL SCIENCE  
AND  
PUBLIC ADMINISTRATION

## DEDICATION

I dedicate this dissertation to my late grandmother, Agnes who past a way on

22<sup>nd</sup> April 2008 immediately I started this work.

## ACKNOWLEDGEMENT

The preparation of this dissertation would not have been possible without the support and assistance from various institutions and individuals.

First, I pay tribute to the Department of Political Science and Public Administration for approving this topic, as that marked my starting point. Other institutions that were resourceful to the study include the Jomo Kenyatta Memorial Library (JKML), Electoral Commission of Kenya (ECK), French Institute For Research in Africa (IFRA),

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My gratitude goes to my family members. To my Dad, Dr. Otele Humphreys and Mum, Faustine both for their moral and financial support. To all students in Political Science and Public Administration.

The acknowledgements notwithstanding, the findings and recommendations are entirely of the candidate who takes responsibility for any error.

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## **ABBREVIATIONS AND ACRONYMS**

ANC: African National Congress

APP: African People Party

COTU: Central Organization of Trade Union

DRC: Democratic Republic of Congo

DP: Democratic Party (Kenya)

ECK: Electoral Commission of Kenya

FORD: Forum for the Restoration of Democracy

FORD-A: Forum for the Restoration of Democracy- Asili

FORD-K: Forum for the Restoration of Democracy -Kenya

GDP: Gross Domestic Product

GNP: Government of National Unity

GEMA: Gikuyu -Embu-Meru Association

IPPG: Inter-Parties Parliamentary Group

KADU: Kenya Africa Democratic Union

KAMATUSA: Kalenjin, Maasai, Turkana, Samburu

KANU: Kenya Africa National Union

KAU: Kenya Africa Union

KFA: Kenya Farmers Association

KGGCU: Kenya Green Growers Cooperative Union

KPU: Kenya Peoples Union

**KTDA: Kenya Tea Development Authority**

**LDP: Liberal Democratic Party**

**MOU: Memorandum of Understanding**

**MPs: Members of Parliament**

**NAK: National Alliance [Party] Kenya**

**NARC: National Rainbow Coalition**

**NCEC: National Convention Executive Council**

**NDP: National Development Party**

**NGO: Non Governmental Organization**

**NIC: Newly Industrialized Countries**

**NOA: National Opposition Alliance**

**NSA: National Solidarity Alliance**

**SAPs: Structural Adjustment Programmes**

**UASU: University Academic Staff Union**

**UNDA: United National Democratic Alliance**

## **ABSTRACT**

This study is an attempt to analyze determinants of Kenya's political liberalization since independence. The study proceeds from the premise that democratic transition in Kenya has been influenced by ethnicity, economic underdevelopment and weak legal frameworks.

It is argued in this study that ethnicity permeates the Kenya's political liberalization process so deeply that party politics has become polarized along ethnic divides and voting patterns follow ethnic affiliations between the voters on one hand, and the candidates and party leadership on other. The evidence adduced shows that in both the 1992 and the 1997 multiparty elections ( presidential, parliamentary and civic) produced results that reflected the ethnic composition of the electorate in different regions of the country however in December 2002 election, Mwai Kibaki won on NARC because it was a multi-ethnic alliance. Moreover economic-social underdevelopment and weak legal frameworks have constrained political liberalization.

The modernization and dependency approaches in political development constitute the theoretical framework for this study. Modernization theory posits that economic development precedes political modernization or political modernization accompanies economic development while dependency theory posits that the problems experienced by the Third World countries are caused by the external economic relations.

The study relies on secondary data drawn from books, journal, research reports, newspaper articles and weekly reviews.

# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1: Background of the Study**

This study examines the conceptual frameworks on ethnic phenomena and underdevelopment and uses this examination as a guide for analyzing the discussion on the political liberalization. The approach seeks to capture what others have said and uses their views to present and criticize these determinants in a more transparent way.

Political liberalizations have long been recognized as one of the most fundamental threats to institutional stability, political order and state cohesion in the multi-ethnic societies of the Third world countries. This is largely as a result of lack of institutionalization of key political organs, which are necessary in the management of regime change. Without the relevant and stable institutions, political liberalization is at bay (Jonyo 2003).

From the mid-1960s to the late 1980s, autocracy became a common feature in the states of sub-Saharan Africa. This style of governance has been the single major cause of bad governance in the region. And bad governance has largely been responsible for the general deterioration in the efficient delivery of public services and the decline of economies (Mbai 2003).

In the case of Kenya, the emergence of autocracy can be traced in the mid-1960s when the first independent government caused the dissolution of the only existing opposition political party, and systematically began to amend the original constitution that had carried the promise of the establishment of a liberal democratic state in the country.

Throughout the 1970s and 1980s personal rule by Jomo Kenyatta and his successor Daniel Arap Moi promoted repression, abuses of human rights, ethnicity, nepotism, patronage and widespread corruption. These factors led to the beginning of the consistent decline of the economy from 1973<sup>space</sup> and the general deterioration in the efficient delivery of the public services in the country that have persisted ( Ibid ).

In the late 1980s, domestic opposition groups, supported by the international community successfully put pressure on president Moi to open up the country's political space. Thus, in December 1991, the government approved the restoration of multiparty. And in December 1992, general elections involving more than one political party were held in the country for the first time since the mini-elections of June 1966.

The country in 1990s and early 2000s witnessed continuity of past authoritarian practices quantified in terms of ethnic conflict, high inflation rates and at the same time trends of restricted but piecemeal constitutional reforms among others.

## **1.2: Definition of the Concepts**

An analysis of determinants of Kenya's political liberalization is feasible with a clear understanding of concepts themselves and other closely related terms.

In the literature on political liberalization there is still disagreement as to what the term liberalization in this context entails. The resolution of the issue depends on how one conceptualizes liberalization. Michael Bratton (1998) argues that political liberalization refers to the reform of authoritarian regimes. Often described as a political opening, political liberalization involves official recognition of basic civil liberties. Examples of

political liberalization include the release of political prisoners, the lifting of government censorship, and the relegalization of banned political parties. In short political liberalization broadens political competition in a viable economic, social and environmental setting. *(from economic and political liberalization)*

Political liberalization launches regime transition that is, an incumbent elite, driven by divisions within its own ranks, initiates concessions to its opponents. In Kenya regime transition began with popular protest, with such imperatives, political liberalization is best viewed as a government response to pressures emanating from domestic and systemic political arenas. Liberalization is thus an intermediate phase of transition that occurs between the onset of protest and emergence of a new regime equilibrium.

Put differently political liberalization or political opening involves the dismantling of the previously authoritarian system and restructuring political or political institutions with a view to making them conform to democratic rather than authoritarian modes of governance. Generally, the liberalization or the opening process aims at getting rid of barriers to political participation. It thus clears the way for constitutional reforms, the organization of new political parties, the growth of independent media and the strengthening of voluntary organization.

In Latin America, the political liberalization of the 1980s and early 1990s entailed the transition from authoritarian military regimes to constitutionally elected civilian governments. In the former communist countries of Eastern and Central Europe transition



meant movement from the tightly controlled democratic centralism to more open, free-liberal democracies. In Africa, it meant the opening up of the closed authoritarian one-party and military political systems, generally replacing them with multi-party system. However, whatever the nature of the previously existing regime, political liberalization intrinsically involves the opening up of previously closed systems in order to increase the opportunities for popular participation in decision making (Nying'uro 1999).

Thus, in Kenya's case and for the purpose of this study, the focus is on the political opening which entailed the termination of single-party dominance, relegalization of opposition parties, restored freedom of association, assembly and expression and constitutional reforms leading to competitive election.

On ethnicity, Chazan and Rothchild have the following to say

Ethnicity refers to a subjective perception of common origins, historical memories, ties and aspirations; ethnic group pertains to organized activities by persons linked by a consciousness of a special identity who jointly seek to maximize their corporate political, economic and social interests. Ethnicity or a sense of people-hood has its foundations in combined remembrances of past experience and in common inspirations, values, norms and expectations.

In the context of Kenya, Oyugi (1998) refers to ethnic group as the forty-two or so socio-cultural communities in Kenya that have been identified on the basis of language and other ascriptive criteria, and which are associated predominantly with specific geographical regions of the country.

Ethnicity emerges when individuals acting in groups attempts to use their supposed common origin (ancestry) as a basis for their relations with others. Perhaps this is what Nnoli has in mind when he says that ethnicity involves a common consciousness of being

one in relation to other interacting groups (Nnoli 1989).

Although the writers (Chazan and Rothchild) cited above do ascribe a positive role to the ethnic equations in the political arena, it is the contention of this study that the ethnic algebras in the contemporary Africa political spectrum have blunted the appeal of democracy to the masses. The peasants belonging to different ethnic groups are not only victims of manipulation; they are also a danger to themselves to the extent to which they periodically embrace tribal consideration and sentiments in national interests (Wanjala 1997).

Authoritarianism is a particular form of regime where rulers impose their values on society by force irrespective of the people's wishes. It also includes fascism, communism, military dictatorships and most single regime.

Democracy is a system of government that espouses free and fair elections that are regularly held, political pluralism, respect for the rule of law and human rights accountability on the part of leadership, transparency, popular tolerance and consensus.

Economic development is qualitative and quantitative positive change in the economic and social conditions of a country. Parameters to measure these changes are reduction in unemployment, reduction in the levels of poverty and improvements in the distribution of resources.

Economic growth is percentage change that is either positive or negative in the GNP or GDP.

Capitalism is an economic system in which the major means of production, distribution and exchange are owned by private actors and run for profit.

Rent – Seeking is the existence of distributional coalitions in society, which seek subsidies, transfers, protected positions and monopoly access to resources.

The term transition as used in this study shall refer to a process leading to change from one regime to another – a change which involves leadership change at the top and political party that controls state power. While reform is any measure taken by the ruling elite to increase political and, or economic participation.

De facto is unofficial, not legally sanctioned while De jure is a state of existence that is sanctioned and supported by the law.

Clientism is common in traditional societies, when a person with higher status (patron) takes advantage of their authority and resources to protect and benefit one with inferior status (the client) who reciprocates with supports, devotion and service.

Patrimonial rule is a variant of personal rule, where the right to rule is hereditary and conferred by tradition.

### **1.3: Statement of the Problem**

A number of scholars have argued about the opening of political space in Africa. Majority assert that such opening in Africa and Kenya in particular is Eurocentric. The thesis of this debate is the foundation, growth and development of democracy in the

continent. The implication of this goes a long way to demonstrate the apparent success or failure of democracy in the continent.

Some scholars assert that in the post cold war era western world ~~has~~ applied economic and diplomatic pressure to force authoritarian and repressive regimes to respect fundamental human rights and establish democratic governments. However, Salih contends that the manner in which the west has tried to create democracy and accountability in Africa is thus a major concern. This donor driven democratization and good governance projects, he argues, determines the fate of democracy in Africa by emphasizing the form and neglecting the content. It insists on replicating western democratic experiences, at times without questioning their efficacy in the African context, or asking what they should do to enhance the development of a truly African democracy. The very argument forgets that Africa as a continent has own set of internal variables ~~are~~ totally different from western world. Their belief system, traditions and culture is incongruent with the western world.

Salih later gives reasons that have led to democratic failure in five African countries ( Nigeria, Senegal, Zimbabwe and Uganda ) as regime insecurity; ethnic divisions; weak political structures; lack of legitimacy; undermined and distorted political institutions; state monopoly over economic development and weak private sector and external factors. Among these, ethnicity, socio-economic underdevelopment and weak legal institutional frameworks are the determinants that have greatly shaped Kenya's political liberalization.

Nying'uro takes a neutral ground by appreciating both the domestic and systemic variables that have led to political liberalization, he argues that, in Kenya international system played a key role because democratic forces were internally weak and vulnerable to the state which had entrenched itself in a despotic manner.

These varying and at times contending arguments raise the issue of the root causes of democratization in Kenya, thus this study raises a fundamental question –are the internal determinants conducive for political liberalization in Kenya?

#### **1.4: Objectives**

The study seeks to identify and analyze the determinants of Kenya's political liberalization since independence and offer policy recommendations.

The objectives of this study thus are:

- To examine the impact of ethnic politics in transition to democracy in Kenya.
- To assess whether socio-economic development is a viable tool for growth and expansion of democracy.
- To examine the impact of legal institutional frameworks towards political liberalization.

#### **1.5: Justification**

The primary intention of this study is to fill certain gaps existing in works on opportunities, constrains, contradictions on political liberalization. Although studies on political liberalization exist, our work is pioneering in that, it moves away from the geo-

political biasness of transition theory. Democratization that entails opening political, social, economical and environmental landscapes is Eurocentric and this implies that any analytical framework within it failed to capture a number of internal variables like ethnicity, economic and social backwardness and weak legal framework.

Studies by Oyugi (1998) and Chweya (2007) acknowledge the fact that ethnic conflicts are brought about by unfair distribution of resources and thus slow democratization process in Kenya, in particular the former fails to capture the argument that ethnic clashes that erupted in run up to 1992 general election in some part of Rift Valley were meant to alter political demography. Furthermore a number of scholars have blamed stunted democracy as function of weak political and legal institutions. This study moves away from this mere blame by interrogating into these political and legal frameworks and finally offering reforms to the same institutions.

## **1.6: Literature Review**

The internal determinants that provide opportunities and, or constrains for democratization in Africa are, economic hardships, ethnicity, mismanagement and corruption, weak and distorted political institutions and structures and regime insecurity.

### **1.6.1: Multiethnic Political Parties in democratic transitions**

Mutunga (2000) blames ethnicity, race, religion, class, region, clan, occupation, gender and generation gap as the major factors for political power and discrimination in East Africa since independence. Berman (1998) portrays a policy view of democratization in

the continent, he says that, one recognized the fact that democratization will not advance unless we explore the interior architecture of tribe. Ethnicity has been especially pervasive in Africa, rearing its head in all aspects of state management – Political organization, economic management.

Nying'uro (1993) argues that the typical African political systems are generally underdeveloped, weak and fragile. It is characterized by an ideological vacuum, low level of institutionalization, lack of congruence between political structures and political culture. He further adds that perhaps the greatest challenge for the new political systems in Africa is how to deal with the ethnic factor, the relationships between democratic governance and management of ethnic diversity is now becoming more obvious than ever. Democracy is a system of institutionalized competition for power, which allows competition for influence in an organized and positive way. Nying'uro adds that the major objective of democracy is to decentralize power of the executive. The aim is to have governments that are accountable, legitimately elected and responsive to people's needs.

### **1.6.2: Social and Economic Contradictions**

Gitonga (1987) argues that a society satisfies most of its needs through the economic production of goods and services. The infrastructure of democracy therefore, lies in the economy – the system of production, distribution and consumption of material goods and services. To this extent, he continues, democracy is served by the existence of a healthy and prosperous economy. The reverse is also true: a weak and badly functioning economy is a mortal danger to democracy. He further adds credence to this position by

stating that the superstructure of democracy are therefore found in the values, beliefs and attitudes of the people....the amount or degree of democracy in any given society is directly proportional to the degree of accumulation of the people in democratic values, attitudes and beliefs.

Salih (2001) also supports this view that democracy is embedded in societal values to control their own livelihoods. He argues that democracy is about political participation, the ability of people to express their own preferences without intimidation. Thus constitutes the sum total of values and attributes that people nurture over a long period of trial and error while improving on its quality.

After the demise of the Cold War, major world democracies began to change their policies towards Africa to show a greater concern for democracy, accountability and human rights. A departure from supporting brutal authoritarian government for short term strategic needs. Donors became increasingly disillusioned by the apparent ineffectiveness of their development assistance. Despite all the aid, Sub-Saharan Africa had become the locus of world poverty. Its share of the world's poor was expected to increase from 16 per cent in 1985 to 30 per cent by 2000 (Harbeson & Rothchild 1995).

A new thinking among bilateral and multilateral donors began to give attention to political reasons for African development failure and they increasingly saw the need for political prescriptions as the answer. In 1989 the World Bank launched a new development strategy, 'Sub-Saharan Africa: From Crisis to Sustainable Growth'. In this publication it pegged economic development to political accountability, public debate,



press freedom political participation, pluralism, and decentralization, consensus building and legitimacy. Other donors adopted this new policy shift.

Kanyinga (2006) discusses the evolution of Kenyan Political System and its relation to inequalities in the composition of governance structures and institutions in the post colonial Kenya: the executive, legislatures, judiciary and other public institutions and analyzes the factors responsible for the imbalances and reforms required to address the disparities. Kanyinga tabulates how public resources, parliamentary seats, cabinet and key civil service appointments are inequitably distributed among the main ethnic groups in power in favour of the incumbent, right from the Kenyatta regime, through Moi to President Kibaki. He argues that the ethnic minorities were not more represented in the legislative assembly than the numerically larger groups and thus rules out marginalization for minorities in defense of the underrepresented ethnic majorities. He thus proposes proportional representation to avoid ethnic politics and inequalities associated with it as the only remedy for providing opportunities and building governance institutions as was the case in South Africa during the deconstruction of the apartheid state. The African National Congress (ANC) and then the government of South Africa agreed on the principle of bringing on board all political parties and interest groups as the way forward for South Africa.

Chweya (2007) contends that the Post-African Political elite pursued policies that were a kin to the preceding colonial practices – elite exploitation and accumulation, underwritten by political domination of the masses. He avers that the period between independence and the rise of the second liberation witnessed the emergency of a powerful, mostly

ethnic bourgeois class and trans-racial. He adds that land resettlement program in the independence period generally favoured the emerging African bourgeoisie more than the population that faced land hunger. This situation prompted a social conflict with interlocutory ethnic and class undercurrents. To fill this gap on land policy, this study proposes several recommendations on land reforms.

However on this view or policy shift, to introduce democracy in the continent as a path to development a number of authors have a contrasting view. For instance, Bungara contends that democracy is assumed to be a product of market based industrialization, secularism, mass education and the development of a professional middle class. Gelinas lends support to this view by acknowledging that, for European countries, each in its own way, democracy was the achievement of along economic and technological accumulation process in agriculture and industry. When Japan embarked on its own industrial revolution in 1860 it took note of Europe's lessons. Japanese relied on their traditional structures and solidarities to build a solid economic base starting with agriculture. This gradually led to a form of democratic government. These views are direct contradiction to the donor driven democratization project through the Structural Adjustment Programmes, (SAPs) because unlike the donors stand, Bungara and Gelina view democracy as a product of a long and arduous process of economic development. In addition they suggest that democracy should be home-grown.

Harbeson & Rothchild (1995) thus criticize the donor approach to encourage democratic transition in Africa. They contend that multilateral and bilateral pressure from the donors to democratize may become counter productive because it misconceives the nature and

importance of the state; it undermines both the state and the transition as a whole. They continue to argue that the West precludes that Africa's common political and economic problems to non-functional government policies. These problems thus center on theoretical validities of policies to inscribe on Africa. Due to this position they present end points of theoretical transitions as a need for adherence to those theories disregarding African variations, realities and situations.

The West believes as Hopkinson (1992) notes that greater democracy will assist in the revival of economic development in Africa. However he continues to argue that economic development is not promoted by one particular type of political system, whether single party or multi-party. The 'Asian Tigers', that is, Indonesia, Thailand, Malaysia, Singapore, South Korea achieved industrial status under authoritarian regimes. The World Bank Study 'The East Asian Miracle' suggested that these countries achieved Newly Industrial Country (NIC) status by relying on accountability, rule of law, predictability and competition.

### **1.6.3: Weak Institutional Frameworks**

Ogot (1996) avers that there is a need to reconcile universal values like democracy in relation to ethnicity. Ogot views ethnic mobilization as transcending the fundamental concepts on which modern nation states have been built and therefore presents a formidable challenge to policy makers and nation building.

Ogot further adds that this approach in addressing the multiethnic problem, which basically advocates for the sharing resources between the various ethnic groups, is yet to

solve the problem of ethnicity. While his article articulates the diverse processes of ethnicisation as an aspect of the process of identity formation it admits of difficulties of finding constitutional solutions to the ethnic problem, a gap this paper seeks to address.

Suberu (2000) observes the state in Africa has relied on the hegemonic repression or manipulation through institutions and process of democratic constitutionalism. Despite recent democratic openings on the continent, the legacy of authoritarian ethnic conflict management continues to pose an obstacle to the evolution or consummation of liberal reforms in state-ethnic relations. He adds that to secure political stability and equity in segmented societies, democratic institutions ought to be tailored to protect the interest of diverse groups through provision of autonomy, proportionality and minority rights. He concludes by pointing out that the problem in Africa so far has been the little interest that the continent's political leaders have shown in dealing with ethnicity in terms of constitutional and legal provisions that enable people to feel secure and governments to manage the issue constructively to both itself and its citizens.

Oyugi (1997) aptly observes that the absence of a structure of distribution that caters satisfactorily for all in the zero sum nature of electoral system is ethnically conflictual. Oyugi states that ethnicity has been used by competing claimants to extract resources from the centre, by the state to determine the structure of access and by politicians to mobilize political support. Oyugi further argues that ethnic ideology becomes anti-democratic at that point when it is used as an instrument of mass mobilization. Both the opposition and the regime in power have continued to pursue an agenda, while

condemning the other as the culprit. Oyugi concludes that as long as the country remains with distorted structures of access to resources, the democracy will accentuate ethnic passions instead of taming the same.

Nasong'o (2005) argues that the constitution requires that all constituencies contain as nearly equal numbers of inhabitants as appears reasonably desirable to the Electoral Commission of Kenya (ECK). However, the ECK may depart from this principle in order to take account of population density, demographic trends, and means of communication, geographical features, communities' interest and the boundaries of existing administrative areas, as opposed to the number of inhabitants that have been the major factors in constituency demarcation. The Kenyan electoral system does not provide incentives to argue for equitable representation of groups in parliament. This inequality in representation spills over into other institutions of governance hence continues to affect the political transition caused by marginalization of some ethnic groups and unequal distribution of resources.

Ottoway (1999) argues that following the fall of Berlin walls, multipartism that set in most Third World Countries brought about nationalism through the wave of democratization. At that time most states in Africa were politically and economically weak. Leaders had not established stable political systems. When elections were conducted, party and the leaders were changed but the legal structures remained intact. Ottoway concludes that Africa appears incapable of finding an ethnic mode of operation, for ethnicity can't be limited, as it becomes the operational principles around which the

political systems are built. However this study does not conquer with Ottoway's solutions of ethnicity that lies in challenging the existing power relations and ethnic territorial rearrangement and in specific populations within current state boundaries.

On the following grounds: rearrangement of specific populations within current state boundaries will worsen the situation because with time clustered population will again invent own customs and traditions that will shape their relationship with other members from different sub-population.

Helsi (1997) examines the possibilities for successful resolution of ethnicity through democratic procedures. He evaluates the nature of ethnicity and its potential to constrain the assemblage of principles. Helsi looks at the possibility of arranging the state either through federalism or constitutionality in order to reduce ethnicity and its prospective to violence.

Otenyo (2004) argues that ethnic politics in Kenya is organized around instrumentalist objectives to control the presidency. How far or near the ethnic group was from attaining or benefiting from the presidency defined nearly every calculation and social mobilization projects. He further states that the African is tribal in nature because of the strong kinship. Otenyo conceives that as long as identities are instruments of political control and power, attention must be accorded to the governance models particularly the administrative frameworks of the respective countries.

### **1.7: Hypotheses Formulation**

Independent variables in this study are mobilization for support along ethnic affiliations, level of social and economic development and level of legal institutionalization. These are quantifiable units that shall form determinants of Kenya's political liberalization. The dependent variables are relegalization of political parties, inclusive constitution making, and social and economic development that entail political liberalization.

The independent variables may explain the nature of political opening which is either curtailed by mobilization of support along ethnic affiliations, competition for access to equal distribution of resources or stunted constitution-making process. A correlation between the independent and dependent variables explain opportunities and constraints that emerge thereof.

The following hypotheses shall guide this study:

- Ethnicity breeds political entrepreneurship in polarized societies like Kenya hence interfering with political liberalization.
- Political underdevelopment is a function of social and economic underdevelopment.
- Weak legal institutional frameworks undermine political liberalization.

### **1.8: Theoretical Framework**

A theory is a body of internally consistent empirical generalizations that is used to describe, predict and explain a phenomenon. Thus a theory is an analytical, tool that facilitates study, analysis, and understanding of certain phenomena.

Studies on determinants of political liberalization employ numerous theories to explain their occurrence and or their perpetuation.

The choice of theoretical framework is mainly determined by the need to show how ethnicity, social and economic development and legal frameworks influence political liberalization. This study shall apply modernization and dependency theories.

### **1.8.1: Modernization Theory**

On the eve of independence, when a number of Third world countries were agitating for self rule, development become the cornerstone of their interest, at the same period a group of western scholars emerged under the umbrella of modernization theorists. These theorists assembled a set of ideas which were marketed as presenting the best development for these emerging economies. Their conception of development emphasized certain key features of development process which to them were universal, that is development meant the following: Comparatively high levels of urbanization, ambitious and widespread literacy programme, a relatively increased commercialization and industrialization of the economy, <sup>expensive</sup> ~~expensive~~ communication networks within the economy, <sup>participatory</sup> ~~participatory~~ involvement of the people in making key decision about their preference, an improved social and geographical mobility of population and a relatively increasing per capital key capita income.

Added to the above, these theorists presented the following arguments on the development, that development was like a linear one path process where countries begin or start from a traditional phrase and make a transition to the modern state or societies



start as undeveloped, go to developing then to developed. This path has been well made by industrialized economies that were indeed successful, so that emerging Third World economies needed not invent anything new, theirs was to copy the path by way of imitation.

The basic tenets of this theory are that economic development precedes political modernization or political modernization accompanies economic development. It measures economic development in terms of Gross National Product (GNP) per capital, level of industrialization and urbanization. Economic development broadens men's outlook, enables them understand the needs for norms of tolerance, restrains them from adhering to extremist doctrines and increasing their capacity to make rational electoral choices (Hadenius 1992).

Industrialization would lead to prosperity, improve political resources of the formerly poor as they would race on independent individual stand on political issues, leads to an organized working class and the growth of a middle class who would challenge the ruling elites in the political process. Urbanization has a result of encouraging internal migration that would open up previously closed traditional societies, increase human interaction with diverse peoples thus leading to the growth of a tolerant, open and democratic culture.

Modernization world view contends that modernization occurs in stages. First we have traditional society stage where culture is pre-scientific. Followed by preconditions for take off where the equilibrium that favors the traditional culture begins to be challenged

by science, foreign trade and or external invasion. The third stage is a take off where political power increases to a group that regards economic growth as growth of society and state. The fourth stage is drive to maturity where the country becomes an active participant in international trade, exporting goods as well as producing goods for local consumption. Finally there is the stage of high mass consumption where we have general rise in the standard of living and sufficient wealth to fund social welfare.

W. Rostow argues that modernization theory projects an evolution from traditional societies that would involve the incorporation of western values, including market economic, individualization, pluralism and political democracy (Harberson 1995).

This theory has lent a philosophical and historical rationale to the western involvement in African affairs, thus they lavished Africa with massive aid to achieve an industrial take off. However this did not occur as countries abandoned democratic governments in favour of one party, authoritarian and military regimes, and economic growth was stagnant at best and regressive at worst. Therefore the once dominant economic development-political modernization theory was now open to criticism for its apparent failure of its application in Africa.

### **1.8.2: Dependency Theory**

Dependency theorists argue that, the problems experienced by the Third World countries are caused by the external economic relations, whereby the Third world countries got integrated into global capitalist system merely as producers of raw materials. One of its

leading proponents, Andre Gunder Frank contends that Third World occupy positions as satellites that are economically and politically inferior to the capitalist metropolis of the western world (Hadenius, 1992). The structure of the international system therefore favors the metropolis or core countries and limits the development opportunities for countries in the periphery. Central to the theory of dependent development is the concept of comprador class. These consist of local managers who took over the economy once the colonialists departed. Their interest is to maintain the relationship even if the local workforce is heavily exploited (Rod et al., 1992).

Dependent development develops into a situation of structural inferiority by the Third World that hinders the political liberalization in the following ways: The ruling elite do not have sovereignty, to take independent action but as the agents of external forces.

The dependent relationship leads to the development of a dual society, building cleavages in society, that is, few modern capitalists and a large stagnant traditional group.

This school recommends ways to break a way from such exploitation, is sever exploitative links with the Western World, nationalization of foreign companies and transition to a socialist mode of production.

### **1.8.3: Criticism of the Theories**

Modernity and tradition are not necessarily diametrically opposed to each other and not all traditions are anti-modern or opposed to progress. Modernity and tradition can

harmoniously coexist. Modernity can serve to reinforce traditional values and not necessarily eradicate them.

Modernization theory is Eurocentric and based on narrow western values. These values cannot be replicated in the African context because to do so is to deny Africa and the developing world their own histories, socio-economic and political uniqueness.

The insistence on behavioral change as a prerequisite to political development is premised on psychological reductionism, while ignores the role of a prolonged colonial experience, the international division of labour and their contribution to the making of the Third World

Modernization theory advocates for a top-down democratic transition and consolidation. 7

The theory disregards factors that influence and are influenced by development for instance political freedom, social opportunities, economic facilities, transparency etc.

The theory is not parsimonious that is some exceptions exist to negate the root to democracy that this theory ascribes to, for instance India has a low level of socio-economic development but has had a good and relatively long democratic achievements and the United States of America in 1830 had a very low level of economic development yet underwent democratic transition successfully.

Dependency theory ignores the dynamics of class struggle as well as misinterpreting the relationship between commerce and capitalism (Staniland 1985). It exaggerates the power and influence of the international system and fails to recognize and appreciate historical individualities and political abilities and capabilities of Third World Countries.

Dependency theorists argue that a way out of this dependency and exploitation is to embrace socialism through a revolution; however how socialism would mitigate and negate dependency is questionable especially in the light of the failure of Marxist/Socialist mode of government. Therefore the theory is long on the problems in the Third World countries but short on the solutions.

### **1.9: Methodology**

This study predominantly relies on documentary sources of data. The sources of data include books, journal, research reports, newspaper articles and week reviews.

Under secondary sources, areas of interests will include: ethnicity and political parties social and economic development, constitution making process in Kenya.

The dilemmas of post-colonial state under Kenyatta, Moi and Kibaki regimes shall be examined. Data collected will be analyzed with a view to testing the hypothesis and making conclusions.

## **CHAPTER TWO**

### **ETHNIC –BASED POLITICAL PARTIES**

#### **2.1 Introduction**

The early 1950s saw the banning of the Kenya African Union (KAU) and its replacement with district-based political organizations following declaration of state of emergency by colonial government. This restriction applied only to African political parties. Thus, the political groupings that emerged between 1955 and 1962 were ethnic –based district associations (Oyugi 1998).

The lifting of the ban on territorial political organizations in 1960 came at a time when Kenya's body politics was, characterized by suspicion at national level between the party leaders and supporters. The proliferation of ethnic-based parties between 1955 and 1962 was an attempt by such actors to establish a framework within which to bargain, if not complete, at the centre.

Harowitz (1985) argues that to qualify as ethnic party, a party does not have to command an exclusive hold on the allegiance of group members. Instead, it is how the party's support is distributed that is decisive. He adds that an ethnically based party derives its support overwhelmingly from an identifiable ethnic group or clusters of ethnic groups and serves the interests of that group. When it was formed in 1960, KANU drew the bulk of the support from the Kikuyu and Luo, while KADU attracted the so called minority ethnic groups such as the Kalenjin, Maasai, Coastal tribes and Luhya (Wanyande 2007).

The core thesis in this chapter is that ethnicity permeates the Kenya's political liberalization process so deeply that party politics has become polarized along ethnic divides and voting patterns follow ethnic affiliations between the voters on one hand, and the candidates and party leadership on other (Jonyo 2002). Kenya gained independence under a multi-party political system. However through denial, threat, enticements, co-option the opposition parties were dissolved and proscribed. The transition from an authoritarian one party state political system to reintroduction of multi – party system has been one of the most important features of political development in the country since independence (Mbai 1998).

A multi party political system was reestablished in 1991 following an amendment of the constitution to provide for formation of opposition. The first Presidential, Parliamentary and civil elections under the multi – party system were held in December 1992. Some of the numerically large ethnic groups allied to particular political parties presented their ethnic elites for Presidential election.

Some of the political parties attempted to form alliances, but durable coalition did not emerge. The alliances however did not see light of the day simply because of ideological differences. KANU won the 1992 elections with thirty six per cent of the total votes cast under the first past the post electoral rule (Kanyinga 2003).

Just as it had done under one party system, the state continued to dominate all sphere of public life, and the civil sphere remained constrained (social and economic underdevelopment). Opposition political parties found it difficult to organize in absence

of significant constitutional reforms to create an atmosphere conducive for political participation.

The Inter-Parties Parliamentary Group (IPPG) effected in the late 1997 that entailed constitutional, statutory, penal and administrative reforms were both minimal and insignificant. The main political parties fragmented further into smaller units in the face of the formation of new parties. The second multi – party elections were held in December 1997 and once again KANU won with an improved margin about forty per cent of the votes. The state continued to exercise repressive domination of citizens for example, the state prevented opposition political parties from organizing public meetings. Eventually, opposition parties formed the NARC and defeated KANU in the December 2002 general elections. The new government comprised individuals from the previous regime in particular those who switched camps from KANU to the group coalition, following controversy over the nomination of the KANU Presidential candidate to succeed Moi (Kanyinga 2007).

It is still possible to discern distinct phases through which post- colonial state has undergone institutional transformation based on party system and regime change. The process of institutional transformation of Kenya's Post Colonial state may be divided into five phases. The first phase was from 1963 – 1969. This was the period of first multi-party democracy.

The second phase was from 1970 – 1981; this was the period of defacto one party state.

The third phase was from 1982 – 1990; this period was characterized by a dejure one



party state. The fourth phase was from 1991 – 2002; this was the period of the second multi – party democracy. The final phase begins from 2003 to date; this is the period of alliance and coalition building. But first a close examination of ethnic composition will suffice to lay foundation of our understanding the significance of ethnic groups in party politics.

## **2.2: Ethnic Composition in Kenya: A catalyst for Ethnicity.**

Among the forty two ethnic groups in Kenya, there is no group that is numerically large enough to exercise long-term domination of other groups and the ethnic structure is highly polarized but the main groups are fairly large enough to counterbalance each other (Kanyinga 2006). As shown in the Table 1, there is relative equality in national population share of at least the five numerically large groups. The population number as indicated in table inform the basis of party formation because the party leadership sees the number as political capital for mobilization and support.

**Table 1****National Population Share of the Main Ethnic Groups**

Ethnic Group	Census figure				
	1962	1969	1979	1989	1999
Kikuyu	19.0	20.1	20.9	20.8	18.5
Luhya	12.6	13.3	13.8	14.4	14.2
Luo	13.3	13.9	12.8	12.4	10.8
Kamba	10.8	10.9	11.3	11.4	10.3
Kalenjin	10.5	10.9	10.8	11.5	12.1
% share of 5 Group	66.2	69.1	69.6	70.4	65.9
Kisii	6.2	6.4	6.2	6.2	7.2
Meru	5.1	5.1	5.5	5.1	-
Mijikenda	4.8	4.8	4.8	4.7	7.2
% share of 3 groups	16.1	16.3	16.5	15.9	-
% share of 8 main group	82.3	85.4	86.1	86.3	-
% of other 32 group	17.7	14.6	13.9	13.7	-

Source: Republic of Kenya (1969-1999), National Population Census Reports

The largest groups in terms of percentage share of the population are the Kikuyu (21%), Luhya (14%), Luo (12%), Kamba (11%), and Kalenjin (12%). These groups make up about 70 per cent of the country's population. Other significantly large groups are the Kisii (6%), Meru (5%) and the Mijikenda (5%). These three groups account for only 16 per cent of the country's population. Together, the eight groups constitute about 86 per cent of the population, but none is numerically large to dominate these other group. The

remaining 32 groups are numerically insignificant; they make about 14 per cent of the population and, individually, many are less than 1 per cent of the national population (Ibid).

The ethnic elite from the 'big five' tend to mobilize political support on ethnic basis; they use their numbers to counterbalance each other. Political competition has been heightened by the fact that no single group can win its own without forming an alliance with at least two other population groups (Kanyinga 2007)

As shall be discussed below this ethnic composition has continued to shape political competition in Kenya since independence.

### **2.3: The period of first Multi – Party Democracy 1963 – 1969**

During this period Kenya practiced competitive party politics, initially from 1963 – 1964 when the country had two political parties, Kenya African National Union (KANU) and Kenya Africa Democratic Union (KADU). KANU emerged from the Kenya African Union (KAU) and was a coalition of the Kikuyu, Embu, Luo, Gusii and Kamba. While KADU was a coalition of the small tribes that brought together the Kalenjin group, the Mijikenda, the nomadic and semi – nomadic people groups and the large Abaluhya ethnic groups. Put differently KANU became the coalition of the “the bigs”, “the mobilized” and “the haves”... while KADU was a coalition of the “the smalls”, “the immobilized” and “the have – nots” (Barkan 2000).

The struggle between KANU and KADU was short lived. Once in power following the mid 1963 elections, KANU put in strategy intended to dislodge KADU completely from the political stage. The strategy involved intimidation, denial of platform to hold political

rallies and enticement with cabinet positions. Within the first year of independence KADU had been largely rendered irrelevant as a political party (Gertzel 1970, Oyugi 1994).

Struggle within KANU started before the absorption of KADU. Once Kenyatta was released from detention and assumed the leadership of KANU he did very little to popularize his grassroots support outside Kikuyu land (Oyugi 1998). This exposed him to charges of favoritism and parochialism. Ethnic factions began to demand for access to state resources and privileges.

Inter-ethnic tensions in the KANU party were well established by 1964, for sometime ethnic struggles were disguised as ideological struggles between the left and the right of the party. When ultimately the struggle led to the split of the party in March 1966, the party that emerged from it, the Kenya Peoples Union (KPU), became just another ethnic party, supported predominantly by the Luo. The country again returned to Multi-partyism. Besides practicing multi-partyism, Kenya also began from a firm constitutional arrangement which provided for the supremacy of parliament whereas on the surface both the practice of multi-partyism and the recognition of the supremacy of parliament gave the impression that the system could promote political liberation in reality this turned out not be the case (Mbai 1998).

In this period, the colonial structures were largely retained. In some case, the structures were only redefined to suite the purpose of new elites that is consolidation of the political power. A class structure evolved to shape and define state – society relations. The new elite used the state apparatus for accumulation of wealth and turned to ethnicity for

political capital. The concept of tribe became more important as the new elites turned their ethnic groups for support in their competition with other. State institutions were ethicized rather than reformed. The police, army and civil service were de-racialized but came under the control of ethnic clienteles. For instance in the civil service the Permanent Secretary (PS), the most influential and important position in the civil service was dominated by Kikuyu (Kanyinga 2007).

Table 2 shows that during the Kenyatta regime (selected years) the Kikuyu dominated the PS positions; they had 35 per cent of the PS positions. The Kamba also had a significant number during the period, and the Meru quite conspicuous towards the end of the Kenyatta regime. The domination of Kikuyu in the position of PS's, therefore, was meant to ensure adequate administrative protection of the Kenyatta regime. This form of domination ensured continued promotion of state interests and efficient implementation of what Kenyatta and his ethnic elite desired. With guaranteed control of government ministries, it was not possible to evolve bureaucratic opposition to government policies and ethno- regional (Kikuyu) interests. Kikuyu hegemony, therefore, spread through this form of domination into the civil service until the ascendancy of Moi to political power (Kanyinga 2006).

**Table 2**

**Permanent Secretaries during Kenyatta regime, 1963-1978**

Ethnic Group	1966		1970		1978	
	No	%	No	%	No	%
Kikuyu	7	30.4	9	37.5	5	23
Luhya	3	13.0	2	8.0	1	4.5
Luo	3	13.0	3	12.5	2	9.5
Kalenjin	1	4.3	2	8.3	1	4.8
Kamba	4	17.3	2	8.3	3	14.3
Kisii	1	4.3	2	8.3	0	0.0
Meru	1	4.3	2	8.3	3	14.3
Mijikenda	2	8.7	1	4.2	2	9.5
Others	1	4.3	1	4.2	4	19.0
Total	23		24		21	

Source: Kanyinga K (2006) ‘‘ Governance Institutions and Inequality in Kenya’’ in Readings on Inequality in Kenya: Sectoral Dynamics and Perspectives Pg 385

Public enterprises provided the required patronage resource, which the state elite used as carrot and stick to reward loyal elite and to punish opposing elite and their respective communities. The native was not detribalized; the state only made an attempt to re-organize decentralized power in the name of nation building, which resulted in an increased centralization of authority (Leys 1975, Swainson 1975).

**2.4: The period of de-facto one party state: 1970 – 1981**

The lack of an organized opposition after 1969 had consequences of it's on. It created space for a cabal of politicians around the president. This grouping comprised political elite from the President's Kiambu district. They became his confidants, acquired substantial political powers to the extent of influencing national, political affairs (Throup 1987, Barkan 1992)

The existing civil society organization turned to socio – cultural activities, these organizations were ethno – regional in focus and tended to articulate ethno-regional interests. The Gikuyu-Embu Meru Association (GEMA) comprised ethnic groups related to the Kikuyu, the Luo Union was formed for the Luo community and the Abaluhya Union was formed for the Luhya (Oyugi 1992). Each of the numerically large groups had a similar ethno-political associations formed ostensibly to articulate social – political concerns of the groups. In the absence of political parties, ethno – regional associations became the main platform on which political careers were built.

By the time Kenyatta died in 1978 Kenya's political landscape was nothing but undemocratic. The presidential power was all powerful, without checks, the legal system under tight control of the executive, access to resources, both political and economic revolved around proximity to the “family” as the all powerful clique around Kenyatta were known (Nying'uro 1997).

Any opposition was ruthlessly dealt with, and the political system remained a patron-client driven. In which a combination of repression and favoritism were widely used. The Kenyatta succession was characterized by fierce ethicized power struggles (Jackson and Rosberg 1982).

## **2.5: The Period of de – jure one party state: 1982 – 1990**

Colin Leys (1975) in his book on the political economy of the neo colonialism in Kenya, he forecasted the following observations about the post – Kenyatta regime. He stated

“Kenyatta and his advisers were helped greatly by various mainly short term factors, some of which were unique to the Kenyan situation; by the availability of European – owned land for transfer, partly to landless people but also to rich farmers, trade, civil servants, etc. ... Before Kenya was far into the second decade of independence, some of these advantages would have been used up. New ones might always arise, but it seemed likely that Kenyatta’s successors would eventually confront the contradictions of the situation with less room for maneuver and little if any of the personal authority which the old man deployed to successfully (Leys 1975)

This observation by Leys prescriptively described the situation which confronted Moi when he assumed the leadership in 1978. Given that a number of contradictions had accumulated within the Kenyan neo-colonial society in the two decades of post independence which led to emergence of a small elite against a huge majority of landless, the unemployed and poor peasants (Mbai 1998), Moi had only two options the first option was to transform the nature of the state in order to address the contradiction.

The other was to retain the state structure and risk governance through repression (Ibid). Moi opted for the latter alternative using two strategies (These strategies are discussed in the next chapter)

In summary, the state and its institutions did not undergo political liberalization and therefore, continued to service the interests of the ruling elites. Ethnicity became one of the most important factors that shaped the political process.

## **2.6: The Period of the Second Multi-Party Democracy**

The struggle for multi – party democracy in Kenya began in earnest in the late 1980s. The post Cold War saw a major shift in the balance of political power globally. Not



having to put up with the so-called communist threat globally, the West found they longer need undemocratic and oppressive client states in Third World as buffers against Communism (Nyong'o 2007).

The west began to promote global liberalism and support domestic forces in the Third World Countries which struggled for the restoration of multi party democracy, thus in Kenya, the restoration of multi party democracy was as result of the pressure exerted upon Moi's regime by the internal forces, supported by western donors countries (Chege 1995).

Many opposition political parties in Kenya were formed after the amendment of the constitution to allow for multi party politics. However, no ideological differences existed between different parties. Party policy objectives were largely the same and differed only in approach and emphasis, for instance a number of parties addressed the excessive size of local administration and personalization of state institutions (Kanyinga 2003). While Forum for the Restoration of Democracy (FORD) – Kenya favoured dissolution of the Provincial administration, Democratic Party of Kenya (DP) emphasized the need to reform and improves institution rather than abolish them.

Divisions such as ethnic and class interests, personal idiosyncrasies and the composition of party leaderships however drifted the opposition movement apart. What initially appeared to be a united opposition to the ruling party KANU ended up facing the first

transitional election as separate entity. Table 3 shows the percentage of the votes received by each presidential candidate in each of the eight provinces of Kenya.

As indicated in the Table 3, each of the candidates was the leader of an ethno-regional party. In that particular election the Kikuyu had the Democratic Part of Kenya (DP) led by Mwai Kibaki and Kenneth Matiba's FORD- Asili; the Luo had FORD-Kenya, while the Kalenjin were in KANU. The Luhya coalesced around KANU and FORD-Asili. Each ethnic region voted overwhelmingly for the party whose leader came from that region. Consequently, the opposition lost the 1992 general election to KANU.

**Table 3**

**Pattern of Voting in 1992 Presidential Election (& of Vote)**

Region	Nairobi	Central	Eastern	Rift Valley	Coast	Western	Nyanza	North Eastern
Moi-KANU (Kalenjin)	17	2	38	68	64	40	14	78
Kibaki-DP (Kikuyu)	19	35	50	8	11	3	6	4
Odinga FORD K (LUO)	20	1	1.6	6	17	18	75	7
Matiba FORD A (KIKUYU)	44	62	11	19	8	39	3.3	10
Others	0.5	0.7	0.8	0.2	0.8	0.3	1.7	1.0

Source: Cowen, M & Laakso, L (2000) Multi-party Elections in Africa, Jame Currey Oxford.

## **2.7: Alliance Building and Shrinking Political Space, 1993 – 1997**

The defeat of opposition parties in the 1992 elections led to the opposition designing different strategies for the making a bid to win political powers.

That particular defeat for the first time brought the opposition together and formed United National Democratic (UNDA). Between 1994 and 1995 the alliance faced internal differences over the reform strategy and it subsequently withered away before the 1997 elections. From early 1996, a new forum for reform began to form through pressure from civil society organizations that ranged from Non Governmental Organizations (NGO) to churches (Cowen and Kanyinga 2002, Mutunga 1999). This shift rekindled their cause for reform. Two umbrella alliances were formed: The National Opposition Alliance (NOA) and the National Solidarity Alliance (NSA).

NOA comprised the moderate factions of the different opposition parties while NSA emerged comprising aggressive activists drawn from the Matiba's faction in Ford – Asili and Raila's radical wing in Ford-Kenya. The NSA took on board likeminded politicians from DP, and especially those opposed to then party leader Mwai Kibaki. Owing to this NSA rooted itself in the Civil Society (Kanyinga 2007).

By early 1997, NSA had become part of the National Convention Executive Council (NCEC) founded by Non – party, civil society organizations. The growing strength of NCEC during mid – 1997 brought the NOA and KANU backbenchers together in the IPPG to negotiate reform. One important outcome of the IPPG reform was the agreement to take the state apparatuses of party politics and to facilitate fast registration of political parties.

Many new parties were formed ahead of the 1997 elections. Some of these were off-shoots of the mainstream opposition parties. While others were formed by individuals who disagreed with the leadership of their parties especially after the opposition failed to push the NCEC – led reform agenda.

The opposition political parties did not unite for the 1997 elections. They were again divided along ethnic lines and thus fielded different presidential candidates.

In this election again each of the candidates was the leader of an ethno-regional party. The Kikuyu again were the majority in DP, while the Luo were the majority in a new party- the National Development Party (NDP) The Luhya were in FORD-Kenya and the Kalenjin in KANU. Again each ethnic region voted overwhelmingly for the party whose leader came from that region. Moi and KANU won again with 41 percent share of the votes while the opposition combined lost with 57 per cent.

**Table 4****Voter Turnout by Province in 1997 General Election**

PROVINCE	NAIROBI	CENTRAL	COAST	EASTERN	NYANZA	RIFT VALLEY	NORTH EASTERN	WESTERN	TOTAL
Received Votes	366,049	997,890	375,253	1,028,219	918,173	1,643,354	63,111	704,430	6,096,479
Votes garnered DANIEL ARAP MOI	72,272	55,822	229,084	368,801	215,923	1,140,108	46,121	314,669	2,445,801
% of Votes	20.56	5.59	61.05	35.87	23.52	69.38	73.08	44.67	40.12
Votes garnered MWAI KIBAKI	160,124	885,382	50,540	296,262	138,194	343,529	11,741	9,755	1,895,527
% of Votes	43.74	88.73	13.47	28.81	15.05	20.90	18.60	1.38	31.09
Votes garnered RAILA ODINGA	59,415	6,812	22,794	7,755	519,259	36,022	210	13,458	665,725
% of Votes	16.23	0.68	6.07	0.75	56.55	2.19	0.33	1.91	10.92
Votes garnered KIJANA WAMALWA	24,971	3,067	11,156	7,009	14,623	102,178	4,418	338,120	505,542
% of votes	6.81	0.31	2.97	0.68	1.59	6.22	7.00	48.00	8.29
Votes garnered CHARITY NGILU	39,707	29,473	37,600	332,578	15,309	11,342	366	3,429	469,807
% of votes	10.85	2.95	10.02	32.35	1.67	0.69	0.58	0.49	7.71

Source: <http://www.eck.or.ke/do>

## 2.8: The Moi Succession and the Opposition Unity

Questions around the Moi succession shaped party politics immediately after the 1997 elections. The constitution did not allow Moi to run for a third term.

Although he was not a candidate for the 2002 elections, both the ethnic elite in opposition and KANU saw him as an important factor in shaping the outcome of the 2002 elections.

The cordial relationship between KANU and NDP led to a merger. However, the merger laid down the foundation for the fallout in two significant ways. First, the craftily designed formula for sharing seats in the new party known as New KANU provided for a party chairman and four new positions of Vice Chairmen. The aim of the new structure was to ensure that at least all the main ethnic groups in the country were accommodated in the leadership of the party so as to win several ethnic groups, it therefore served as an important political mobilization tool (Wanyande 2007).

The senior positions in the party were distributed to each of the main ethnic groups; Raila (Luo) became the Secretary General, Uhuru Kenyatta (Kikuyu), Kalonzo Musyoka (Kamba), Musalia Mudavadi (Luhya) and Katana Ngala (Mijikenda) became Vice Chairmen of the party.

The merger was short lived and disintegrated following Moi's unilateral decision to declare Uhuru as his preferred successor and the party's presidential candidate. The party secretary general led the other party officials to form Rainbow Alliance within KANU but soon it broke away, took over the moribund Liberal Democratic Party (LDP) and began to make independent plans for general election. LDP was transformed into a vehicle for opposition politics when the group joined an alliance of other opposition political parties, the National Alliance-[Party] of Kenya (NAK). In mid October 2002 NAK and LDP signed a Memorandum of Understanding (MoU) and founded a pre – election coalition through a new party NARC with Kibaki as the Presidential Candidate. NARC won the December 2002 election overwhelmingly with a large majority.

The NARC won the elections because it was an ethnic based coalition. The most important aspect of the coalition was the emphasis on the proposed structure of the government comprising a president, two Vice Presidents, a Prime Minister and two positions of Deputy Prime Ministers and a Chief Minister. In order to give meaning to this structure, they constituted a NARC Summit in which all the ethnic elite who would fill these positions were represented. The Summit membership thus comprised Mwai Kibaki, a Kikuyu; Raila Odinga, Luo; Kijana Wamalwa and Moody Awori, Luhya; Kipruto Kirwa, Kalenjin; and Charity Ngilu and Kalonzo Musyoka, Kamba. This gave the impression that NARC would form a government with representation of the entire main ethnic groups through the ethnic elite who constituted the Summit.

NARC won the December 2002 elections with a big majority 63 per cent of the vote, taking 125 out of 224 seats in parliament. The celebrations were electric, akin to the independence mood. The outcome of the elections revived the hopes, aspirations and raised the expectations of Kenyans about their future.

The party's presidential candidate received a large number of votes from the entire main ethnic group because he was seen as part of a team comprising players from all the ethnic groups. Further the Summit had assured various ethnic communities of where best their interests will be served. Each main ethnic group did not identify one of its own to vie for the presidency because the groups' interests were considered in the coalition (Jonjo 2003, Kanyinga 1997; Wanyande 2007).

Table 5 shows the percentages of votes received by the five presidential candidates in different provinces of the country.

**Table 5**

**Presidential Election Results per Province in 2002 General Election**

Province	Registered Votes	Uhuru Kenyatta	Mwai Kibaki	Simeon Nyachae	James Orengo	Waweru Ngethe
NAIROBI	884,135	76,001	279,705	8,775	891	301
% SCORE		20.784	76.490	2.400	0.244	0.082
COAST	879,741	12,645	228,915	11,716	1,539	823
% SCORE		33.360	62.771	3.21	0.422	0.266
NORTH EASTERN	216,336	83,358	34,916	5660	297	73
% SCORE		67.060	28.089	4.553	0.239	0.059
EASTERN	1,734,209	270,225	749,654	7,863	3,509	2,216
% SCORE		26.14	72.538	0.761	0.340	0.214
CENTRAL	1,563,089	308,012	701,916	4,441	1,443	2,053
% SCORE		30.261	68.960	0.436	0.142	0.202
RIFT VALLEY	2,415,555	769,422	624,502	45,145	3,826	1,624
% SCORE		53.259	43.236	3.126	0.265	0.112
WESTERN	1,202,104	143,101	506,999	9,073	3,443	1,825
% SCORE		21.537	76.305	1.366	0.518	0.275
NYANZA	1,555,966	64,471	521,052	252,488	9,920	1,115
% SCORE		7.596	61.391	29.748	1.133	0.131
NATIONAL TOTAL	10,451,150	1,836,055	3,647,658	345,161	24,568	10,030
% SCORE		31.313	62.812	5.889	0.419	0.171

Source: <http://www.eck.or.ke/do>



## **2.9: Conclusion**

From the above analysis the transition from KANU to NARC faced challenges first; major changes were not made in the structure of governance. The popular expectation about a major change waned as the new government took on board individuals from the previous administration whose contribution to reform agenda had been negligible. Second the new elites reneged on the pre-election agreements over the distribution of political power. These disagreements became integrated into the administrative and governance institution and became a major constraint to change.

Most of the problems in alliance and coalition building reflect a lack of political will and negative governance culture. Evidently, these are not insurmountable challenges. The starting point for any coalition is to mend its internal fences and work as a team. This need not necessarily involve dissolving the affiliate parties; it simply requires mutual respect, trust and consultation among the key stakeholders in the coalition.

Finally the parliament should first track the political parties' bill that requires that all parties to hold elections of national officials to comply with a new rule that makes it mandatory to have national representation of officials. This is will reduce the tendency of ethnic based briefcase parties to use their ethnic affiliations as bargaining chip to enter into coalition in exchange of lucrative portfolios in the coalition formed thereof. Indeed this has continued to weaken democracy based on alliance building.

## **CHAPTER THREE**

### **SOCIO- ECONOMIC DYNAMICS**

#### **3.1: Introduction**

At independence, socio- economic development took precedence in many nation states in Africa. It became the yardstick of transforming Africa from a traditional society to a modern state akin to the West.

Kenya in particular, inherited a nation characterized by disparities in incomes and economic well- being as measured by standard indicators such as literacy levels, infant and maternal mortality and life expectancy among others. These disparities existed by gender and by geographical regions. Under the founding president Jomo Kenyatta, his leadership appreciated the need to fill these disparities. He consequently called upon its citizens to rally against poverty, illiteracy and disease. This commitment was articulated in the Sessional Paper No. 10 of 1965 on African Socialism and its Application in Kenya. The paper outlined seven objectives, three of which relate to poverty and income inequality. The government undertook to ensure freedom from want, disease and exploitation, equal opportunities and growing per capita incomes that are equitably distributed. Indeed, one of the key concerns in the Sessional Paper was how much should be spent and for what purpose to help the less developed parts of the country (Republic of Kenya, 1965). It also entails the preservation of private indigenous and foreign property and the support for development of African capitalism and promotion of foreign investment (Ibid).

While socio development means respecting and being sensitive to people's values, morals, beliefs, sentiments and ideas to the extent that development should support people's heritage and not undermine what people value, equally economic development implies the capacity to generate wealth from resources available so that the required capital will be mobilized. Further, once capital has been mobilized, should be shared equally.

### **3.2: Post- Colonial Economic Trend**

Kenya's economic performance in the first two decades of independence was relatively impressive. From 1963 to 1973, Kenya's Gross Domestic Product (GDP) grew at an average of 6.5 per cent annually; the inflation rate was less than 3 per cent. Income per capita was relatively high and balance of payment was favourable. In 1980's however, the economy explicitly started to indicate long-term stress. The average annual GDP growth rate dropped from 6.8 per cent (1965-1980) to 4.2 per cent (1980 -1990) with corresponding declines in agriculture from 5.0 per cent to 3.3 percent, industry from 9.7 per cent to 3.7 per cent and manufacturing from 10.5 per cent to 4.9 per cent over the same period (World Bank, 1992).

According to Economic Surveys, while Kenya was importing only 15,000 metric tons of cereals, in 1990 it was importing 188,000 metric tons. Food aid in cereals rose from 2,000 metric tons in 1974/1975 to 62,000 in 1989/1990. The balance of trade deficit grew even worse, leaping from Kenya pounds 273.5 million in 1985 to 1,139.9 million in 1990 with the overall balance of payment deficit standing at Kenya pounds 168.9 million in 1990. The public external debt had also more than doubled from Kenya pounds 2,723.9

million in 1985 to 73,330.4 million in 1991. By 1992, Kenya was ranked the 24<sup>th</sup> poorest country in the world (Republic of Kenya, 1974 - 1992).

In 2002, it was estimated that the number of the poor in Kenya had shot up to 15 million that is about 56 per cent of the population (Omiti et al., 2002). This scenario clearly indicates that the development strategies pursued by the government have failed. The country has been unable to improve or raise the living standard of its citizens.

### **3.3: Rationale for Economic Protest**

Kenya was at par with countries like Israel, Singapore, Malaysia, Egypt, Turkey, Hong Kong, Portugal and Argentina in the mid -1980's (World Bank 1986). Its economy, especially the agricultural sector policies and practices were viewed as the success story of efficiency and productivity in the development countries. However due to domestic and personal interests, economic growth began to take a nose dive. By 1984, the indicators of an ailing economy matured and country officially joined the ranks of low-income countries (Ibid).

Kenya started to witness interest group led protest against the government for socio-economic development. The church in Kenya was at the forefront in challenging the government over its economic management. The clergy Alexander Muge, Henry Okullu and Reverend Timothy Njoya became of the government's strongest critics and crusaders against official corruption and human rights abuses. Others like Civil Servants Union, University Academic Staff Union (UASU), Central Organization Trade Union (COTU) and University Students Unions added their voices (Nyingu'ro 1997).

These protest linked the country's socio-economic grievances to corruption and misfeasance of the economy. Moreover, they grew a conclusion that country's economic failure was due to a lack of political accountability embedded in the country's monolithic party regime. Political underdevelopment took precedence over social and economic development; the state pursued redistribution policies and interfered with the operation of free markets. This resulted in a dramatic reduction of economic growth, budget deficits soared as the state spent more than it could afford on social welfare services with a consequent rise in inflation. Put differently, the African state was over bearing, interfering with economic activities and too much intervention without any restraint. Furthermore, the state was found to be too bureaucratic which enabled corruption, mismanagement and abuse of public resources with impunity.

Corruption rose sharply as a bloated civil service and senior elected officials became increasingly prone to rent-seeking behavior (Barkan 2000). This evident economic decay ushered some laces of discontent in certain interest groups in society that gave rise to clamor for pluralism and accountability in statecraft.

### **3.4: Regional Disparities in Basic Services**

In general there has been disparity in terms of development between and among the eight provinces of Kenya since independence. The implication of this is that some people are collectively poorer than others; they have fewer opportunities to improve their well being. Table 6 concerns children's enrolment in primary schools from the 1970s.

**Table 6**

**Primary School Enrolment by Province**

Province	1970	1975	1980	1985	1990	1995	2000	2001
	%	%	%	%	%	%	%	%
Central	24.5	19.4	17.7	17.6	16.3	17.2	15.0	13.3
Coast	5.5	5.4	5.9	6.4	6.7	6.4	6.5	6.9
Eastern	20.2	18.9	19.4	18.1	18.9	18.4	19.1	18.5
Nairobi	4.3	2.9	2.5	2.6	2.7	2.8	2.8	2.8
Nyanza	16.4	20.9	20.3	19.3	18.1	17.8	17.1	18.5
Rift Valley	14.2	17.3	19.4	21.7	22.9	22.8	25.6	26.1
Western	14.6	15.0	14.5	13.9	13.8	14.1	13.1	13.2
North Eastern	0.3	0.2	0.3	0.4	0.6	0.5	0.8	0.7

Source: Republic of Kenya, Statistical Abstract, 1970-2002

Although the Central Province was one of the leading provinces in terms of school enrolment, the figures declined considerably. From about 25 per cent in the 1970s, enrolment declined to about 13 per cent in 2001. Rift Valley Province on the other hand had an improved school enrolment from 15 to 26 per cent during the period. Other provinces did not witness such changes during the period.

These figures should be read against the background of regime change in Kenya. The beginning of the Moi regime was marked by undistracted schools development activities in the whole of Rift valley beginning in early 1980s. Equally, Central Province took the lead in schools enrolment in the 1970s during Kenyatta's period. This development trends was evident in health institutions as shown in the Table 7. Suffice to note that political marginalization of Central Province began from mid – 1980 (Kanyinga 2006).

The thesis here is that there is a crisp nexus between political and socio – economic development to the extent that political power appears to be intractably linked to issues in ethno- regional development.

**Table 7**

**Number of Health Institutions by Province**

Province	1979	1985	1990	1995	2000	2001	% growth
Nairobi	140	158	198	359	419	480	243
Central	242	271	324	441	494	531	119
Coast	178	189	220	426	475	504	183
North	27	21	40	59	74	76	181
Eastern							
Eastern	247	272	308	683	819	825	234
Western	98	101	123	248	330	340	246
Nyanza	191	224	345	446	519	530	177
Rift valley	434	447	583	1,140	1,225	1,229	183

Source: Republic of Kenya (1979 - 2001) Statistical Abstracts.

Furthermore the government's agriculture policy shifted from the traditional support of small-scale growers of coffee in Central Province to tea growers in Western Kenya and growers of cereal in the Rift Valley. This policy extended to the export crop agriculture industry where Kenya Grain Growers Co-operative Union (KGGCU), grain marketing organization, Kenya Tea Development Authority (KTDA) and milk industries were victim to official ethnic patronage, graft and perennial mismanagement

In 1983, the mighty Kenya Farmers Association (KFA) was forced to reorganize KGGCU in an effort to reduce the influence of the rich Kikuyu landowners. Later the government sought to discredit KTDA subsidiaries operating mainly in Central Province,

by authorizing the establishment of the so- called Nyayo Tea Zones under a separate administration in Western Kenya (Barkan 2000).

The Moi administration covertly and systematically undertook to dismantle the Kikuyu economic hegemony. The Kikuyu were immediately transformed into marginal outsiders by Moi in the 80s. They had lost substantial control of the public service and advantageous positions in the economy (Oyugi 1998). At the end of 1980s, if not all, a substantial number of core positions in security and important “gate-keeping” sectors, parastatals, civil service and the private sector were under the stewardship of Kalenjin’s sub- group, the Tugen (Nying’uro 1997).

These policies evoked criticism within the Moi’s cabinet. Kenneth Matiba and Charles Rubia were as concerned with the return to legal pluralistic and constitutional governance of the country as they were with revival of efficiency, merit and technocratic norms in the national management (Chege 1994). The political fallout principally by Kenneth Matiba from the Moi regime due to among other reasons, poor state management marked another watershed in the struggle for the re-introduction of competitive politics in Kenya (Ibid).

Guillermo O’Donnell and Philippe Schmitter argue that a transition cannot be realized in situations where there is of lack direct or indirect consequences of sharp cleavages within the authoritarian regime itself (Diamond 1994). Matiba and Rubia were later expelled from KANU and openly called for an end to the one party system of government. To the contrary the government equally moved fast to arrest these



multiparty advocates, and this culminated into regional protests characterized by massive looting in several towns (Chege 1994).

Disgruntled groups with their apportionment of the existing economic pie played a prominent role in diffusing protests from Nairobi to towns in the heartland of Kikuyu, the ethnic group who had lost more power and prestige under the Moi regime (Hyden 1992).

After these riots the government instituted a commission of party members to review the organization and procedures of the ruling party. In the public hearings conducted countrywide, diverse citizens raised broad political concerns ranging from elite corruption to ethnic favoritism. The Moi's government overt tribalism, nepotism, kleptocracy, and general poor economic management of the country were raised as the fundamental basis of the hue and cry for the re-introduction of competitive politics (Chege, 1994).

### **3.5: Socio – Economic Underdevelopment and Monolithic Party Rule**

Kenya experienced a de facto one party state and a de jure one party state between 1969-1982, and 1982-1991 respectively. Single party apologists Julius Nyerere argued that where there is one party, that party is identified with the nation as whole, the foundations of democracy are stronger than they can ever be when you have two or more parties each representing only a section of the community (Wanyande 1987). The same school of thought argues that African countries need to invest their energies towards social and economic development rather than political underdevelopment. The proponents further

argue that one party system could be democratic in cases where divergent opinions are accommodated (Ibid).

Generally in Africa and Kenya in particular a single party regime dedicated itself holistically to development as earlier envisaged. In fact, in African politics, the vested interests of the ruling elite and those of the ruled are at variance. In such countries the rulers have tended to manipulate and undermine the rights and freedoms of the rest of the society. Kenya's one party rule system of governance transformed KANU from a vehicle of political mobilization into a tool for political and social and economic control (Ibid).

Decision making processes were centralized in the office of the president. Debates on new policy issues were discouraged and forbidden, Members of Parliament (MP's) who questioned the wisdom of a particular policy were branded disloyal and new directions were to be obeyed and implanted without question even if such implementation was not prudent and would incur heavy financial costs ( Barkan 2000).

One party rule in Kenya withered off other centers of power that audit government excesses, and this led to conspicuously disregard to transparency in the management of state resources. The outcome in the plunder of resources with impunity made a mockery of participatory politics, precipitating development failures, therefore the surge for democratization arises largely from the failure of development strategies in Africa (Ake, 1996 ).

Michael Bratton and Van de Wall argue that economic misfeasance and marginalization of segments of particular sub-populations from fair and equitable allocation of resources

constitutes a major reason for the fight to re-introduce competitive politics in Kenya. Now four decades after independence, Kenya has failed to achieve the much expected rewards of social and economic development. Over 50 per cent of the Kenyan population is now termed as poor and its development strategies have clearly failed. With this grim scenario, Kenya's strive for democracy still remains bleak (Bratton & Van de Wall 1998).

Economic development in a country is known to lead to the development of non-economic factors that bring profound changes not in the economic sphere but in the political culture and social structures as well. Socio-economic developments fundamentally vary with individuals and groups. An advanced level of economic development in society is synonymous with reduced socio-economic disparities and minimum feelings of relative deprivation and injustice among the lower class. This in turn reduces the likelihood of extremist politics, increases national wealth and also tends to enlarge the middle class, which has long been associated in political theory with moderation, tolerance and democracy (Diamond 1971).

The level of economic development within a society itself will be argued shapes the values and attitudes of its citizens fostering the development feeling of interpersonal trust, life satisfaction and competence which in turn correlates strongly with the existence of democratic institutions. It also increases the level of education in society a more highly educated people tend to develop characteristics of trust, satisfaction and competence that go with democracy. Economic development makes greater resources available for

distribution among social groups hence facilities accommodation and compromise; it also promotes the expansion of the middle class, business people, professionals, civil servants (Huntington 1991).

### **3.6: Poverty and the Political Culture**

The widespread poverty in Kenya has been caused by underdevelopment. This situation produces a unique values system, different from the democratic ideas. Poverty is characterized by inadequate food, unfit health conditions that inhibit one's ability to work, learn and earn low standard of education, ignorance and a lack of adequate access to information. These features complicate the democratization process the extent that economic and social rights are denied. To Nzolongola (1992), democracy means nothing to unemployed population, hungry population, ignorant population and sick population (Nzolongola 1992).

The peasant societies are not generally part and parcel of democratic values; this makes the scramble for democracy an urban, elitist issue, devoid at times of national appeal.

Bratton and Van De Walle ( 1998), argue that in Africa the middle class are a social minority sitting atop agrarian societies composed mainly of poorly educated, self-provisioning peasants who lack democratic experiences.

Political culture is a matrix of several interconnected factors that are historical factors, geographical factors and socio-economic factors. A predominantly urban industrialized society is more complex society, putting premium on rapid communication. Education standards are higher, groups' proliferation and participation in decision- making process

is necessarily wider. Rural societies are not geared to change and innovation, such states with predominantly peasant populations are more conservative (Johari 1976).

This has served to seriously slow down and frustrate the democratization process in Africa. Geertz (1963) believed that primordial loyalties based on kinship, religion, language and culture would undermine efforts to build political systems in modernizing societies. These traditional loyalties would inevitably come into conflict with modern civil values in traditional states giving rise to problems of tribalism, communalism which would impede the process of national integration (Healey & Robinson 1992).

Furthermore, due to a lack of material resources and basic needs, the poor are likely to align themselves to politicians who reduce albeit momentarily, their insufficiencies in turn for their support and service. This relationship engenders a mockery of free choice that is enshrined in democracy. In his studies, Bayart shows how the 'rhizome' states operate, as power brokers spreading their tentacles into indigenous social networks. In such states, politics is simply patronage to the extent that loyalties are built on personality links that are overwhelmingly powerful.

Poverty gives rise to antonym of the non-economic 'fruits' of economic development that is fundamentalism, suspicion, fanaticism, narrow-mindedness in the political process. Voting becomes tribal and patronage the principal rallying point of political mobilization. The zero-sum-game political system results into the politics of exclusion. This is clearly evident in Kenyan Politics that has negated that anticipated positive effects of democracy. The political culture produced by underdevelopment is radically different from that of a

prosperous society, they both produce values that act as opportunities or constraints for democracy as democracy is a value embedded in the people and society at large. It's the sum total of values and attitudes that people nurture over a long period (Hyslop 1999).

### **3.7: Conclusion**

Resource allocation and distribution in many Third World countries is not based on the needs but on either nepotism, loyalty or some form of rewards. To the extent that productivity is often sacrificed with serious consequences to the overall development in such societies. Furthermore their biased distributions of resources create regional inequalities and that it also ferments internal conflicts particularly in areas that are scarce in many developing countries are misallocated, wasted and not put into good use.

Lessons on the prospects of democracy can be drawn from early modern Europe. The early modern Europe state had a predominantly political but no economic logic; it pursued mercantilist policies for internal and external self – aggrandizement, patrimonial capitalism was evident where the state was the easiest source of wealth and power. Transition in these states was only accomplished when political dominance gave way to economic logic; political arbitrariness was contained through gradual creation of legal and administrative approaches. History suggests that we should not exaggerate the pace at which a more favourable economic and political environment is achieved. Rather this shift accrue slowly and unevenly, and rising bourgeoisie elements ceases to demand special protection and favour via patron- client ties (Ibid).

Therefore a strong positive correlation can be built and shown between contemporary Africa and the early modern mercantilist European states. With some exceptions and unique characteristics, Africa is on the historically proven path of the democratic process that can achieve through incremental gain.

## **CHAPTER FOUR**

### **LEGAL FRAMEWORK: CONSTITUTIONALISM**

#### **4.1: Introduction**

African countries in their endeavors towards competitive, multiparty politics have one transitional challenge in common: To establish or redefine constitutional legitimacy and to construct legitimate democratic institutions. At stake is the reformulation of the basic law of the land and the design of institutions for the legitimate exercise of power.

Focusing on Kenya, a general constitutional problem since independence has been the lack of broad – based adherence to constitutional principles despite the existence of significant constitutional documents.

As a fundamental law of the state, the constitution is supposed to set out principles upon which the government is founded and organized. It is also supposed at one level, to set out a framework for the government's relations within social formations; at another level it sets the framework for relations among social formations and how the relations are mediated. Constitutions equally regulate the exercise of sovereign power by clearly assigning specified bodies or persons particular powers and functions as well as defining the manner in which the same should be exercised (Ng'ethe & Katumanga 2003). Constitution works well in the context where all members of the society operationalize its supremacy except in very exceptional case hence the reason why the constitution should specify the duties and rights of citizens as well as setting the limits of government actions.



The survival of a constitutional order or constitutionalism presupposes the operationalization of national interests. Law must be respected by all and no single group or individual should seek to have them changed with the express purpose of seeking to entrench particularistic interests. This tendency by political elite holding state power to use the constitution, and the law, as instrument for legitimizing their misappropriation of state resources, as instrument of repression and violence against their opponents has been threat to political liberalization (Ibid).

Thus the political liberalization that preceded independence involved the struggle for the determination of the structure of the state power. Centralization and decentralization represented competing demands by KANU and KADU respectively. The Majimbo (regionalist) constitution was KADU's response to KANU's call for strong centre (Ghai and McAuslan 1970).

The core argument in this chapter is that the subsequent constitutional decay from 1965 up to date should be interpreted in light of Kenya's constitutional experience at the independence. At the time of independence, the key political figures in Kenya and the departing colonial power failed to broker a genuine constitutional package that would fit the socio – cultural context of independent state, and gain all national legitimacy.

After the democratic opening in Kenya in 1990, one of the principal demands of civil organizations and the political opposition was to conduct a constitutional review or a comprehensive constitutional overhaul. The government responded with piecemeal

concessions. Most significant was the repeal in December 1991 of Article 2 A of the constitution, which re-introduced multiparty democracy. Unable to slow the democratic turbulent, the government opted for a strategy where it tried to control and direct the reform process and protect the positions and interests of the ruling political elite ( Mutunga 1999 ).

After the 1992 elections, however, the regime refused to enter into serious political and constitutional dialogue with civil organizations or the political opposition, essentially halting the constitutional reform process. This coincided with a process of political fragmentation that gradually weakened the opposition in the period between 1992 and 1997 elections (Read shrinking political space 1993-1997).

Although formally institutions for competitive politics were introduced, and the press and civil institutions could operate relatively free, the government was able to impede a genuine constitutional process. Rather than carry the democratic expansion further, the incumbent regime tried to frustrate and derail the process of constitution making. As a result, the Kenya's political liberalization in terms of constitution making has been slow and intermittent.

#### **4.2: The legacy of imposed constitution**

The Kenya's independence on 12<sup>th</sup> December, 1963 came after a process of constitutional negotiation at Lancaster House in London. The Lancaster Constitution was to serve as independent Kenya's constitution. The constitution was Westminster model that included

a federalist system of government that had inter alia: The bicameral legislature comprising of a lower and upper house, the executive cabinet headed by a Prime Minister, an independent electoral body whose members included; the two Houses Speakers, a nominee of the Prime Minister and the Presidents of the regional assemblies. Constitutional amendments required 90 percent support in the upper houses and percent support in the lower house. Failure to garner this support a referendum would be held, an independent judiciary where appointments were made by an Independent Judicial Service, the judges had security of tenure, an Independent public service commission to oversee the appointments in the civil service, Regional government that had to control over its finances, and was headed by a President with a regional assembly of elected and especially nominated members.

Hence the independence constitution was provided on the fear that accumulation of power in any one individual would lead to tyranny and minority oppression, thus the constitution divided and separated powers along vertical and horizontal axis. This constitution had mechanisms to check executive power and provided safeguards to protect minority groups from majority group domination hence endangered regionalism. KANU however, advocated for a unitary state while KADU championed for regionalism (Gertzel 1970).

### **4.3: An Epoch of Constitutional Amendments**

In his first three years of office, seven significant constitutional amendments were made, making Kenyatta presidency enjoy tremendous authority. Most notable was the 1966, preventive detention act, which allowed the president to detain individuals without recourse to courts in the interest of public security. Parliament lost its supremacy, where dissenting members like Martin Shikuku and the late John Seroney were detained for their utterances in parliament, the parliamentary immunity notwithstanding ( Ibid).

Between 1964 and 1988, J.B. Ojwang (1990) listed 24 amendments to the constitution. The frequent amendments to the Kenyan constitution can be argued that, the custodians of the constitution saw it as a means of attaining independence but not a document to live by. These amendments were only to achieve selfish political advantage over perceived opponents and entrench the ruling elites in the political process. Between 1964 and 1969, the constitution was amended 11 times distorting and radically changing the original independence constitution. These numerous constitutional amendments were ill advised and myopic. This clearly demonstrated a lack of commitment to democratic ideals. The various centers of power enshrined in the Lancaster Constitution were systematically eroded and vested in the presidency negating the concept of separation of powers, accountability and openness in the management of the affairs of the state. As alluded earlier, this failure to broker a constitutional compromise at the time of independence influenced a pattern of constitutional decay in the decades to follow and a trend of growing authoritarianism (Barkan 1990). A main factor cited to explain this process of

decay was the ability of the political entrepreneurs to consolidate their economic interests in a context of ethnicisation of politics and policy making (Katumanga 1998).

This political legacy was inherited and developed further by the regime that followed. Barkan argues however, that there was a significant shift in the system of governance in Kenya from the Kenyatta to the Moi regime. He contends that the breakdown of effective citizenship and the dismantling of a system of legitimate authority and reciprocity took place under the reign of Moi.

Under the evolving one party framework, political competition was limited but significant and this semi-competitive system enabled the rulers and the ruled to establish mutually dependent links through patron – client relationships. For instance in the 1970s a relatively large number of Parliamentary candidates were rejected at the polls, suggesting that the system was able to produce some level of accountability and popular control.

Barkan also contends that the norms, procedures and structures for regulating state-society relationships remained predictable and stable over time, despite the limitations of the one party, semi-competitive system; this produced a governance regime which was consciously managed in order to enhance the legitimacy of the public realm. However the predominant practice throughout the post – independent state has been to totally exclude from state patronage those ethnic communities that had expressed opposition to the government or at the very least to discriminate against those communities that were not part of the government's core constituency, this became apparent after multi party

politics was introduced in the 1991 and key cabinet members began to explicitly threaten and practice the withholding of development resources to strongholds of the opposition.

#### **4.4: Moi's Consolidation of Power**

When Moi assumed the Presidency in 1978, he used two strategies to consolidate power, during his first four five years in office, he gradually reduced the influence of the Kikuyu in the state and created room for his own loyal constituency consisting predominantly of the so – called KAMATUSA Communities. These Communities became the bedrock of the regime, overtime; support was extended to include Abaluhya of the western province and the Mijikenda of the Coast province (Nyong'o 1980).

In 1982, shortly before an aborted coup, Moi intensified his efforts to consolidate power by passing a constitutional amendment that outlawed political opposition.

Moi's second strategy came in the 1980s when he was able to enact a number of institutional changes and constitutional amendments that eroded the independence of the judiciary. Changes in the electoral code respectively undermined the semi-competitive nature of elections.

The creation of a Kalenjin based state increased the level of discontent among the Kikuyu population. Their responses came in the form of political protests, a consequence of which was threat and uncertainty of political instability.

In 1988 through an amendment to section 62 of the constitution that removed the security of tenure for judges and the attorney general this amendment also applied to civil servants

in general. These changes reflected the continued trend of constitutional decay and a substantial corruption of the principles of legality and constitutionalism ( Ojwang' 1990).

#### **4.5: Liberalization without Transformation**

While ethnic division and competition was contained within the framework of the authoritarian one party state for most of the independent histories of African politics, the “Post authoritarian Phase” since 1990 was typified by the formation of ethnic parties. For Kenya case the constitutional development as a governance issue was thwarted and derailed in the 1990s, although expanded, political liberalization as part of a process of restructuring the political order tended to evolve around constitutional issue and a quest for constitutional reform (Andreason 1995).

With the exception of repeal of Article 2 (A) of the constitution the political transition in Kenya entailed very few and piecemeal political or constitutional legal reforms. Rightly competitive politics was made legal and the terms of the Presidency reduced to two, but other laws regulating the political system remained intact or amended only when the need for defusing protest arose.

The constitution reform agenda in the 1990 was characterized by three issues: the model of the reform process, the scale of the reform needed and the constitutional model to be preferred. After the defeat in the 1992 elections, the opposition parties decided to use their seats in parliament as a platform to continue the pressure for reforms, soon, the constitutional reforms moved from party politics to civil organization (Mutunga 1999).

The 1995/6 period of the transition process was volatile and characterized by high degrees of political instability. The government refused to engage in a dialogue with the main architects of the constitutional reform process. Confronted by significant pressure, the government conceded and established IPPG as a forum for dialogue between the government and the opposition parties to work out minimum constitutional reforms (Ibid).

#### **4.6: Inter-Parties Parliamentary Group**

These are changes reached out as compromise between members of parliament and the less radical civil society organizations run to 1997 general elections due to lack of consensus on key issues among the latter and the opposition parties (Oyugi 2003). These changes were intended to have the effect of leveling the political playing ground while also removing some aspects of law that had hitherto denied Kenyan liberty. Between 1993 and 1997 there was a lot of concerted effort on the part of the civil society organizations and sections of the political opposition to have more changes introduced in the electoral system to reduce, if not remove, the undue advantage which the ruling party continued to enjoy in electoral politics. The movement for change in the electoral laws was a reaction to experience which the political opposition had gone through during the first multi-party elections in 1992 and which had demonstrated that unless changes were introduced before the 1997 general elections to level the playing field, there would be no meaningful contest between the opposition and ruling party during the second multi-party general elections. The changes were not as comprehensive as the radical elements in the



civil society movement had been pushing for. In a nutshell some of the provisions enacted into law ahead of the 1997 election are as follows:

**A) Minimum Constitutional Reforms**

A new section (1b) was inserted in the constitution stating that Kenya shall be a multiparty democracy. Membership of the Electoral Commission increased from 11 to 21; the president was to fill the 10 vacancies from a list submitted to him by political parties in proportion to their parliamentary strength. The 12 nominated MPs hitherto appointed by the president were to be appointed by him from a list submitted by parliamentary strength. The constitution was amended to outlaw sexual discrimination.

**B) Statutory Law Reform**

With regard to the Public Order Act Cap 56 the following changes were effected: All political rallies and processions in public places would henceforth require only prior notification to the local police. Those meetings of political party called exclusively to discuss party matters would not require notification. Meet-the-people tours would not require notification. The people may only stop a meeting or a procession where there was clear, present or imminent danger of breach of peace or public order.

**C) The Penal Code**

Constitutional and statutory provisions pertaining to the preservation of public security were amended as follows: the section of the constitution dealing with

detention without trial was scrapped. The section of the Public Security Act dealing with sedition repealed.

D) The Chief's Authority Act was amended as follows:

Employment of youth wingers by the chiefs was prohibited. Persons arrested by the chiefs would be handed over to the police for due process of the law and not locked up in the chiefs' camps. To limit the powers of the chief to collect money or seize property from individuals. To limit chiefs' powers to require people to undertake work that might be constructed as forced labour. To bar chiefs from engaging in the activities of any political party or canvassing for any party. To make it an offence for chiefs to torture or subject any person to inhuman treatment. To restrict chiefs from entering and searching private premises unless with a warrant signed by a magistrate. To bar chiefs from soliciting Harambee contributions where it can be construed that contributions must be made before public service is rendered.

E) Kenya Broadcasting Corporation Act

The Act was amended by inserting a new sub-section requiring that 'The Corporation shall keep a fair balance in all respects in allocation of broadcasting hours as between different political view points'.

F) Administrative Reforms

The Attorney General was required to move expeditiously and put in motion the process leading to the release of any remaining political detainees.

The last series of changes linked to liberalization of the electoral process was carried out a few months before the 2002 general elections held on the 27<sup>th</sup> of December 2002. there was only one major change introduced, namely, provision for counting of votes at the polling stations, a move which was intended to remove the perennial problem of tampering with ballot boxes on transit to the divisional counting centers (Oyugi 2003).

Despite the fact that, as part of IPPG negotiation, the government announced the establishment of the constitutional review commission, it still did not consider confidence building, constitutional development as a process of establishing national identity and unity, multi cultural recognition and reconciliation in a process of national dialogue as salient issues. A propriety relationship to the state by ethnic patrons continued to shape the political culture; this influenced the constitutional issues and represented challenges to the stability of political transition up to date (Ibid).

#### **4.7: Referendum Debate**

Two key issues dominated the debate on the drafting of proposed new constitution throughout the constitutional review conference at the Bomas of Kenya from the beginning of 2003. These issues were on the executive branch of government and devolution of power to local or subsidiary authorities.

Juan Linz (1994) argues that Presidentialism is the curse of the politics in many low-income countries. From it arise substantial denial of human rights to most citizens in these countries, perpetration of corruption, the stunting or blocking of the growth of the

private sector and general underdevelopment. It is therefore understandable he goes on to urge, for pressures to mount in such countries for political reforms in favour of parliamentary systems of government and dispersal, de-concentration or devolution of power from the centre to local authorities so as to enhance possibilities for development. In other words, such reforms would enhance political liberalization, and more political liberalization stands a better chance of stimulating development, the use of resources not for corruption but for investment in economic growth, human development and social provisioning (Linz 1994).

The draft constitution as amended by the Parliamentary Select Committee on Constitution Reform, the so-called Nyachae Committee, and as finally drafted at the Kilifi Retreat of the Committee and presented for a National Referendum in November 2005, rejected the Parliamentary system in preference for the highly presidential system of government as enshrined in the constitution whose reform has been called for. It also greatly reduced the financial powers that were to be devolved to lower units of government, reserving the very survival of these units to decisions at the centre (Nyong'o 2007).

When the referendum debate started, two contending schools of thought came forth: One for a parliamentary system of government and substantial devolution whose campaign sign was the "Orange" and those of a presidential system of government and very limited devolution whose sign was the "Banana".

The draft constitution was soundly rejected at referendum, with 152 constituencies out of 210 voting “NO”, a total of just over 3 million votes out of 5 million cast ballots, and delivering victory to the Orange side. Often cited in the mobilization campaigns was the government’s failure to adhere to the pre-election agreement and the evolving tendency to do away with equitable distribution of public positions. The growing dominance of Kikuyu in the public sector positions was effectively used by Orange Democratic Movement (ODM) to convince especially the ordinary citizens that the government was simply interested in consolidating Kikuyu dominance over other groups. The government reacted by crying foul: the opposition, it claimed, had rigged the voting, people; they further averred that some communities were told lies about the draft constitution (Ibid). Kibaki dismissed his cabinet and re-constituted a new Government of National Unity (GNP) incorporating former KANU establishment.

Table 8 shows the results of the referendum by regions. Only Central Province voted strongly in favour of the draft constitution. Eastern province was split almost halfway between those in favour and against. Those in favour comprised the groups allied to the Kikuyu-Embu and Meru. This voted in the same manner as the Kikuyu in the central and the diaspora. Other groups in the province voted against the constitution.

**Table 8**

**Regional results of the November 2005 Referendum**

Province	Nairobi	Coast	North Eastern	Eastern	Central	Rift valley	Western	Nyanza	National Total
Yes (%)	42.5	19.6	26.2	51.7	92.3	24.6	39.0	11.9	46.62
No (%)	55.8	79.3	72.9	47.4	6.7	74.8	59.1	86.9	57.36
Voter Turnout	39.5	34.5	24.4	54.8	61.8	64.3	46.8	57.2	53.95

Source: Institute of Education on Democracy (IED) handbook 2005

The referendum outcome saw the emergence of ODM Party as a fierce critic of Kibaki's GNU. The party popularized the notion that the Kibaki government had betrayed the aspirations of Kenyans and could not be trusted. With these sentiments, the party began its long journey to the December 27<sup>th</sup> 2007 general election.

#### **4.8: Conclusion**

From the above analysis, it follows the need for reflecting on prescriptive constitutional and institutional matrix for managing and reducing ethnic animosity in Kenya. This is likely, among other factors to involve two sets of measures. Firstly, devolution of state powers to regional and local tiers of governance in order to enhance popular participation, control, oversight and reduce the dominance of the central state in public life. The patrimonial state has survived largely because of the unlimited access to state resources, which has been the backbone of its ethnicity. The key words in this regard are measures of local autonomy through a different civic and institutional provisional measure for building inter-group reciprocities and trust, as well as genuine local

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autonomy with access to development resources conducive to multi - cultural, representation and respect.

The second measure concerns electoral reforms in order to enhance representative and accountable governance. This requires examination of proportional election systems, while acknowledging that ethnicity is likely to remain a central factor of Kenyan politics for many years. One option is to encourage multi cultural alliances and coalition in order to form government with majority support in parliament. Such alliance building encourages ideologically founded political competition and encounters the zero sum nature of Kenya Political System.

The constitution-making process must ensure that a broad-based consensus is reached on the devolution framework to ensure ownership by both political elite and citizens to dissuade any future government from disowning the frameworks as happened with the Majimbo Constitution.

## CHAPTER FIVE

### SUMMARY, FINDINGS AND RECOMMENDATIONS

#### 5.1: Summary

Kenya's political space is highly ethnicized. It is a phenomenon that has historical antecedents that reach back into the colonial situation. The colonial states ethnicised the society by creating Native Reserves for most resident ethnic groups in Kenya. This in itself did not ethnicise the political space. The colonial state's practice of confining African politicians to their ethnic Native Reserves and preventing them from national alliances resulted in an increasingly ethnicised political society. Ethnic social- political grouping therefore had ethnic base and foundation. Therefore the early political liberalization heightened ethnic consciousness. The main political parties formed around ethnic lines (Mamdani 1996).

Decolonization did not address the problem of ethnicity in the political liberalization. All state apparatuses were adopted intact with little institutions. Both Kenyatta and Moi effectively utilized these institutions like former colonial masters. The political space was liberalized in 1991 in the context of authoritarian constitution.

Consequently opposition groups could not effectively mobilize support in both rural and urban areas. The opposition group also fragmented along personality, class and ethnic lines. They lost both the 1992 and the 1997 general election to then incumbent KANU.

The merger between KANU and NDP inspired opposition groups to establish a firm basis of unity, but as events unfolded it was Moi's unilateral anointment of politically



inexperienced Uhuru Kenyatta and lack of internal democracy within KANU that further provided impetus to opposition unity rebel group, Rainbow Alliance opposed to Moi's decision walked out from KANU and joined NAK to form a more formidable party, NARC that overwhelmingly trounced KANU at December 2002 polls.

All this happenings have taken place in a political landscape characterized by social and economic underdevelopment and weak legal frameworks that over the years have exacerbated skewed distribution of resources.

## **5.2: Hypotheses Testing and Findings**

The basic assumptions in this study have generally been affirmed. To begin with, the first hypothesis stated that ethnicity breeds political entrepreneurship in polarized societies like Kenya. This comprises what is analyzed in chapter two as Ethnic based political parties. Ethnicity breeds political entrepreneurship in Kenya in the sense that with the repeal of section 2A of the Constitution that relegalised political parties, many ethnic based parties emerged. In both 1992 and 1997 general elections the main ethnic groups in their provinces produced party leaders that were presidential candidates. Each party and candidate was seen as ethno-regional entity. Indeed each presidential candidate capitalized on this to mobilize support from own ethnic group. Both the 1992 and the 1997 multiparty elections (presidential, parliamentary and civic) produced results that reflected the ethnic composition of the electorate in different regions of the country. In Table 3 and 4 each ethnic region voted overwhelmingly for the party whose leader came from that region. As indicated in the Table 4, each of the candidates was the leader of an

ethno-regional party and this was his political capital. KANU won both the 1992 and the 1997 elections because the party mobilized support own Kalenjin and minority groups and from factions within some of the large ethnic groups in each region. However, the defeat of the opposition political parties in both 1992 and the 1997 elections provided adequate lessons to ethnic elite in the opposition. It gave impetus for discussions around fielding a single presidential against KANU. In December 2002 election Mwai Kibaki won on NARC because it was a multi-ethnic alliance. Generally this hypothesis has been affirmed.

The second hypothesis suggested that Political underdevelopment is a function of social and economic underdevelopment. Kenya is characterized by skewed distribution of resources among the sub-population. This pattern suffocates equal participation in key decision making processes. These disparities that have evolved in the composition of governance structures are as result of uncertainties in the political system. Each transition results in alteration of the office holders of certain structures of governance because the incoming elite feel insecure to govern using a framework it has little control of. Usually affected are the positions in public sector and this translate to resource distribution in infrastructural development like education, health, and road domains. Those who loose most whenever the structure of political power is altered are the elite from other numerically large groups-those outside the group of the incumbent president. Numerically smaller groups are more safeguarded than other. This is evidenced in Table 1, 6 and 7 as numbers appears stable under Kenyatta, Moi and Kibaki regimes.

The final hypothesis suggested that weak legal institutional frameworks undermine political liberalization. This comprises what is analyzed in chapter 4 as the legal frameworks: constitutionalism. Post-colonial regimes have reduced attempts at political liberalization by simply suffocating constitution-making process through fragmentation and unprincipled coalition formation. This has resulted in vertical and horizontal polarization in the society. National constitutional conferences have in past lacked political will mainly because when parties are in opposition they behave as if (they) will never get a chance to form government. They indeed propose inclusive governance structures that represent national outlook while still in opposition. Once they get into power they renege on the proposed structure and in fact oppose for any alteration on the inherited constitution. The result has been open outcry from other ethnic groups that are underrepresented. This rivalry has reduced constitutional development in the sense that the ethnic group excluded from the governance structures oppose those in power as witnessed in the November 2005 Referendum. Data in table 8 assists to affirm this hypothesis.

### **5.3: Recommendations**

One of the major problems surrounding ethnicity in Kenya is the denial of its existence and the lack of honest discourse when its existence is admitted. The time for lies on this issue is over, and honest and open national discussion on ethnicity should take place. The

lessons from Rwanda, Somali, DRC, and Sudan are that without honest discussion, ethnicity can be manipulated to the extent of causing fear. This should not be so.

We have discussed at length the political and economic impetus behind ethnicity in present day Kenya. Clearly the way forward is to restrict the use of political and economic power to perpetuate ethnicity. In general serious and in depth structural overhauls of both our economic and political systems are necessary to curb ethnicity.

In particular the country should forge the reforms at Political, Constitutional, Land and Individual levels:

### **5.3.1: Political Reforms**

The country requires a system of proportional representation in parliamentary elections that can underwrite the fair distribution of parliamentary seats and representations of minority interests, be they ethnic, gender or religion-based interests.

A parliamentary system is undoubtedly the best approach to ensuring that incumbent is under continuous surveillance both within outside the parliament. It would introduce a high level of political accountability in the political space by tying leaders to transparent mechanisms of accounting national affairs.

Political liberalization in Kenya should address the needs and aspirations of its people for it to viable. It should grow out of the interactions of the people as it seeks to merge the collective consciousness of the people.

The zero sum nature of elections that have become pervasive in multiparty Africa have worked to its detriment, as it propagates marginalization of some ethnic group has

increased clientelism and ethnicity. Therefore all inclusive government and coalition governments along previously perceived lines of cleavages in society need to be pursued.

Any movement to qualify as a political party in Kenya must submit to registrar of societies its own organizational structure that accommodates all ethnic compositions in Kenya. Here time limit should be stressed, such that a party should be registered say two years before general election. This will enable the party to organize itself through new membership and conducting grassroots elections. This will discourage parties from being merely rushed ethnic conglomeration to mobilize support used as vehicles to ascend to state power.

The constitution should be reviewed and the relevant laws enacted to facilitate taking over of idle land belonging to absentee landlords and land illogically acquired to form a public land bank.

A national policy should be put in place to ensure that national resources are directed to areas that have greatest need for development.

Allocation and management of resources is devolved to accountable and representative local structures.

### **5.3.2: Constitutional Reforms**

The powers of president to appoint any and all public officer in the country must be severely reduced and monitored by parliament and other institutions.

An independent body should be entrenched in the constitution to hold land in trust for the people of Kenya so to avoid the use of land for political patronage or rewards.

Consolidate all statutes relating to land rights creation and delivery into one Act of Parliament with the aim of ensuring clarity and reducing the bureaucratic red tape and administrative bottlenecks that hamper easy transfer of land rights and other associated land transactions in the conveyance process.

Repeal existing laws, regulations, any customs and practices in ethnic groups that constitute discrimination against women in land including women's rights in trust/communal land.

Document and map existing customary land tenure systems, codify principles, and develop specific norms on how to deal with community variations.

Integrate statutory and traditional dispute resolution mechanisms to avoid conflicts arising from misunderstanding and occasionally misrepresentation of community interests in law.

Review the law related to land adjudication to make the process transparent and efficient and provide for setting aside of land for public utility.

First track the IPPG agreement in the law, because its recommendations have continued to be ignored by the incumbent regime during electioneering period.

### **5.3.3: Land policy Reforms**

Conduct an assessment/survey of all land in Kenya to obtain a clear and accurate mapping of existing land uses and determine land use potentials for each area. This will provide a basis for preparation of a national land use plan.

Review planning standards and zoning regimes to remove any possible causes for inequitable access and distribution of land among different social clusters.

Review current legal and institutional frameworks for land management to improve governance, based on the principles of decentralization and devolution of power, responsibility and resources to encompass public participation.

Make an assessment of optimal land holding capacities in densely populated rural areas and provide incentives and options to relocate excess population to other areas.

Make assessment of the current squatter problem and internally displaced landless, and develop a programme for resettlement of the same with specific attention being paid to conferring legal rights and how to prevent this problem from occurring in the future.

### **5.3.4: Individual Reforms**

A sustained programme of civil education should be introduced at all levels in order to mobilize people against tribal propaganda, cultural arrogance and ethnic chauvinism.

Outlaw hate speech and incitement to violence especially at the present level political liberalization.

Criminalize ethnic discrimination to the extent that those individuals who perpetuate the vice are charged in court of law.

A new culture among our leaders needs to be inculcated urgently. This new culture will reflect the shortcomings of personality-based tribal politics and develop issue-based politics.

Encourage educational pilgrimage among the youth. This is a situation whereby an individual is able to disperse from his homeland to another new area. In the process he is able appreciate existence of other ethnic through academic interaction and curriculum activities like sports. For instance Kamau from Muranga Primary admitted at Maseno School then Moi University for undergraduate studies is able to develop stronger political, social and economic ties with members from other ethnic group than Otieno who grew up in Maseno town, went to Maseno Primary School, then Maseno School and finally Maseno University.

Closely related to above concept is bureaucratic pilgrimage where civil servants are able to work from different districts away from their home areas.

Since many administrative units were demarcated to suit certain ethnic groups, requirement such as the district of birth should be eliminated in job recruitment, training and promotion. Place of origin has locked out many qualified and professionals in various sectors of the government because of the incompatibility with top management.

Promote use of Christian names as compared to our surname, since our naming pattern is so distinct that a mention of Onyango, Mwangi, Kalonzo, Wafula depicts one as a Luo, Kikuyu, Kamba and Luhya respectively.

Finally enhance the role of education for social cohesion and leadership. The of the Kenyan state is attributable to the way in which schools and universities foster social



cohesion with students from various cultural backgrounds and shape them to be future citizens. Schools and universities can contribute to political consciousness by designing methodology that focuses on analysis, evaluation or critical thinking as opposed to information absorption. This will provide opportunity for students to discuss, analyze or diagnose their society and its differences; adopting community involvement approach; diversifying assessment techniques and limiting their concentration on examination scores only; preparing textbook content that deals with social issues in a way that contributes to taking social and national problems.



## BIBLIOGRAPHY

- Ake, C (ed) (1996) **Democracy and Development**, Washington DC; The Brooking Institution.
- Andreason, B & Arne, T (1994) **A Hobbled Democracy: the 1992 General Elections in Kenya** Michelsen Institute.
- Schartzberg, M (ed) (1987) **The Political Economy of Kenya**, New York: Praeger.
- Barkan, J (ed) (1984) **Public Policy in Kenya and Tanzania**, New York: Praeger.
- Barkan, J (1992) “**The Rise and Fall of governance Realm in Kenya**” in Hyden G & Michael B ( ed), **Government and Politics in Africa**. London: Lynne Renner Publisher.
- (2000) “**The State and Internal Political Conflicts in Africa: The case of Kenya**” in Okoth, G and Ogot B (eds ) **Conflict in Contemporary Africa**, Jomo Kenyatta Foundation.
- Berg – Schollosser , D (1992) “**Ethnicity, Social Class and Political Processs In Kenya**”, in Oyugi, W (ed) **Politics and Administration In East Africa**, Nairobi: Konrad Adenauer Foundation.
- Bratton, M & D Walle ( 1998) **Democratic Experiments in Africa**, Cambridge: Cambridge University Press.
- Chege, M (1994) “**The Return to Multiparty Politics**” In Barkan J., **Beyond Capitalism versus Socialism in Kenya and Tanzania**, Nairobi: East African Educational Publishers.
- Chweya, L (ed) (2002) **Electoral Politics in Kenya**, Nairobi: Clari Press,2002.
- Cowen, M & Kanyinga, K (2000) “**The 1997 Elections in Kenya: The Politics of Communalism and Locality**’ In Cowen,M & Laakso L ,**Multi-party Elections In Kenya** Oxford: James Currey.
- Diamond, L (ed) (1994) **Potential Culture and Democracy in Developing Countries** London: Lynne Rienner Publishers.
- David Throup, (1987)“**The Construction and Deconstruction of the Kenyatta State in** M. G. Schatzberg ed., **The Political Economy of Kenya**, Praeger, New York.

Forje J. W., (1982), **“The Underdevelopment of the Underdeveloped Regions of the World”**, Tran African Journal of History, Vol. II

Gelinas, J (ed) (1994) **Freedom From Debt: The Reappropriation of Development Through Financial Self –Reliance**, London: Zed Books.

Gertz, C (1970) **Government and Politics of Independent Kenya 1963-1968**, Heinemann Education Books.

Ghai, Y. P & McAuslan, P (1970) **Public Law and Political Change In Kenya: A study of the Legal Framework of government from colonial times to the present**, Nairobi: Oxford University Press.

Healey, J & Robinson, M (1992), **Democracy, Governance and Economic Policy**, Overseas Development Institute, London

Helsi, V (1997) **Political Institutions and Democratic Governance in Divided Societies**; Heinemann Education Books.

Horowitz, D (ed) (1985) **Ethnic Groups in Conflict**, Berkely: University of California Press.

Huntington, S (1991) **The Third Wave: Democratization in the Twentieth Century**, University of Oklahoma Press.

Hyslop, J (ed) (1999) **African Democracy in the Era of Globalization**, Witwatersrand University Press, Johannesburg.

Institute Of Education on Education (IED) (1997a) **National Elections Handbook, Kenya 1963-1997**, Nairobi: Institute for Education in Democracy.

Institute Of Education on Education (IED) (1997b) **Report on the 1997 General Elections in Kenya**, Nairobi: Institute for Education in Democracy.

Institute Of Education on Education (IED) (2005) **Regional Results of the November 2005 Referendum**: Institute for Education in Democracy.

Jackson R. and Rosberg C. G., (1982), **Personal Rule in Black Africa**, Berkeley.

Johari, J (1976) **Comparative Politics**, Sterling Publisher PVT Ltd, New Delhi.

Jonyo, F (2002) ‘‘Ethnicity in Multiparty Electoral Politics’’ in Chweya L (ed) **Electoral Politics In Kenya**, Nairobi: Clari Press.

- (2003) **‘The Centrality of Ethnicity in Kenya’s Political Transition’** in Oyugi, W, Wanyande, P & Mbai C **The Politics of Transition in Kenya in Kenya from KANU TO NARC**, and Heinrich Boll Foundation.
- Kanyinga, K (2007) **‘Political Change in Kenya ‘** in Wanyande, P, Omosa, M & Chweya L **Governance and Transition Politics in Kenya**. University of Nairobi Press.
- (2006) **“Governance Institutions and Inequality in Kenya”** in **Readings on Inequality in Kenya: Sectoral Dynamics and Perspectives**, Society for International Development.
- Katumanga, M; **The Political Economy of Constitutional Amendment in Kenya 1875-97”** SAREAT Working paper/IPAR collaborative paper 005/98, Nairobi.
- Kenya Human Right Commission Report 1998.**
- Leys, C (1975) **Underdevelopment in Kenya: The Political Economy of Neocolonialism**, Berkley: University of California Press.
- Linz, J (1994) **‘Presidentialism versus Parliamentarism’**, Journal of Democracy: Winter.
- Mamdani, M (1996) **Citizen and Subject: Contemporary Africa and the Legacy of the Late Colonialism** Princeton University Press.
- Mbai, C (1998) **“The Nature of Public –Making in Kenya: 1993-1996”** in Ng’ethe, N and .Owino, W **From Sessional Paper No.10 to Structural adjustment Towards Indigenizing the Policy Debate** .Nairobi: Institute of Policy Analysis and Research 1998.
- (2003) **“The Rise and Fall of the Autocratic State in Kenya”** in Oyugi, W, Wanyande, P & Mbai, C **The Politics of Transition in Kenya From KANU To NARC**, Heinrich Boll Foundation.
- Mutunga, W (1999) **Constitution – Making From the Middle: Civil Society and Transition Politics in Kenya, 1992-1997**. Nairobi: SAREAT/MWENGO
- Nasong’o, W (2007) **“Political Transition without Transformation: The Dialectic of Liberalization without Democratization in Kenya and Zambia”** African Studies Review, Volume 50.
- Nellis, R (1974) **‘The Ethnic Composition of Leading Kenyan Government Positions’**, Research Report No. 24, Uppsala: Nordiska Afrikainskainstitutet.

- Ng'ethe, N & Katumanga M (2003) **“ Transition And the Politics of Constitution Making: A comparative Study of Uganda, South Africa and Kenya”** in Oyugi, W, Wanyande, P & Mbai C **The Politics of Transition in Kenya From KANU To NARC**, Heinrich Boll Foundation.
- Nnoli, O (ed) (1998) **Ethnic Conflicts in Africa** Dakar –Codesria Series.
- Nying'uro, P.O, (1993) **Peace and Security in Post Cold war Africa: Safeguarding the Future**. Africa Journal of Political Economy.
- (1997), **“The External Sources of Kenya's Democratization Process”**, Journal of Political Science, vol.25.
- (2005), **“The Resource Dimension of Conflicts in Sub-Saharan Africa”**, Regional Development Dialogue, Vol. 26, No 1.
- (1999) **United States Policy and the Transition to Democracy in Kenya, 1990-1992**. PHD Dissertation submitted to the University of South Carolina, 1999.
- Nyong'o, A (1980) **State of Society in Kenya: The disintegration of nationalist coalition and the rise of presidential authoritarianism (1963 – 78)** In African Affairs.
- (2007) **A leap into the future: A vision for Kenya's Social- Political and Economic Transformation**. African Research and Resource Forum.
- Ngunyi, M (1996) **‘Interpreting Political Liberalization in Kenya**, Nairobi: Mimeo.
- Nziongola-Ntalaja, G (1992) **The State and Democracy in Africa** AAPS Books, Harare
- Ogot, B (1996) **Ethnicity, Nationalism and Democracy**, Maseno University: Institute of Research and Post Graduate Studies.
- Ogot B. A & Ochieng W. R ed., (1996), **Decolonization and Independence in Kenya, 1940 – 93**, EAPL.
- Ojwang, J (1990) **Constitutional Development in Kenya: Institutional Adaptation and Social Change**, Nairobi: Acts Press.
- Okumu, J & Holmquist, F (1984) **‘Party and State Relations in Kenya and Tanzania’** in Barkan, J (ed) **Public Policy in Kenya and Tanzania**, New York :Praeger.

- Omiti, J, Otieno, W and Odundo, P (2002), **Poverty Reduction Efforts in Kenya; Institutions Capacity and Policy**, Institute of Policy Analysis and Research
- Otenyo, E (2000) **Provincial Administration and Ethnic Politics in Africa**, New York: Institute of Africa Development.
- Ottoway, M. ‘**Ethnic Politics in Africa; Change and Continuity**, Richard J (eds) in **State, Conflict and Democracy in Africa**, Boulder Colorado: Lynne Reiner Publisher.
- Oyugi, W. & Gitonga, A (ed) (1987) **Democratic Theory and practice in Kenya**, Nairobi East Africa Educational Publishers.
- Oyugi, W (1992) ‘**The Uneasy Alliance: Party State Relations in Kenya**’ in Oyugi, W (ed) **Politics and Administration in East Africa**: Nairobi Konrad Adenauer Foundation.
- ( 1995), **Ethnicity and Democratization in Africa**, CODESRIA.
- (1997) ‘**Ethnicity in the electoral process: The 1992 general elections in Kenya**’, Africa Journal Political Science, Vol. 2, No. 1: 41-69.
- (1998) ‘**Ethnic Conflict in Kenya**’ In Nnoli, O (ed) **Ethnic Conflicts in Africa** Dakar –Codesria Series.
- (1999) ‘**Ethnic Relations and the Democratization Process In Kenya, 1990-1997**’ Africa Journal Political Science.
- (2003) ‘**The Politics of Transition in Kenya, 1992-2003: Democratic Consolidation Or Deconsolidation?** in Oyugi, W, Wanyande, P & Mbai C **The Politics of Transition in Kenya From KANU To NARC**, Heinrich Boll Foundation.
- Republic of Kenya, (1965), **Sessional Paper No.10: African Socialism and Its Application to Planning in Kenya**.
- Republic of Kenya (1969) **Kenya Population Census 1969**, Nairobi, Nairobi: Government Printer.
- Republic of Kenya (1979) **Kenya Population Census 1979**, Nairobi, Nairobi: Government Printer.

Republic of Kenya (1989) **Kenya Population Census 1989**, Nairobi, Nairobi:  
Government Printer.

Republic of Kenya (1999) **Kenya Population Census 1999**, Nairobi, Nairobi:  
Government Printer.

Republic of Kenya (Various) **Statistical Abstracts**, Nairobi: Government Printer.

Salih, M (2001) **African Democracy and African Politics**. London, Pluto Press.

Sorenson, G (1991) **Democracy, Dictatorship and Development**, Macmillan Press Ltd,  
London

Suberu, R (2000) **Governance and the Ethnic Factor in African Perspectives on  
Governance**; Heinemann Education Books.

Swainson, N, **The Development of Corporate Capitalism in Kenya 1918-1977**;  
London: Lynne Boulder.

Wanjala, S (1996) '**Presidentialism, Ethnicity, Militarism, and Democracy In Africa:  
The Kenyan Example**' in Kivutha K (et al) **Law and The Struggle for  
Democracy in East Africa** Nairobi: Clari Press.

Wanyande, P (2007) '**Coalition Building**' in Wanyande, P Omosa, M & Chweya, L  
**Governance and Transition Politics in Kenya** .University of Nairobi Press.

Wanyande, P (1987) **Democracy and One Party State: The African Experience**

Zartman, W (ed) (1995) **Collapsed States. The Disintegration and Restoration of  
Legitimate Authority**, London: Lynne Boulder.

Http/ [www.eck.or.Ke](http://www.eck.or.Ke) / do accessed on 23<sup>rd</sup> June 2008 at 10.28 am.