

ETHNICITY AND KENYA'S TRANSITION TO DEMOCRACY, 1990 TO 2007

BY

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DECLARATION

I declare that this is my original work, and has not been submitted to any other University for the purpose of examination.

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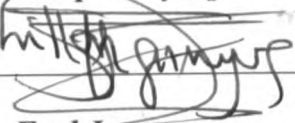
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DEDICATION

To my dear wife Violet Mavyalla Muteshi.

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I would like to express my sincere gratitude to my wife Violet Mavyalla Muteshi and children Fred Lugano Muteshi, Tom Amogolla Muteshi and Elsie Andega Muteshi, for their unwavering support and love while undertaking the studies. I would also like to thank my supervisors in the Department of Political Science and Public Administration; Dr. Phillip Nying'uro and Mr. Fred Jonyo for their advice, guidance and direction, which was instrumental in the success of this study.

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ABSTRACT

This study examines the influence of ethnicity in the democratic transition in Kenya between 1990 – 2007. The study specifically responds to two core tasks using the Relative Group Worth Approach. Firstly, it examines and attempts an explanation on the centrality of ethnic instrumentalization and mobilization in Kenya. Secondly, it analyses the impact of ethnic instrumentalization and mobilization on the democratic process in Kenya.

The study argues that the sluggish pace of Kenya's transition to democracy is a function of instrumentalization of ethnicity by political entrepreneurs to the extent that they derive values by polarizing identities. The study recommends that the requisite institutional framework needs to be put in place to mediate on the negative impact of ethnicity.

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ACCRONYMS

KADU – Kenya African Democratic Union

KANU – Kenya African National Union

LEGCO – Legislative and Governing Council

KCA – Kikuyu Central Association

GEMA – Gikuyu Embu and Meru Association

UASU – University Academic Staff Union

COTU – Central Organization of Trade Unions

PCEA – Presbyterian Church of East Africa

CPK – Church of the Province of Kenya

FORD – Forum for the Restoration of Democracy

IMF – International Monetary Fund

US/USA – United States of America

OAU – Organization of African Union

NCCK – National Council of the Churches of Kenya

KPU – Kenya Peoples' Union

DP – Democratic Party

PICK – Party of the Independent Candidates of Kenya

KNC – Kenya National Congress

KENDA – Kenya National Democratic Alliance

SDP – Social Democratic Party

NDP – National Democratic Party

LDP – Liberal Democratic Party

NAK – National Alliance of Kenya

NARC – National Rainbow Coalition

MOU – Memorandum of Understanding

SID – Society for International Development

IPPG – Inter-Parties Parliamentary Group

ECK – Electoral Commission of Kenya

CKRC – Constitution of Kenya Review Commission

ODM – Orange Democratic Movement

KNHCR – Kenya National Human Rights Commission

MP- Member of Parliament

USSR – United Soviet Socialist Republic

ERD – Economic Research and Development

CBK – Central Bank of Kenya

UNESCO – United Nations Educational Social and Cultural Programme

UNICEF – United Nations International Children’s Education Fund

KRA – Kenya Revenue Authority

CHAPTER ONE

INTRODUCTION

1.0 Background Information

The reality of ethnic politics in Kenya began very early at the initial stages of independence. Kenya obtained independence under a multiparty political system which provided for a quasi-federal system with an elective bi-cameral legislature. The system was largely an outcome of the jostling between the majority and the minority socio-cultural groups in terms of strategic positioning in power relations. Most of these minority groups, the Kalenjin, Maasai, Samburu, Turkana, including the Luhya belonged to the opposition Kenya African Democratic Union (KADU). The Kikuyu and the Luo, on the other hand belonged to the ruling Kenya African National Union (KANU)¹.

With the multi-party elections in the country in 1963, which was won by KANU, the party moved fast to woo KADU through intimidation, denial and enticement by some of the key organs of the state such as the Police and by constitutional amendments². This eventually led to the dissolution of KADU, which then joined KANU making Kenya a de facto one party state by the end of 1964. And in a move to consolidate power, the incumbent President then, Jomo Kenyatta, spearheaded the abolition of both the quasi-federal system and the bi-cameral legislature through a series of constitutional amendments. The executive was also strengthened to the detriment of parliament when the President assumed the sole right to nominate the twelve members of parliament and was empowered to summon, prorogue and dissolve parliament. The appointment and promotion of judges also became the sole prerogative of the President.

¹ Walter O. Oyugi 1997. *Ethnic relations and the democratization process in Kenya, 1990-1997*, pg 2. Published in Dakar : CODDESRIA book series

² *Ibid*

These constitutional amendments which led to the overbearing powers of the executive against other arms of government contributed significantly to the emergence of undemocratic and an authoritarian state under Kenyatta. Most of these structures continued to persist when Moi took over in 1978. These developments to a large extent constrained the democratic space initially relatively open at independence, but ignited the agitation for the democratization of Kenya's political system in the early 1990's after the end of the Cold War. It is this agitation and the piecemeal democratic reforms put in place which eventually led to the rise of ethnic nationalism in the country's political landscape.

1.1 Problem Statement

Consequent to internal and external pressure, Kenya restructured its political and economic system to embrace multipartism. Among the legal reforms instituted was the repeal of section 2A which had been introduced in 1982 transforming Kenya from a defacto one party state to a de jure one party state. From the advent of 1990, the core debate had revolved around the need for pluralism. This was embraced by those who appeared threatened by a Majimbo form of government. Majority of those who identified with pluralism were mainly from ethnic groups deemed to be the majority. As if to counter this new push for democratization by the major ethnic groups, a new constitutional requirement was effected. It required presidential candidates to garner at least 25% of votes cast in five out of the eight provinces, in addition to a simple majority as a condition of being declared President.

In effect the system seemed to be reacting rather than anticipating and mediating change for the common good. The drive seemed to be about regime consolidation, thus fitting with Horowitz conception of Liberal Democracy, which is about inclusion and exclusion; about

access to power, and privileges that go with inclusion and penalties that accompany exclusion. Lack of operational rules to mediate pluralism impacted negatively on the democratization process polarizing politics along ethnic identities. The country began to witness the emergence of ethnic based parties; voting trends in the subsequent general elections took ethnic lines and ethnic clashes began to manifest in these elections.

In 1992-1993 and 1997, the state was engulfed in what is referred to as politically instigated ethnic clashes that led to the displacement of a large number of people while about 200 people died out of the same. In 2007-2008 following the disputed Presidential elections, similar ethnic clashes albeit with more intensity were re-enacted resulting into the death of about 1133 and the displacement of about 600000 people. It is this foregoing phenomenon that is of interest to us. We are therefore interested in addressing the following research questions.

- How do we explain the centrality of ethnic instrumentalization and mobilization in Kenyan politics?
- How does ethnic instrumentalization and mobilization impact on the democratization process?
- What will it take for the state to manage ethnicity positively?

1.2 Objective of the Study

- a) Broadly stated, our study analyses the roles of instrumentalized ethnicities in Kenya's political transition to democracy. In specific terms, the study seeks to;
- b) Analyze the impact of ethnic instrumentalization and mobilization on the democratization process in Kenya.

- c) To suggest appropriate policy options that can address the problem of ethnicity in the democratization process in Kenya

1.3 Literature Review

This study conjectures ethnicity as an obstacle to Kenya's transition to democracy. A review of the existing literature touching on ethnicity and Kenya's transition to democracy was therefore made. In the attempt to understand and describe the ontology, manifestations and effects of ethnicity on the democratization process in Kenya, we make reference to various scholarly works and journalistic materials.

1.3.1 The Ethnicity-Democracy Debate

Walter Oyugi³ observes that the absence of a structure of distribution of resources that caters satisfactorily for both winners and losers in an electoral contest is ethnically conflictual. Ethnicity has also been used by competing claimants to extract resources from the center and by the state to determine the structure of access and by politicians to mobilize political support. He further states 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 ethnic agenda, while condemning the other as the culprit. He concludes that as long as the country remains with distorted structures of access, then democracy will accentuate ethnic passions instead of taming the same.

Bethwell Ogot avers that there is need to reconcile universal values like democracy in relation to ethnicity⁴. To him ethnic mobilization defies the fundamental concepts on which

³ Walter Oyugi Opcit

⁴ Bethwell Ogot et al (eds), 1996 *Ethnicity, Nationalism and Democracy in Africa*. Institute of Research and Postgraduate Studies, Maseno University. Pg 2

modern nation states have been built and therefore presents a formidable challenge to policy makers and nation building. Not all states have addressed this question in their constitutions and legislations, particularly in Africa.

William Ochieng in his remarks argues that unless ethnicity is honestly confronted, by African thinkers, Africa's transition to the post modern world remains bleak⁵. He further states that states must confront the national unity question as a precondition for the process of democratization. He also asserts that ethnicity has thrived because of authoritarian rule, forcing ethnic groups to form movements as a strategy for survival.

Peter Mwangi Kagwanja posits that ethnicity is at the core of the democratization process⁶. This is largely due to the innate contradictions within the normative democratic theory itself as Liberal Democracy is about inclusion and exclusion, about access to power, about privileges that go with inclusion and penalties that accompany exclusion. The main challenge therefore confronting democratic reformers in Africa is to build institutions, which will ensure that neither the majority nor the minorities are threatened with permanent exclusion from power and resources for development.

In his article, Fred Jonyo⁷ focuses on the role of ethnicity in Kenya's electoral process. He argues that ethnicity permeates the Kenyan electoral process such that party politics are polarized along ethnic lines and voting patterns follow ethnic affiliations. He further states that ethnicity bedevils the body politic in Kenya where pedestrian consideration like it is our turn to eat defines behaviour patterns in competitive politics. The family, clan and the tribe

⁵ William Ochieng in Bethwell Ogot et al (eds) (1996) *Ethnicity, Nationalism and Democracy in Africa*. Institute of Research and Postgraduate Studies, Maseno University. pg 7

⁶ Bethwell Ogot, *op cit*

⁷ Fred Jonyo, (2002) *Ethnicity in Multiparty Electoral Politics*. Ludeki Chweya (eds) in *Electoral Politics in Kenya*, claripress Nairobi, pg 86

are the foundations upon which forces of social organization and socialization revolve. The writer argues that the problem requires structural resolutions that change incentives. The state has to transcend ethnic divisiveness and promote merit and professionalism rather than group identities to foster healthy competition devoid of mistrust. The way forward is therefore to manage ethnic co-existence of the 42 tribes by providing to all individuals equal opportunities based on an agreeable criteria and ensuring commensurate access to development.

Marina Ottaway argues that the Nation is a new notion. In Africa, many nations were put together to form a state, unlike Europe where the nation was put ahead of the state⁸. In post world war, the state was put ahead of the nation. She further argues that many ethnic groups straddled across boundaries in Africa, hence complicating relations among the new states. Failure also to acknowledge ethnicity has increased ethnic tensions.

She also argues that the end of the cold war, which led to the setting in of multipartism brought ethnic nationalism to the fore. She also looks at ethnic nationalism as a product of democratization. When democratization set in, most states in Africa were politically and economically weak. Leaders had not established stable political systems. When elections occurred, the party and leaders were changed, but the character (constitution) remained unchanged. According to the writer, Africa appears incapable of finding an ethnic *modus vivendi*, for ethnicity can't be eliminated, as it becomes the operational principle around which the political system is built. To her, the solutions of ethnicity lies in challenging the existing power relations and rethink territorial re-arrangement and put in specific populations within current state boundaries.

⁸ Marina Ottaway, *opcit*

Stephen Ndegwa observes that ethnic identity in Africa is a relatively recent phenomenon and a product of colonial rule and of post colonial dynamics in which elites have continued to reify ethnicity for political mobilization⁹.

In traditional African setting, ethnic authority draws its strength from certain material or non-material needs which the identity group is able to provide its members in the absence of any state welfare programs. Ethnic rituals such as initiation rites like circumcision amongst most groups in Kenya help to solidify collective identities. These rituals together with the material needs provided to the community helps elites to easily mobilize. Ethnic identity can therefore become pervasive and inspire collective action in pursuit of common interest. In postcolonial Kenya, the socially enacted relationship between ethnicity, authority and legitimacy competes with the legally sanctioned membership authority and legitimacy of the nation state. Most individuals assume contingent and hierarchical allegiances, which start with the family, clan, tribe and lastly the state. This shows that individuals in postcolonial Africa submit to two substantive authorities: the ethnic group and the nation state.

Consequently, during the democratization wave in Kenya in the early 1990s, the major political problem, which came to the fore, was what type of political institution was appropriate to govern a multiethnic state. Each group was therefore concerned with which position holds the best prospects for its own access to power. This underlies the institutional preferences, which will guarantee the competing groups access to power.

⁹ Stephen Ndegwa, *Citizenship and Ethnicity: An Examination of 2 Transition Moments in Kenyan Politics*. *American Political Science Review* Vol 91 No 3 sept 1999 pg 600

Philip Nyinguro contends that perhaps the greatest challenge for the new political systems in Africa is how to deal with the ethnic factor¹⁰. He avers that the relationship between democratic governance and management of ethnic diversity is now becoming more obvious than ever. He posits that democracy is a system of institutionalized competition for power, which allows competition for influence in an organized and positive way. He further states that the major objectives of democracy is to deconcentrate and decentralize power of the executive. The aim is to have governments that are accountable, legitimately elected and responsive to peoples needs. Hence democracy is a prerequisite for peace and security in the continent because of its ability to accommodate both class and ethnic tension.

Vicki L Helsi evaluates the prospects for the successful resolution of ethnicity through democratic procedures¹¹. He reviews the nature of ethnicity and its potential to constrain the assemblage of democratic principles. He also looks at the possibility of arranging the state either through federalism or constitutionally in order to reduce ethnicity and its propensity to violence.

Rotimi Suberu observes that while Africa contains some of the most deeply divided societies on earth, the continent appears to be less creative, innovative or responsive in developing institutional solutions to ethnicity¹². He further states that African post-colonial governments have generally proven to be poor managers of ethnic -conflict. Typically, the state in Africa has relied on the hegemonic repression or manipulation of ethnic divisions, as opposed to their mediation or management through institutions and processes of democratic constitutionalism. Despite recent democratic openings on the continent, the legacy of

¹⁰Philip Nyinguro, " Peace and Security and Post Cold War Africa: Safeguarding the Future" *African Journal of Political Economy* (Dec 1993) p 133

¹¹Vicki L Helsi opcit

¹²Rotimi Suberu,(2000) *Governance and the Ethnic Factor*, In *African Perspectives On Governance* by Goran Hyden (et al). Pg 147

authoritarian ethnic-conflict management continues to pose an important obstacle to the evolution or consummation of liberal reforms in state-ethnic relations. He further argues 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 ends by pointing out that the problem in Africa so far has been the little interest that the continent political leaders have shown in dealing with ethnicity in terms of constitutional and legal provisions that enable people to feel secure and governments able to manage issues constructively to both itself and its citizens.

While most of the works cited have contributed immensely on the potential of ethnicity as a constrain to the consolidation of democratic principles, largely due to the unique nature of the African society, in which kin relationship remains very strong, this situation has been compounded by the high poverty levels in Africa. The administrative policy of isolating ethnic groups in their own distinct territories has also only helped to accentuate the problem, thereby posing a major challenge to the democratization process in Africa.

This study therefore seeks to make a more in-depth analysis of the nature of ethnicity in Kenya and its influence on the transition to democracy. It also aims to fill some of the gaps noted in this raging debate in the relationship between ethnicity and democratisation, more specifically on the yet to be appreciated significance of ethnicity as a powerful social force which needs urgent attention, to help address the problem of governance, more so by the putting in place institutional mechanism to help ameliorate its adverse ramifications on the society.

1.4 Justification and Significance of the Study

Kenya's political system remains characterized by ethnic antagonism that continues to slow down the democratization process. Consequently, ethnicity continues to affect the capacity and legitimacy of the government and unity, besides undermining national cohesion and stability, with the attendant adverse ramifications on the national security of the state.

This study takes a slight departure from existing points of view to look at why ethnicity continues to flourish, why it does not diminish despite the registered political developments so far made and the deliberate efforts to phase it out. On the academic front, this study aims to contribute towards understanding why and how ethnicity has impacted negatively on the democratization process. It also analyses how it has manifested itself in terms of voting trends along party lines and the ethnicisation of political parties in Kenya. From the existing literature, no major study has been made to look at the relationship between ethnicity and democracy in Kenya. It is this gap which this study seeks to unravel. This study is also of importance in terms of offering policy options that can address the problem of equitable distribution of resources in an ethnically conflictual society like Kenya, as well as deal with the persisting tension and political instability which characterizes Kenya's politics by trying to reconcile ethnicity and democracy. Up to now no concrete policy options have been put forward as a way of mediating this problem.

It is significant to note that while ethnicity remains a dependable locus for the articulation of legitimate interest and hence a major hindrance to the democratization process in the country, tangible progress with regard to addressing this problem remains wanting.

1.5 Theoretical Framework

The task of theory is the need for it to facilitate the description of a phenomenon, explanation, prediction and prescription of options. In the case of our subject matter, this has to be a journey seeking to tie several approaches. To fulfill this task, four approaches constitute that base. These are: the primordialist, the instrumentalist, the constructivist,¹³ and the relative group worth.

To Clifford Geertz, Primordialists regard ethnic identity to be a 'biological given,' or 'natural' phenomenon. Understood in this sense, ethnic groups 'constitute the network within which human individuals are born' and where 'every human infant or young child finds itself a member of a kinship group and of a neighborhood' and therefore comes to share with other group members certain common objective cultural attributes. Some of these common objective cultural attributes are language, religion, customs, tradition, food, dress and music. Primordialists stress the subjective or psychological aspects of a self and group related feeling of identity distinctiveness and its recognition by others as a crucial determinant of ethnic identity formation and its persistence. These are: emotional satisfaction or warmth that one receives from belonging to a group; a shared belief in common origin and history of the group, however mythical or fictive. A major weakness of primordialism is its limitation to explain how the phenomenon of inter-ethnic coalition persisted despite the divisive action of the colonialists. The other weakness of this approach is its tendency to overplay the effective dimension in human behavior to the detriment of rationality and interest. Of interest to us is how the ethnic identity is mobilized for political ends. How for instance political actors by constructing the ""Us"" verses ""Them"" polarizes, and not withstanding this, are able to pull

¹³ Raymond C Taras and Rajat Ganguly. *Understanding Ethnic Conflict: The international Dimension*. Pg 11-13

the said groups together. The fact that this phenomenon reflects itself throughout elections is what primordialist fail to explain.

The instrumentalist approach attempts this .According to Donald Rothchild and David Lake it is essentially ‘a tool used by individuals, groups or elites to obtain some larger, typically material end.’ From this perspective, ethnic identity, as one among several alternative bases of identity, gains social and political significance when ethnic entrepreneurs-either for offensive or defensive purposes or in response to threats or opportunities for themselves and/or their groups-invoke and manipulate selected ethnic symbols to create political movements in which collective ends are sought. At such moments, ethnicity can be a device as much as a focus for group mobilization through the select use of ethnic symbols. Politicized ethnicity is thus the creation ‘of elites, who draw upon, distort, and sometimes fabricate materials from the cultures of the groups they wish to present in order to protect their well-being or existence or to gain political and economic advantage for their groups as well as for themselves.’

Similarly, according to Harvey Glickman, ethnicity is used as a focal point for mobilization or competition for resources be they within or outside the state apparatus, economic or political. Richard Thompson argues that the persistence of ethnicity is due to enduring social inequalities than by biological determinations. This value derivation is affirmed by Otenyo who views instrumentalization of ethnicity as a critical variable in attempts at capturing the presidency¹⁴. How far or near the ethnic group is from attaining or benefiting from the presidency defines nearly every calculation and social mobilization project. To Otenyo instrumentalization needs primordial kinship and the sharpening of identities to thrive.

¹⁴ Eric Otenyo, *Provincial Administration and Ethnic Politics in Kenya. The occasional Paper series, Institute Of African Development, New York.Pg 13*

Otenyo equally alludes to the role played by government structures and institutions. The actors of these institutions determine perceptions affecting the very individuals and groups how they relate to each other. Yet we know that instrumentalism is not given. Neither do groups compete and dislike each other merely because they are different. Otherwise we may not explain the unity prevailing amongst like those in Tanzania. The argument here is that there has to be a conscious and concerted effort to re-orient and influence perspectives. This is the value constructivist bring as an explanation model.

Constructivists categorically reject the notion that ethnic identity is either a natural/given phenomenon or that it is simply a tool that is invoked and manipulated by ethnic entrepreneurs for individual and collective political ends. They Point out that the presumption of naturalness of ethnicity obscures the human hand and motivations behind its formation. Constructivists contend that ethnic identities are enduring social constructions. That is, they are the products of human actions and choices 'rather than biologically given ideas whose meaning is dictated by nature.' Max Weber, one of the earlier writers who stressed the social construction of ethnic identity, viewed ethnic groups as 'human groups' whose belief in a common ancestry, in spite of its origins being mostly fictitious, is so strong that it leads to the creation of a community. This leads Weber to conclude that ethnic membership by itself 'does not necessarily result in ethnic group formation but only provides the resources that may, under the right circumstances, be mobilized into a group by appropriate political action.'

Benedict Anderson¹⁵, posits that, ethnic groups are imagined or invented communities. The ideology that informs this process has to be articulated through ideological instruments and

¹⁵ Benedict Anderson, 1983 *Imagined Communities: Reflections on the Origins and Spread of Nationalism*.Pg 114

institutions of transmission such as the mass media, educational system and administrative structures.

In essence, constructivist identities demand the availability of an entrepreneur who maximizes on identities which must be sharpened. Instrumentalization can only be a tool for elites who aspire for or intend to keep resources of the state. Lonsdale affirms this when he attributes success here to the political economy context.

To John Lonsdale¹⁶ African ethnic groups are not altruistic, primordial survivals of primitive cultures but rather modern products of the African encounter with capitalism and the nation-state in the colonial and postcolonial eras. Contemporary ethnic communities and identities in Africa are outcomes of continuing processes of social construction emanating from the encounters of indigenous societies with the political economy and culture of the West as well as the deliberate manipulations of diverse political actors.

The relative group worth perspective attempts to address the question of why ethnic identities are, at times, held so intensely and why group differences appear to be so immutable. According to this perspective, ethnic groups are to be understood as extended kinship clusters, and thus, the ethnic group fulfills functions similar to those filled by family ties and obligations. When the "worth" of a group is low as a result of unflattering comparisons, or when group status is threatened through government policies (such as the policy of Russification) or societal change, ethnic ties become a natural base for political organization. Assertions of group separateness facilitate group solidarity and the preservation of group

¹⁶ John Lonsdale (2004). *Moral and Political arguments in Kenya, in Ethnicity and Democracy in Africa*, by Bruce Berman (et al). Ohio University Press. Ohio.

worth. Thus, movements of national separatism tend to emphasize those characteristics—such as language—that make the group distinctive.

The approach makes an important contribution to existing theory because it allows for group status to be evaluated in both symbolic and material terms. A subordinate group may achieve economic success, but may still feel deprived because of a lack of adequate political power. The approach recognizes that control of state structures conveys the ultimate in group power and prestige. By focusing on the psychological aspects associated with the preservation of group status, and the human needs fulfilled through the security of brotherhood, the emotive power of ethnic affiliations can be better appreciated. The most important aspect of ethnicity is that it provides a sense of familiarity, community, and emotional support for the members of a group. Such identities are likely to play an especially powerful psychological role during periods of cognitive uncertainty, such as is the case when a society undergoes a major transformation. The ethnic tie provides a sense of security during the transition period.

The problem with the perspective is that it predicates the greatest levels of hostility on the part of those whose group bears the greatest burden of negative or invidious comparisons. The lower the position of a group the stronger its desire to break from shackles of oppression. In fact, however, the most oppressed groups may have few of the human and material resources necessary to challenge the state. In addition, relative group status as a motivation behind political mobilization must be evaluated in the context of the policies and strategies undertaken by the central state apparatus and by the groups operating within the territory of state authority—such strategies will serve to define the alternatives and options available to all competing parties.

Explaining the polarities and instrumentalist identities is a political process. We have to predicate our appreciation on cocktail of instrumentalization approaches, primordial, instrumentalist, constructivist and relative group worth. We content that primordialism is the referential base around which construction are undertaken. This in turn remains cognizant of the element of value thus turning ethnic identify into an asset and weapon. The final success is a function of how groups are constructed to view and value themselves in relations to others. Institutions become brittle and sooner than later increased mobilization outside formal institutions introduces the violence variable. It is this that becomes a challenge for democratic transition and consolidation. In this context, ethnicity becomes a problem to democracy given the fact that individuals prefer to act as groups constructed around an identity rather than conditions that are economically driven.

In the Kenyan context, the Relative Group Worth approach as espoused by the phenomenon of collective group worth adds to our grasp of instrumentalization to the extend that it elaborates on how ethnicity is mobilized to become an organizational principle around which the politics of the country revolves. Due to the strong nature of ethnic identity, ethnic groups are used as instruments by the political elite notorious for exploiting ethnic differences to mobilize their respective ethnic groups to gain political advantage. Some of the cultural practices exploited by politicians include initiation rites, weddings as well as funeral ceremonies. These helps the construction of the “We” verses “Them” critical for binding groups prior to mobilization.

The net effect is that the relationship between the state and the individual becomes fried up. State and the ethnic fight over the loyalty of the individual. Felt sense of alienation of the latter thrusts into the bosom of the ethnic group for protection against the violence of the

state. Constant fears and threats in turn spawn consolidation of polarities and the need to fight harder to capture the instruments of the felt values it provides.

1.6 Methodology

The methodology in this study is a function of both primary and secondary data. Textbooks, journals, newspapers and weekly reviews were among the most extensive and valuable sources of secondary data, which was corroborated with primary data obtained from the survey of the target population. Primary data was derived through participant observation, seminal discussion as well as personal interview of opinion leaders in Kenya and some neighbouring countries with a view of finding out why ethnicity is intensely held, its manifestations and the appropriate institutional arrangement necessary in tackling ethnicity.

1.6.1 Research Design

The study was a descriptive survey, and employed both qualitative and quantitative techniques. Desktop analysis was the major tool in secondary data gathering and analysis. Likewise, a structured questionnaire with both closed and open ended questions was used to obtain views, feelings and attitudes of the targeted population. Primary data was recorded, sorted, organized and analyzed in view of the revelations unearthed by secondary data.

1.6.2 Sampling Techniques

Non-probability sampling of both purposive and convenience sampling models were used to identify and select respondents for interview. This was largely because of the technical nature of the area of study whose main focus was on the behavioral patterns of ethnic communities with regard to their affiliation to political parties as well as their voting patterns. The impact of allocation of national resources on ethnic communities was also studied..

1.6.3 Study Sample Features

The survey targeted a sample population of 300 respondents, and the response rate and return of questionnaires was 100%. The study sample comprised of various categorical variables as tabulated below:

Figure 1: Classification of Respondents

OCCUPATION	
TOTAL	300
Secondary teacher	54
Primary teacher	56
Councillor	54
Registered Voter	73
Church Leader	2
Civil Servant	53
Member of Parliament	8

Of the 300 respondents, 18% were secondary school teachers, 18.7% primary school teachers, 18% civic leaders, 24.3% registered voters, 0.7% church leaders, 17.7 civil servants and 2.7% members of parliament. Various tribal/ethnic groups were captured in the sample as shown in figure 2.

Figure 2: Tribal Representation in the sample

TRIBE	
TOTAL	300
Luo	61
Kikuyu	50
Luhya	53
Kalenjin	33
Others	103

Education-wise, 1% of the respondents had primary education while those with secondary education constituted 10%. Respondents with middle level college education comprised 47% of the study group, and the remaining 42% had university education.

Figure 3: Respondents' education and Gender

Education Level	
TOTAL	300
Primary	1%
Secondary	10%
College	47%
University	42%
Gender	
Male	67%
Female	33%

In terms of gender, 67% of the sampled population was male, and 33% female. The study group also cut across different age brackets as tabulated below.

Figure 4: The age ratio

AGE	
TOTAL	300
18-25yrs	14%
26-35yrs	48%
35-45yrs	22%
46-54yrs	13%
55+yrs	3%

1.7 Research Scope and Limitations

The study was longitudinally limited to the period ranging between the years 1990 to 2007. The desk analysis part of the research was highly extensive as far as the available literature on the topical issue could permit. However, the major focus was only directed to political phenomena that had a bearing on ethnicity.

Owing to financial, logistical and time limitations, the study had to adopt convenience and purposive sampling particular sections of the Kenyan population that was believed to have the information the study was out to gather. Likewise, the sample had to be limited to 300 respondents, and the questionnaire structured to guard against boundless views or opinion, as ethnicity is such a wide topic and can be viewed from quite diverse approaches. But in terms of coverage, the survey was designed to reach out to the seven provinces of the country, and took care of ethnic diversity in the selection of respondents.

1.8 Definition of Concepts

1.8.1 Ethnic Groups

This study will adopt the definition by Marina Ottaway¹⁷, which argues that human beings belong to natural groups which share common culture and language and sometimes the myth of common ancestry and which provides their members with a sense of common identity. Ethnic identities are not primordial because they can change a great deal over time. This may be as a result of manipulation by political authorities, personal decisions, or simply a slow

¹⁷ Marina Ottaway 1999, *Ethnic Politics in Africa: Change and continuity* Richard Joseph(ed), in *State, Conflict and Democracy in Africa* Boulder: Lynne Rienner Publishers. Pg 300

process of social and economic transformation, through which, individuals come to see themselves as part of a particular ethnic group.

1.8.2 Ethnicity

According to John Sharp, ethnicity is a political process by which people seek to form groups and to differentiate one set of people from another by appealing to cultural differences. People can invent cultural differences if it is in their interest to do so. Ethnicity is therefore the pursuit of political goals while ethnic groups are constructs of human imagination.

1.8.3 Democracy

Robert Dahl¹⁸ asserts that democracy is concerned with the process by which ordinary citizens exert a relatively high degree of control over leaders. Democracy must mean at a minimum a significant share of the many in political decisions. Basic assumption has it that democracy is a matter of power and power sharing. According to Dahl, there are eight frequently cited constitutional guarantees, necessary for the empirical realization of democratic responsiveness. They are as follows: Freedom to form and join organizations, freedom of expression, universal adult suffrage, the eligibility in principle of any citizen to seek public office, the right of political leaders to compete freely for votes and support, the existence of alternative sources of information, free and fair elections, electorally accountable government policymaking institutions.

1.8.4 Transition to Democracy

There is still no agreement as to when transition to democracy begins and ends, as it occurs at different levels depending on the level of democratization the respective countries had

¹⁸ Robert Dahl, *Preface to Democratic Theory*.

achieved. In the context of this study, transition refers to “the move between different set of rules governing the distribution of power”¹⁹. It also entails a passage from one type of political system to another²⁰. The term democracy entails the passage from an authoritarian regime to a democratic one.

Transition to democracy therefore presumes movement toward a system where power is dispersed, limited and people have a say in the decision making process. It can also be equated to political liberalization, by clearing the way for constitutional reform, the organization of new political parties, the growth of independent media and the strengthening of voluntary organizations²¹.

1.9 Chapter Outline

This study is organized into five main chapters. Chapter one is the research proposal as presented, plus the literature review, the definition of basic concepts, the theoretical framework and the key assumptions of the study. It also includes the methodology of research, focusing on the research design, the study population and sampling.

Chapter two gives the historical perspective of the study and among the issues analyzed include the genesis of ethnicity from a broad perspective and how it has grown in Kenya. The composition of ethnic groups in Kenya is also given.

19 Frank Holmquist and Michael Ford, "Kenya Politics: Toward a Second Transition? (Call No JC 423. D25) 'Africa Today' 45(2), 227-258. Issue, A Journal opinion Vol XXII/2 1995

20 B.A. Ogot, 1995 "Transition From Single Party to Multi-Party Political System in Decolonization and Independence in Kenya". (eds) B.A. Ogot and W. Ochieng. London, James Currey.

21 Marina Ottaway, 1997 *From Political Opening to democratization? In Democracy: The Hard Road Ahead*, (ed) Ottaway. L. Reinner Publishers, Colorado.

Chapter three focuses on why ethnicity is central to the mobilization and instrumentalisation of politics in Kenya. Chapter four looks at the manifestation of ethnicity on the democratic process in the country. Chapter five consists of the derived conclusion and recommendations of the study.

CHAPTER TWO

ROOTS OF ETHNIC INSTRUMENTALIZATION

2.0 Introduction

Kenya like in many other African states, did not evolve, but imposed and constructed along colonial nationalities. Many nationalities were forced together to form the state. Weak institutions of governance which took root after Kenya's independence, also gave room to a very strong executive, which was too overbearing over other arms of government; the legislature and the judiciary. This led to inequitable distribution of resources with the ethnic group in power appropriating itself most of the national resources, thus alienating other ethnic groups. This only helped to entrench ethnicity.

This chapter traces the evolution of ethnic polarities from the foregoing perspective. In undertaking this task, the chapter acts as a background archive thus anticipating and anchoring our first objective. Its core argument is that ethnic polarities have roots in the pursuit of exclusivist tendencies by regimes in power. To this end, the paper is organized around three parts. Part one revisits the colonial era, part two the Kenyatta period and part three part of the Moi era

2.1 Instrumentalizing Ethnicity in Kenya: A critical revisit

The origins of ethnicity can be traced to the evolution of the modern states. According to Marina Ottaway²², in nineteenth century Europe, the natural group called the "nation" was expected to become the basis for the formation of the political "nation-state". Underlying this is the fact that in pre-industrial societies, individuals were tied not to large nations or tribes, but to a much smaller localized group. They belonged to villages, clans, parishes, or small

²² Marina Ottaway *opcit.*

regions. The emergence of broader national or tribal identities was often the result of deliberate manipulation to help further a particular political project. For example, in the late nineteenth century, the French state relied on education and military draft to develop a French national identity among the peasants whose sense of belonging had previously extended only to a village or a small region²³. The aim was to forge a new collective identity which together with institutions shaped how people viewed themselves in relation to others

Peter Ekeh²⁴ in a different dimension uses Hobbes political philosophy whereby individuals' basic security needs play a significant role in the evolution of the state. According to Thomas Hobbes, the absence of the state threatened the individuals' existence with anarchy in a painful life that was destined to be solitary, poor, nasty, brutish and short. Hobbes preferred solution was the need for a state so that order could prevail. Individuals participate in its creation by contractually giving up some of their freedoms. This constitutes the Hobbesian complex. It is concerned specifically with ways in which the absence or inadequacy of the state may endanger the individuals basic security needs. A major conclusion from Hobbes' political philosophy is that individuals' basic security needs have influence in the direction of the evolution of the state and society.

It is within the context of the Hobbesian complex that the European state evolved into a mature state because it was able to attend to individuals' basic security needs. In relation to the society the state developed its fixed regulatory provisions, capacity, parallel to the domination of the instruments of violence. Ekeh further argues that in the evolution of the state, in the first phase, the transition from kinship to feudalism in parts of Western Europe

²³ *Ibid*

²⁴ Peter Ekeh (2004). *Individual Basic Security Needs and the Limits of Democratisation in Africa*, in *Ethnicity and Democracy in Africa*, by Bruce Berman (et al). Ohio University Press. Ohio. Pg 23

was compelled by individuals security needs. Before feudalism, individuals in Western Europe entrusted their protection from violence to their kinsfolk. The failure of kinship in the face of increased dangers and violence to provide individuals with their security needs led to the social formation of the feudal order and subsequently to the evolution of the current nation state. In the course of this evolution, a strong bond emerged between the state and individuals.

African history however, according to Ekeh, runs counter to Western European pattern in the historical relationship between state and kinship. The African state has not undertaken to provide for the individuals basic security needs. It has had no time to evolve into a modern nation state as compared to the European state. The awesome responsibility of providing security has instead been left to the ethnic group and other forms of kinship²⁵. This has only helped in emboldening the sentimental ties and bonds of trust between individuals and their ethnic groups and other forms of kinship, while the state is denied individuals loyalties. Thus, in contrast, kinship has grown in stature with the development of the state in Africa. This appears to be the clear pattern since around the sixteenth century up to the present African history in which kinships largest manifestation, ethnicity, has become triumphant.

The state we therefore have in Africa according to Ekeh²⁶ did not evolve, but was just imposed, unlike the European one, which evolved gradually into the modern nation state. This is besides the fact that the application of the African state as a nation is premature because the African state can be viewed as still in its formative stages as a nation because of its multi-ethnic nature. The state in Africa thus remains largely alien and not linked to the individual. The picture the individual has of the state is therefore one of fear. Matters have

²⁵ *Ibid*

²⁶ *Ibid*

also not been helped by post colonial regimes in Africa, which perpetuated this negative image of the state, by their dictatorial nature and in so doing strengthening kinship/ethnic bonds at the expense of nation building.

He further states that many Africans are attached to their ethnic groups because of the complex web of social obligations that define people's rights and responsibilities. These modern African ethnic groups were shaped by a particular relationship with the institutions of the colonial state. Colonial bureaucracies played a key role in the construction of tribal identities out of earlier kinship groups and political units. Chiefs and headmen, including Christian missions through encouragement of "tribal" languages also helped in this construction²⁷.

The uneven spread of colonial economic and infrastructure development also introduced significant regional differentiation in access to cash-crop production, trade, education, wage labour and state employment among different ethnic communities heightening ethnicity. Lonsdale further argues that individuals were linked to the institutions of the state through patron-client network. This meant that in Africa, people related as subjects and clients, rather than citizens to an authoritarian state both during colonial and post-colonial era. This patron-client network was further perfected by post independence Africa leaders because of the weak institutional base they had.

²⁷ *Ibid*

2.2 The Role of Colonialism in the Construction of Ethnicity

As with regard to the contribution of colonialism in the construction of ethnicity, Ali Mazrui²⁸ argues that British approaches to colonial rule by being culturally relative and ethnically specific helped to perpetuate ethnic consciousness. Through their policy of divide and rule, that is ruling the colonies through traditional authorities and institutions, they encouraged the retention of African political systems as they did among the Kabakaship of Buganda in Uganda and the Emirates of Northern Nigeria. Where there were no political systems, they imposed chiefs on ethnic basis. Within the educational set up, the British allowed instructions at the lower levels to be conducted in African vernacular languages. Thus the British colonial rule, through their doctrine of indirect rule, impeded the process of national integration and the emergence of a shared national consciousness. Indirect rule therefore engendered ethnic consciousness and cultural relativism hampering cultural convergence in the African society.

Kenya emerged as a consequence to British Geopolitical aspirations; due to their strategic need to secure the Nile and by inference Egypt. This objective was facilitated by the construction of the railway linking Mombasa to Uganda. This strategic action enabled the British to quickly deploy troops from India and where need be fend off hostile action. The need to sustain –the railway necessitated land alienation to white settlers.

The first consequence of this was alienation of land to settlers leading to dislocation and displacement of thousands of Kikuyu, Maasai and Kalenjin communities. Majority of the Kikuyu displaced would later relocate to the Rift Valley as squatters.

²⁸ Ali Mazrui, (1983) *Francophone Nations and English Speaking States: Imperial Ethnicity and African Political Formations*. Rotschild, Donald and Olorunzola V.A (eds) *State Versus Ethnic Claims: Africa Policy Dilemmas*. WestView Press, Boulder, Colorado..Pg 29

To support the new form of colonial production, legal administrative framework were to compel Africans to pay tax and to provide labour to settlers. In addition to these, they were confined to native reserves where movement was mediated by the need of colonial labour production. This framework only limited free movement but equally arrested the national process of integration. The colonial administrators created the tribal police in reserves and the chiefs were to administer the new laws. This was the beginning of the creation of identities, their polarities and animosity.

At the dawn of independence, the nascent state was already experiencing polarities. Driving these were imaginations various elite factions had about power. Core in political engagement were the forms of mobilization. Most of the leading political actors derived their power base from their ethnic groups. In any case, core issues revolved on the action of land and by inference state power. Ethnic groups that had lost land aspired to regain it. Kalenjin and Maasai especially expected to retain their land. Others like the Kikuyu aspired to settle on these white highlands, while the former articulated this demand through majimbo.

According to Nick Wanjohi²⁹, the establishment of the colonial Legislative Governing Council (LEGCO) in 1903 led to the passing of laws to alienate land held by indigenous people for distribution to the European settlers. The laws passed like Kipande (identity card) and polls tax among others forced Africans to work for Europeans. This generated a lot of hostilities against the Europeans eventually culminating into a protest in 1922 led by Harry Thuku in front of the Norfolk hotel where the European settlers gunned down many Africans. After this incident, many African Communities organized themselves into social and welfare organizations to present their political views and demands to the authorities as well as

²⁹ Nick Wanjohi, (1997) *Political Parties In Kenya . Formation, Policies and Manifestoes views media pg 44-47.*

promote their social and cultural interests. Some of the organizations formed included the Kavirondo Union, the Luo Thrift Association, Kikuyu Central Association and the Kenya African Union, all ethnic based organizations.

By 1952 the hardship situation the Africans were living in led to armed resistance by MAU. Most of its active fighters were from Central Kenya region and included communities like Kikuyu, Embu, Meru and Kamba. This led to the declaration of a State of emergency in Kenya on 20th October 1952, leading to the arrest of leading African leaders like the first President of the Republic Jomo Kenyatta, Politicians Bildad Kaggia, Achieng Oneko, Kungu Karumba, Fred Kubai and Paul Ngei. Because of this revolt, African nationalism transformed from merely making a demand for racial equality to a call for independence and restoration of alienated land to Africans.

Following the pressure exerted on the British colonialists, the British government handed down from Britain the first Constitution for Kenya in 1954 known as the Littleton Plan, and then followed by the Lennox Boyd Constitutional plan of 1958³⁰. Their main thrust was the acceptance of the principle of direct elections for the Africans in the LEGCO. They also provided for an expanded African representation, initially from six to eight members and then to fourteen elected members under the Lennox Boyd Constitution. When the ban on African Political organizations was relaxed in 1955, the groups that emerged would assume an ethnic orientation. This situation was equally a function of colonial structures that confined associations to districts that were essentially structured around ethnic identities. Some of those formed in 1956 were the Nairobi People's Convention Party, Mombasa African Democratic Union, belonging to Miji Kenda, Taita African Democratic Union, for the Taita

³⁰ *ibid*

South Nyanza District African Political Association, belonging to the Luo, Kisii Highlands Political Association for the Kisii and Nakuru African Progressive Party. Between 1958 and 1959, Baringo District Independence, Elgeyo-Marakwet District Independence Party and Nandi District Independence Party were formed.

The idea behind this form of political organization was to institute a mechanism of political containment against the emergence of countrywide organizations. This alongside the formation of ethnic based welfare organisations only helped to plant the seeds of hostile ethnic sentiments, which persist to the present day³¹.

The French to the contrary espoused policies, which engendered nationalism in the African society. One major policy, which they practiced and helped to foster nationalism, was the policy of assimilation. On the political front, they inculcated their subjects in African colonies to their system, by making the colonies as part of their provinces. Thus unlike the British, they accepted African deputies in institutions of the metropole as members of France's own parliamentary framework. In the educational set up, their system was designed to produce French people. In their approach therefore, the French made very little concession to indigenous traditions, hence pushing ethnic consciousness to the periphery³².

In order to have easy control, the colonialists used the divide and rule tactic through which they played one community against the other. This created mistrust and fear and served as the genesis of ethnic conflicts. The British policy of divide and rule encouraged separation of ethnic groups in the plantations and in urban centers more so in Kenya. In towns, residential areas were reserved for certain ethnic groups. Even jobs were awarded according to ethnic affiliation. The British encouraged such stereotypes that the Luhya and Luo were good

³¹ *ibid*

³² *ibid*

servants as they could be trusted, while the Kikuyu were kept in the shamba, as they were dishonest. The colonialists also discouraged inter ethnic migrations in the rural areas. Some districts occupied by the Maasai, the Samburu, Turkana, Pokot, Tugen, Boran and Somali were designated closed districts. The objective was to prevent infiltration of radical ideas from outside. This also only helped in entrenching ethnicity among the various groups.

2.3 Genesis and Growth of Ethnicity in Kenya

Kenya is a multi-ethnic society, but given the fluid nature of ethnic identities, as well as differences in the way ethnic groups are defined and considering that their construction is an ongoing process, more so in the African context, it may not be possible to be accurate with regard to the exact number of ethnic groups in Kenya. An estimate from various sources shows that the country has about forty ethnic groups. The largest groups in terms of the population are the Kikuyu (17.2%), Luhya (13.8%), Kalenjin (12.9%), Luo (10.5%), and Kamba (10.1%). These groups make up 65% of the country's population. Other significantly large groups are the Kisii (5.7%), Miji Kenda (5.1%) and the Meru (4.3%)³³.

2.4 Ethnic Groups in Kenya

Bethwell Ogot³⁴ for instance posits that by the end of the nineteenth century, African communities were contaminated by each other in a complex, interdependent human world. There were no watertight ethnic categories. Numerous clans, lineages and sections of clans expanded and contracted, gaining and losing members. The migration of segments or absorption by other ethnic groups produced considerable complexity. New communities and new languages were often the result.

³³ Republic of Kenya, 2009 population census report.

³⁴ Bethwell Ogot, (1996) *Ethnicity, Nationalism and Democracy. A kind of Historiology.* Bethwell Ogot et al (eds) *Ethnicity, Nationalism and Democracy in Africa.* Institute of Research and Postgraduate Studies, Maseno University. Pg 16

Studies reveal that between thirty and forty per cent of the Baluhya clans were originally Kalenjin. Prolonged contacts between Bantu-speakers and Kalenjin-speakers produced new hybrid societies that now identify themselves as Luhya.

The evolution of Abaluhya as an ethnic group was still in progress when the East African Protectorate was declared in 1895. It is evident that more social and cultural integration would have taken place between the Luhya and their neighbors the Teso, the Kalenjin, the Maasai and the Luo - if the process had not been interrupted by the imposition of colonial rule, resulting in the creation of bigger and more diverse units³⁵.

The same could be said of the Kikuyu who expanded northwards and southwards into present day Nyeri and Kiambu respectively throughout the nineteenth century. In the process they absorbed the indigenous Gumba and the Athi before proceeding to forge extensive trade, cultural and family relations with the neighbouring Maasai both in the North where they interacted with the Purko and the remnants of the Laikipiak Maasai in the Nyeri plains, as well as in the South where they established extensive contacts with the Maasai of the Kaputie.

The Taveta people of the Kenya coast may be taken as an excellent example of nation building. Their traditional history reveals that refugee groups comprising the Pare, Shambaa, Kamba, Taita, Chagga and Arusha fleeing from the famines and conflicts in their respective home areas settled in the Taveta forests in the 17th century. By the nineteenth century this heterogeneous group had developed a distinctive common culture, evolved land-holding

³⁵ *Ibid*

clans and established central institutions, which unified the migrants into a single people, the Taveta³⁶.

2.5 Ethnicity and the Construction of an Undemocratic State

When Kenya became an independent state in 1963, the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU), both founded in 1960, formed the government and the opposition respectively. The two parties had earlier contested the first multi-party elections in 1961 in which KANU won by a landslide, but declined to form government until Kenyatta was released from prison. KADU therefore formed the government with Ronald Ngala as the Prime Minister. He remained in power until May 1963 when the country gained self-rule with Kenyatta as Prime Minister³⁷. KANU was the dominant of the two parties with the bulk of its members and leadership coming from the Kikuyu and the Luo, the two main ethnic groups in the country by then. KANU had subsumed the Kenya African Union, a nationalist mutation of the proscribed Kikuyu Central Association (KCA). KANU also included the proscribed Luo-led organizations, such as the Kenya Federation of Labour and the Kenya Independence Movement³⁸. KADU's component groups included the Kalenjin Political Alliance, the Maasai United Front, the Coast African Political Union, the Kenya African People's Party, and the Somalia National Association. These groups were predominantly based in the Rift Valley (the Kalenjin, Maasai, Turkana, Samburu) but also included the Luhya of Western Kenya and the Coastal ethnic groups. By then, the multiparty constitution provided for a quasi-federal system with an elective bicameral legislature. The Legislature consisted of a Lower House of Representatives with 117 elected members representing constituencies and 12 appointed members and a Senate of

³⁶ *Ibid*

³⁷ *Nick Wanjoh opcit*

³⁸ *Stephen N Ndegwa, opcit*

41 members representing all administrative districts and Nairobi³⁹. Power was decentralized by dividing the country into seven regions, each with its own legislature and executive body. The system was devised by the Lancaster Conference to take care of the fears of minority ethnic groups regarding the future security of their land in particular⁴⁰. The majimbo constitution as it was called was a major triumph for the ethnic minorities as it assured them of their autonomy. They were also assured of representation and participation in the central government through the senate, whose electoral districts were even more ethnically homogeneous. An eighth region was also created to accommodate the secessionist Somali population⁴¹.

Under the majimbo constitution published in December 1963 the regional assembly was given the mandate to run most of the affairs of the region. In effect Majimbo was acknowledging and constitutionalizing the native spaces as constructed by the colonial regime. The assembly could for instance, make laws for the peace and good governance of the region. The executive authority in the region was vested in the finance and establishments committee- a body elected from amongst members of the regional assembly- which was responsible for making the decisions necessary for the day to day running of the region. However, the regions relationship with the central government was such that the regional assembly could not at anytime pass any laws that would be seen to contradict those made by the national assembly.

The region, according to the constitution, had the right to determine its own development and economic priorities, run its own schools (except those classified as national), hospitals and

³⁹ *ibid*

⁴⁰ *Walter oyugi, opcit*

⁴¹ *Stephen Ndegwa ,Opcit*

housing, and was also in charge of its own natural resources and the sole beneficiary of the income accruing from such resources. The constitution made provisions for a regional fund into which all the regional income would go, and the central government had no authority to interfere with it. The regions also had their own civil services headed by regional civil secretaries who were answerable to the regional assemblies. In addition, each region had its own police force under a law and order committee of the region. However, there was also a national security committee whose members were to be the minister in charge of security and all the regional chairmen of the regional law and order committees. The national security committee was the overall authority regarding political matters, and the constitution similarly provided for an Inspector General who was the overall national police boss as well as the head of all specialized arms of the police.

The majimbo constitution also gave the regions complete control of the land within their boundaries. As a result, it was upon the region to decide on such matters as the sale or use of any trust land as well as any unacquired land within its boundaries. However there was also a national land board, whose job was to oversee the process of settlement particularly with regard to identifying and negotiating with owners and regions over the purchase of the land intended for settlement⁴².

KANU was impatient with the majimbo system and within the first year of independence, it undermined the regional governments by withholding funds, passing legislation to circumvent regional powers, and forcing major changes to the constitution by threatening and preparing to hold a referendum if the Senate-in which KADU could block the proposals-did not accede to the changes. Out numbered, out maneuvered, and with no prospects for

⁴² *Weekly review, December 17th 1993 pg 9*

enforcing the compromise constitution, KADU willingly dissolved and joined KANU to form a single-party state in 1964⁴³. This effectively turned the country into a *de-facto* one party state under KANU, yet it did not end power struggles. Unfortunately for Kenya, the fight increasingly took an ethnic dimension.

In 1966, following a series of constitutional amendments and power struggles in KANU, the neo-federal system collapsed, and Odinga resigned from the party and on April 30th, founded the Kenya Peoples Union (KPU) in the same year. Odinga became the President of the party with Bildad Kaggia as the Vice President. Later, Parliament passed a constitutional amendment that made it mandatory for members of parliament defecting from the party that nominated them to seek fresh mandate. KPU won 7 of the 29 Lower House seats and 2 senate seats of the 10 being contested. As a party, KPU favoured nationalization. Odinga was also viewed as the main proponent of the socialist/communist ideology. The regime's response to Odinga was not the acknowledgement of ideological orientation, rather it sought to limit him to Nyanza among the Luo. The Kenyatta regime also unleashed violence against Kaggia and eventually forced him to resign from government. In doing this the government increasingly alienated Luos and in the process contributed to politicizing ethnicity. It was however later banned and key western nations did not condemn the action⁴⁴. The period that followed saw the strengthening of the executive whereby the president was empowered to have the sole right to nominate the 12 members of Parliament, set the calendar for parliament and appoint and promote judges⁴⁵. In May 1966, the Preventive Detention Act was passed, despite contravening the constitutional provisions that guaranteed individual rights, liberties and freedoms. The laws on sedition, prohibition and proscription of publications were also

⁴³ *ibid*

⁴⁴ Nick Wanjohi *opcit*

⁴⁵ Walter Oyugi, *opcit*.

enacted. They criminalized intentions to unlawfully overthrow the government, and actions likely to lead to replacement of the government⁴⁶. Events in 1969 solidified instrumentalization of ethnicity. This began with the assassination of Tom Mboya by Nahashon Njenga leading to mass rioting mainly by the Luo against the government. It also unified them behind Odinga. It also unified the kikuyu who mobilized to protect the presidency. The banning of KPU in 1969 merely cemented the alienation of the Luo.

In 1973, the Gikuyu, Embu and Meru Association (GEMA), was formed to facilitate the mobilization of political support among these groups. This triggered the formation of other cultural groups like Luo Union and the New Akamba Union⁴⁷. With Kenyatta becoming sickly, jostling for power among the Kikuyu elite began through agitation for the Change the Constitution group. The move was spearheaded by GEMA with the intention of blocking the Vice- President Daniel Moi, from ascending to the Presidency on Kenyatta's demise, which at the time appeared imminent. The debate was however stopped by Kenyatta, and when he died in August 1978, Moi succeeded him⁴⁸.

By the time Jomo Kenyatta died in 1978 the country had first drifted to a totalitarian State. The Executive was unchecked; Parliament had no powers, while the Judiciary was not independent. The local government had lost its autonomy to the Central government hence distancing people from democratic control. The government became repressive, while the political system was operating as a patron-client system based on a combination of favouritism and repression. The Presidency of Daniel Arap Moi continued this pattern,

⁴⁶ Nick Wanjohi, *opcit*

⁴⁷ Githu Muigai, (2004) *Jomo Kenyatta and the Rise of the Ethno- Nationalist State in Bruce Berman et al, Ethnicity and Democracy in Africa. Pg 214*

⁴⁸ *ibid*

introducing new measures that destroyed even the few democratic practices that had survived Kenyatta's rule. Arrests and detentions increased, particularly in the mid 1980's. The growth of the civil society was curtailed; the Civil Servants Union and the University Academic Staff Union (UASU) were outlawed.

The Central Organisations of Trade Unions (COTU) and Maendeleo Ya Wanawake Organisation were co-opted into the system. The security of tenure of the Attorney General, the Controller and Auditor General and those of the Judges were removed between 1986 and 1988. Journalists were harassed and censorship strengthened impinging negatively on Freedom of the Press. Tribalism and nepotism became more evident in job allocation. At the end of 1980, almost all key positions in security were held by Moi's minority Kalenjin Ethnic group.

On August 1, 1982, there was a coup attempt against Moi by the Kenya Air Force, which was defeated. With the earlier signs of emerging agitation for the formation of new parties coupled with the coup attempt scare, Parliament passed a constitutional amendment making the country a *de jure* one party state. The movement for democracy started gaining momentum with the unsuccessful attempt by George Anyona and Oginga Odinga to form an opposition party in 1982. In the mid-1980's, MWAKENYA an underground movement emerged. The movement was largely associated with radical University lecturers and students, though it succeeded in recruiting from the peasant and working class. By 1987, most of its leadership and membership had been cracked down by the government, some of who were detained without trial or sentenced to lengthy prison terms by a judicial process unduly compromised by the State.

In 1986, the Moi government introduced the queue voting method as a way of ensuring the 'election' of its supporters in future elections. It required primary elections to be held by the queue method with the candidate receiving 70% or more of the votes being declared elected at that stage. However, if no candidate received the required percentage, then candidates would proceed later to secret balloting and the winner would require a simple majority of the votes to win⁴⁹. This system was used in the 1988 general elections thus marking a major turning point in the agitation of democratic ideals in the country. KANU showed a cynical attitude towards voters and given the great number of candidates and followers who felt cheated, a mood of political protest gripped the country⁵⁰.

There was widespread dissatisfaction with the elections with numerous claims of rigging in favor of certain pro-establishment candidates in both parliamentary and civic elections. Popular and independent minded MP's such as Muliro, Rubia, Mr. Martin Shikuku of Butere, Mr. Joshua Angatia of Malava (both in Kakamega district), Mr. Wamalwa Kijana of Saboti in Trans Nzoia were either defeated at the polls or later removed from parliament through successful election petitions. Something appeared to have gone terribly wrong with the country's election system, but neither Kanu nor the government was unduly worried by the protests⁵¹. Some people called it political daylight robbery, and intolerance to the party was stepped up. More people were arrested and either imprisoned or detained without trial on suspicion of opposing the government.

Another factor which helped to entrench ethnicity was the economic variable. For instance, during the Kenyatta regime (1963-1978), national resources were allocated in a manner that

⁴⁹ *Walter Oyugi, opcit*

⁵⁰ *Nick Wanjohi, opcit*

⁵¹ *Weekly Review, 30th August 1991 pg 9*

clearly favoured Kenyatta's kinsmen, the Kikuyu, thus eliciting indignation and condemnation. This situation reached alarming proportions leading to the establishment of a select committee in 1968 to investigate the problem of tribalism and the ethnic imbalance in opportunity. The motion was however rejected. The situation remained the same under the Moi regime, as his Kalenjin community enjoyed a greater advantage as recipients of a disproportionately large share of the state resources⁵².

Tribalism and nepotism were started and cultivated by the late Kenyatta. By the time he died in 1978, the Cabinet comprised of 27.3 per cent (Kikuyu), 18.2 per cent (Kalenjin), 9.1 per cent (Luhya) and 6.1 per cent (Luo). Other small communities shared the remaining slots⁵³.

Moi's first government in 1978 had about 30 per cent Kikuyu, which number was systematically whittled to about 20 per cent in the middle of 1980s. They were finally reduced to 14 per cent by 1988 as Moi sought to consolidate his power around members of his Kalenjin community and other small parties. The report shows that the percentage of Kalenjins in the Cabinet increased from 11 per cent (1979) to 17 per cent in 1994 and 22 per cent in 1998⁵⁴.

⁵² *ibid*

⁵³ *ibid*

⁵⁴ *ibid*

CHAPTER THREE

CONTEXTUALIZING THE INSTRUMENTALIZATION OF ETHNICITY IN KENYAN POLITICS 1990-2007

3.0 INTRODUCTION

This chapter puts into context the instrumentalization of ethnicity in Kenyan politics. The chapter addresses itself to the task of our first objective to examine and explain the centrality of ethnic instrumentalization and mobilization. In Kenya we note that there are political, economic and social factors around which, instrumentalization is channeled. The objective is held together by several assumptions. That critical to political instrumentalization to Kenya is the variable of ethnicity. Not only is this factor central to mobilization, but that there are apparent conscious efforts by political entrepreneurs to organize and structure their constituents in a manner that creates instrumentalization.

Under the political factors, we shall examine issues such as weak institutions and their mediation in resource distribution and thus a force multiplier in instrumentalization of political processes. Political institutional design, methods and forms of recruitment, appointment and their appropriation as ethnic assets, legal and political institutions such as parties and their lack of ideology and political behavior are analyzed.

Under the economic realm, we examine factors such as government policies and behaviour in resource distribution. The aim here is to show how ethnic entrepreneurs use state behaviour to mobilize ethnic identities for their own individual interest and in the process shaping orientation and perceptions. Under the social realm, we focus on cultural variables and symbols in a bid to demonstrate how they are constructed, appropriated and subsequently used to mobilize the ethnic group.

To this end, this chapter is organized around three parts; Part one looks at the political factors explaining instrumentalization of politics. Part two discusses economic factors, while part three looks at the social factors. The central argument here is that underlying Kenyan politics is the entrepreneurial ability of political actors to exploit marginalization in political, economic and social terms; to mobilize collective group feeling and subsequently use this to propel themselves into power.

This misuse of the state for the self aggrandizing activities of incumbent political elites, their kinsfolk, supporters and sycophants has led to a popular view of the presidency and other political offices as positions for self enrichment and misappropriation of national resources to the advantage of one group. Due to lack of political institutionalization, these groups have invariably been ethnic groups, which continue to be the basis of interest aggregation and articulation⁵⁵. The eruption of ethnic clashes in the run-up to and after the 1992 general elections, emergence of ethnic based parties and the voting along ethnic lines in subsequent elections can be looked at as a consequence and a manifestation of weak institutionalization. This has led to skewed allocation of resources and marginalization of some groups from the political process, as politics is ultimately about who gets what when or how according to Harold Laswell, or the authoritative allocation of resources and values according to David Easton.

3.1 Appointments and Ethnic Consciousness

A large part of construction of ethnic identities is as a result of perceptions citizens develop with respect to institutional appointment. The general feeling is that of either being part of or left out of a regime. Allocations provide the basis for manipulation by entrepreneurs to either

⁵⁵ *ibid*

campaign for or against the regime. Those who become vocal are seen as the true defenders of their ethnic interest. In Kenya's case, the 1990's coincided with political and economic restructurization around the world. The general feeling was that of marginalization and domination by a regime thought to be a minority.

Moi's first government in 1978 had about 30 per cent Kikuyu, which number was systematically whittled to about 20 per cent in the middle of 1980s. They were finally reduced to 14 per cent by 1988 as Moi sought to consolidate his power around members of his Kalenjim community and other small parties. The report shows that the percentage of Kalenjins in the Cabinet increased from 11 per cent (1979) to 17 per cent in 1994 and 22 per cent in 1998⁵⁶.

Kibaki came to power in 2002 with promises of equity, both in the distribution of Cabinet positions and other key areas in the public service. The composition of his first Cabinet (2003-2004), the report shows, was relatively based on equity among the major ethnic blocks. The Kikuyu, Luhya and Luo occupied 16 per cent each, Kamba 12 per cent while the Embu and the Mjikenda got eight per cent each. By 2003, the Kalenjin occupied 37 posts of chairmen and managing directors in the Public Corporations; Kikuyu had 33 slots, Luo 31, Luhya 15, while the Kamba and Maasai took 10 positions each. The Meru and the Somali shared 9 slots apiece⁵⁷. Unlike his two predecessors, who reigned for almost 40 years between them, Kibaki packed all crucial sectors of leadership – Cabinet, State Corporations, Judiciary, Provincial Administration and Civil Servants – with politically and tribally correct appointees in a dramatically short period of time, plunging the country in a new wave of

⁵⁶ *ibid*

⁵⁷ *ibid*

tribalism⁵⁸. Indeed part of the quarrel that helped to split NARC and paralyze the 2005 referendum had roots in these complaints. Districts were given on the basis of loyalty. The more an actor mobilized an ethnic identity on behalf of the regime the more rewards they got. This in turn increased ethnic consciousness.

In 2004, the report indicates, members of Kibaki's Kikuyu community occupied 25 per cent of Cabinet positions while the Luhya and the Luo communities took 13 per cent each. The Kalenjin and Kamba took another 10 per cent while the Meru, Mjikenda and Maasai were allocated 6.8 per cent each. After November 2005 referendum, Kibaki re-organized his government bringing in new members who were not in the original NARC under the Government of National Unity. In order to accommodate new interests brought about by the results of the referendum, the President increased the number of Cabinet positions from 29 to 33, a departure from the promised lean and small government.

The number of Kikuyu Cabinet ministers also increased from five to six. Before the referendum, Meru and Kikuyu had five PSs each, Kamba, Luo and Kalenjin had three each, Mjikenda, Luhya, Somali and Kisii two each⁵⁹. After the referendum, the composition of PS's changed. The Kikuyu had six PS's, Luhya three, Kamba and Kalenjin two each⁶⁰.

Similarly, a casual glance at official Government in the 9th Parliament showed disparities, with the Office of the President leading the pack of what appears to be an expanding regional web. The OP postings had a pattern where allies of the President, including those who served

⁵⁸ *The Standard*, 15.05.2007

⁵⁹ *ibid*

⁶⁰ *ibid*

with him in the Democratic Party and others from Mount Kenya region, took charge of the powerful ministries, parastatals and departments⁶¹.

It began at the Office of the President, and ran through the ministries of Education, Finance, Energy, Information and Communications, and into several strategic State corporations. Going by their stated functions, the OP has two powerful ministries: The Ministry of State for Provincial Administration and National Security, by then led by Kangema MP,. John Michuki and the Ministry of Defense, headed by Njenga Karume, the MP for Kiambaa by then. The two were responsible for defence, the whole system of Provincial Administration, which runs from the PC to the sub-chief. The ministry also takes care of the Kenya Police and the following departments: Government Press, boundaries, registration of births and deaths and registration of persons. The ministry is also responsible for the National Agency for the Campaign against Drug Abuse. It also includes the Cabinet Office, which has about 15 functions. The Cabinet Office is responsible for organization and co-ordination of Government Business, appointment and terms of service of ministers, and assistant ministers, and appointment of Permanent Secretaries. The Cabinet Office also appoints ambassadors and High Commissioners. It can abolish public offices, and form commissions of inquiry. It also inspects State corporations, among other responsibilities. It is also responsible for nominations for senior jobs in international organizations⁶².

This is where the regional web begins. It had Francis Muthaura as Head of Public Service and Secretary to the Cabinet and State House based adviser and PS. Stanley Murage. The PS for Provincial Administration and Internal Security was. Cyrus Gituai, while that for Defence was. Zachary Mwaura. With the powerful OP ministries in the hands of a clique, it did not

⁶¹ *Sunday Standard*, 1.4.2007

⁶² *ibid*

surprise that the same regional pattern is replicated in the chains of the subordinate, into key offices within the entire chain of the Provincial Administration, Department of Defense, Kenya Police, Administration Police, and other security agencies⁶³.

The Ministry of Education, with over 30 core functions, was another of those firmly in the hands of politicians from central Kenya. The minister, George Saitoti, although representing a constituency in the Rift Valley, has strong roots in the region. His assistants; Beth Mugo and Kilemi Mwiria, are from the region, and so was the Permanent Secretary, Karega Mutahi. Other than being responsible for inspection and supervision of education institutions, the ministry registers new learning institutions. It is responsible for the Teachers Service Commission, which employs and posts teachers. The ministry is also responsible for valuable programmes like the science equipment production unit. It also administers scholarships⁶⁴. Critical issues in this ministry, relate to appointments of education attaches in foreign missions, representatives in bodies like UNESCO, UNICEF and appointment of heads of significant institutions like Kenya Institute of Education and Kenya Education Staff Institute, among others.

The President's allies also ran the Ministry of Energy, with over 15 functions and several strategic parastatals. Kiraitu Murungi, a former Shadow Attorney General in DP's days in the Opposition, ran the ministry with Mwangi Kiunjuri as his deputy and Patrick Nyoike as PS. In Parliament, Ojode also claimed that 90 per cent of the PCs, District Officers, Officers Commanding Police Divisions and stations hail from the Mount Kenya region. Uhuru chided

⁶³ *ibid*

⁶⁴ *ibid*

the Government for 'enhancing' tribalism and ethnic hatred through skewed appointments. He challenged the Government to end politics of exclusion⁶⁵.

According to Ababu Namwamba, poor leadership in independent Kenya has contributed a great deal in fueling ethnicity. One of the major factors has been arrogance and greed of the ruling elite. Skewed allocation of national resources, including state appointments and budget allocations have only helped to incite resentment against regions perceived wrongly or rightly as beneficiaries of the inequality by controlling the presidency.

3.2 Multipartism and the rise of ethnic nationalism

The main challenge confronting democratic reforms in Africa is to build institutions which will ensure that neither the majority nor minority are threatened with permanent exclusion from power, resources and development. The same institutions should also put the stakes involved in a democratic election low to enable the contesting parties to accept the outcome and not to seek redress through violent means⁶⁶.

The repeal of section 2 (a) of the constitution to allow for multipartism marked a major milestone in the democratisation process of Kenya. It is however imperative to note that this change was not preceded with a comprehensive multiparty agreement on the fundamental rules of the conduct of multiparty elections either through constitutional reform or by constitution like pact making⁶⁷. The KANU government had all along resisted carrying out the much-needed constitution reforms even though it dominated the parliament. Among key democratic values, which were yet to be put in place included freedom of association,

⁶⁵ *ibid*

⁶⁶ Peter Kagwanja, *opcit*

⁶⁷ John Harbeson, (1999) *Rethinking Democratic transitions in State Conflict and Democracy in Africa* by Richard Joseph. Pg 43

freedom of the press, a still overbearing executive, and a non-independent judiciary while the electoral commission lacked autonomy. Consequently, the country witnessed a situation of intense political competition devoid of political institutionalization in this transition phase, and one of the major by product of this anomaly was the rise in ethnic nationalism⁶⁸. It is significant to note that the call for multipartism was taking place when the cold war was facing its demise, hence heralding the end of the ideological war, which had also permeated the Kenyan nation. The emerging ideological vacuum was thus easily filled in by ethnicity which had now begun to take root in the Kenyan society.

The Ethnic factor which had now begun to take prominence had initially been contained because the absence of formal democracy had made it possible for authoritarian governments to rely on solutions that disregarded the numerical importance of the ethnic groups. Ethnic minorities could dominate governments in an authoritarian system but not in a democratic one. However, co-opting ethnic leaders would not work when people became free to choose their own representatives.

This democratic transition was also taking place in a situation where the low level of political institutionalization⁶⁹ had engendered conditions in which resource allocation had been so skewed in favour of the incumbent regimes together with their supporters. This had forced the various ethnic groups to mobilize to articulate their own interest with the resultant political antagonism leading to the rise of ethnic nationalism. The quest for political power was thus largely motivated by the desire to control state resources and their authoritative allocation because of lack of well established classes and organized interest groups, which in

⁶⁸ Marina Ottaway, *Opcit*

⁶⁹ Shadrack Wanjala Nasongo (2000), *Resource Allocation and the crisis of Political Conflicts in Africa: Beyond the inter-ethnic Hatred Thesis in Conflict in Contemporary Africa*, by Godfrey Okoth and Bethwell Ogot, pg 46

itself was a consequence of low levels of political institutionalization, and mobilization was largely along ethnic lines⁷⁰.

3.3 Aggregation on the Economic Front

The way national resources were distributed also helped to solidify ethnicity. Ndhiwa MP Orwa Ojodeh, while contributing to the President's speech cited the ministry as one where appointments are skewed in favour of one region. Ojodeh's attack came after the Leader of the Official Opposition, Uhuru Kenyatta, questioned how the Government arrived at the decision to appoint Njoroge Ndung'u as the Governor of the Central Bank. Uhuru complained that the move had heightened ethnic tension, with a particular region being seen as taking the lion's share of top government appointments⁷¹.

That ministry had a long list of officials from central Kenya. They included the minister Amos Kimunya from Nyandarua, his assistant Peter Kenneth from Thika and Permanent Secretary, Joseph Kinyua. The Economic Secretary was Kamau Thuge while the Pensions Secretary was Anne Mugo. The other top officials were Budgetary Director, P.B. Ngugi and ERD Director, Kenneth Mwangi. The Ministry of Finance is responsible for a number of critical agencies and services. The core function of CBK, one of the agencies under the ministry, is *"maintaining price stability and fostering liquidity, solvency and proper functioning of a stable market-based financial system."* CBK also issues notes and coins and provides banking services to other banks⁷².

70 *ibid*

71 *ibid*

72 *ibid*

KRA another strategic agency has five main departments. They include Domestic Taxes, Customs Services, Large Taxpayers Office, Road Transport and Support Services. The heads of these departments appear in the Executive Profile data where five names are listed. They include Commissioner General. Michael Waweru followed by Commissioner for Custom Services Wambui Namu. The third name on the list of Executive Profile is. John K Njiraini, Commissioner Domestic Taxes – Large Tax Payers Office. Then there was. Simeon Ole Kirgotty, the Commissioner of Motor Vehicles. Under him was. Mumo Matemu the Commissioner of Support Services Department. Customs Services include such sensitive areas like clearing agents, issuance of Certificate of Origin, dealing with prohibited and restricted goods. The department is also responsible for exemptions from duty. Ojodeh tabled a list in Parliament which included F. W Nganga as Board Secretary,. Joseph Nduate as Senior Deputy Commissioner for Investigations and Enforcement and Namu Nguru as Deputy Commissioner, Investigations and Enforcement, among others. What the list did not have was the name of Michael A Onyura, the head of Human Resources Department⁷³.

Of concern is that the governments in power since independence have always favoured areas of the politically right in the distribution of national resources. An example was given of the 2006-2007 budget, where regions represented by Ministers perceived to be close to the president received the lion's share of roads construction cash as districts with poor road networks received a raw deal. Finance minister Amos Kimunya 's Nyandarua district topped the list with Kshs.956 million while the Nyeri district received Kshs. 785.7 million, as co-operative minister Meri Ndwiga's Embu got Kshs.667 million. Elias Mbau's maragua took Kshs. 528 million and Njenga Karume's Kiambu Kshs. 457 million. Suba, Rachuonyo,

⁷³ *ibid*

Kajiado and Kericho districts received Kshs. 3 million each. Kisumu, Taita Taveta and Siaya got Kshs. 4 million each as Malindi and Mwingi were allocated Kshs. 7 million each.

3.4 The Sharpening of Ethnic Identities by the Political Leadership

According to Eric Otenyo, provincial administration in Kenya gave form and shape of ethnic consciousness through creating new locations and districts on loyalty/ethnic basis and promoting solidarity among members of the benefiting group. At independence, the country was divided into 40 districts drawn along ethnic lines. This was viewed as a strategy to divide and rule Africans to prevent the emergence of broad based nationalist movements. This practice did not end with the advent of independence as the Kenyatta government argued that it was essential to provide services to peasants. This however, only helped to reify and sharpen ethnic identities by defining people along tribal district boundaries⁷⁴. Almost all the districts erected were associated with the occupant tribe. This trend continued during Moi's regime and even in the current government of President Mwai Kibaki. Currently the country has over 250 districts, curved along ethnic lines. This has however largely been attributed to instrumental reasons, though the government has always insisted that it was bringing administration closer to the people. It has also been argued that most of the newly created districts were rewards to "loyal tribes" or for political expediency. For example, during the Moi regime, the Kuria, Teso, Marakwet and Suba districts were created⁷⁵. This moves had their own costs because they also served to politically split communities that have co-existed as a single entity. Infact, it could be singled out as one of the key factors, which has worked against the goal of nation building, because to the contrary, it has only been promoting ethnic consciousness.

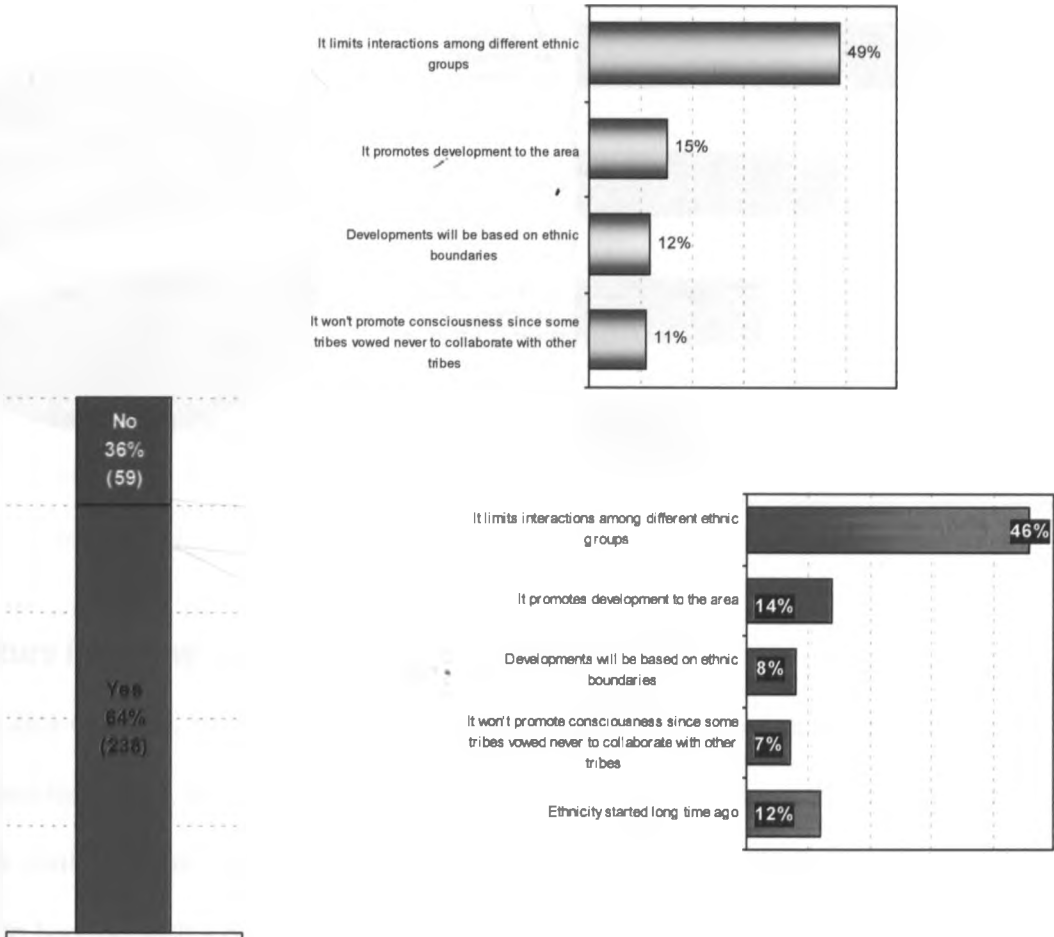
⁷⁴Eric Otenyo, *opcit*

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⁷⁵ *Ibid*

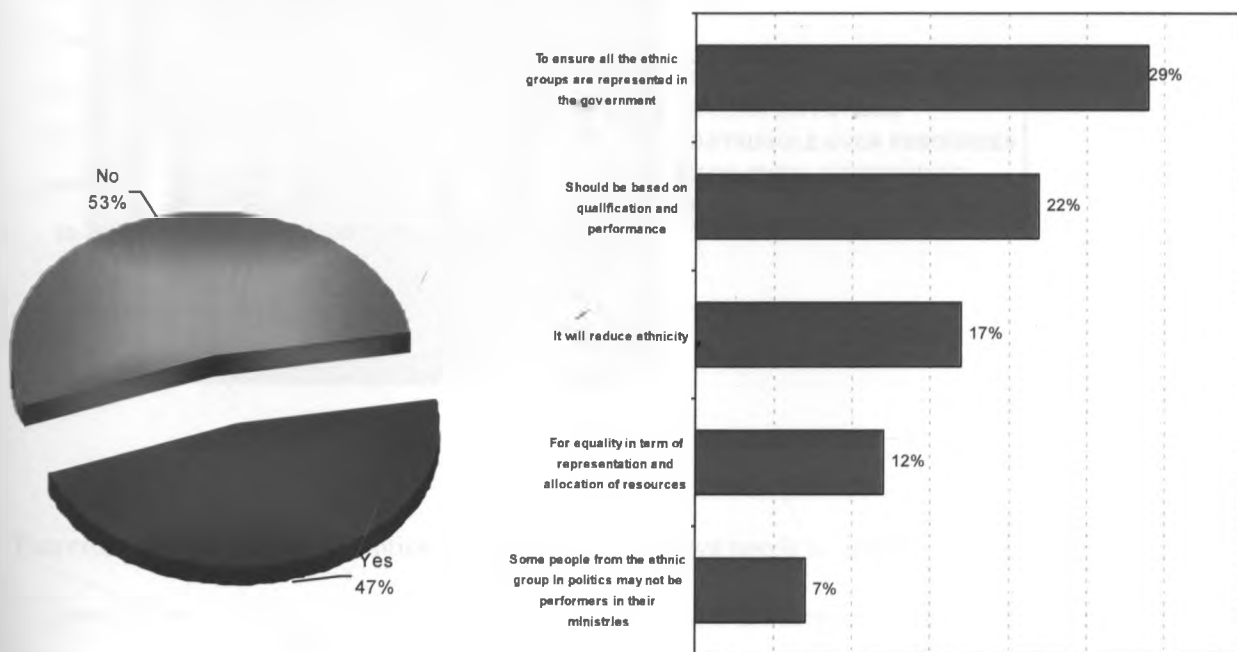
A survey conducted during this study exposed problems emerging from the sharing of the national cake and the costs that accrue to it. For instance, 64% of the respondents said creating administrative units along ethnic lines (the case in point being districts) had contributed to the institutionalization of ethnicity. They said this limited interaction among different ethnic groups had led to skewed development. At the same time, it was observed that when a district was given to and named after one ethnic group, people who did not belong to that particular group felt insecure and undermined.

Figure 5: Views on whether creation of districts along ethnic lines promotes ethnicity



Some respondents expressed the view that recruitment and appointments to political public office should consider the ethnic configuration of the country. The proponents of this idea argued that this would ensure equal representation of people across all ethnic divides. This strategy, they hoped, would also see to the equitable distribution of resources across the entire population. However, the remaining 53% were opposed to the idea, and advocated for the merit system to ensure quality service.

Figure 6: Percentage opinion for and against ethnic considerations in recruitments and appointments to public office

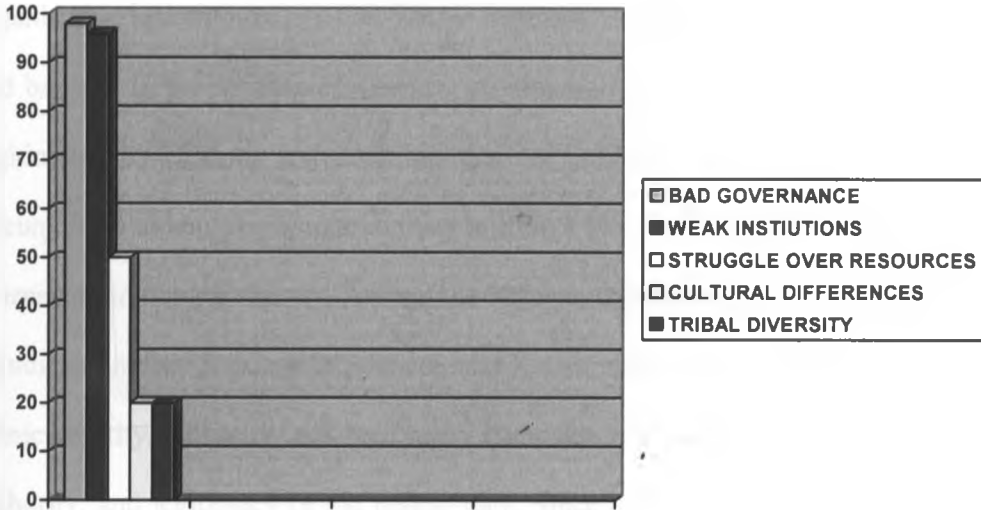


3.5 Factors breeding and cultivating ethnicity

From the data obtained, bad or poor governance got the highest score as a rich ground upon which ethnicity thrives, with 98% response. The second factor very close to bad governance was weak institutions or their absence, which according to respondents had left room for ethnicity to become such a reckoning force in Kenya's politics. Only 50% of the study group saw the struggle over scarce national resources and values being a root to the problem of

ethnicity in Kenya. In their view, struggle over scarce resources is not peculiar to Kenya alone, as it occurs everywhere even in countries where ethnicity is unheard of. Other factors such as culture and tribal diversity were found to be contributing less to the problem. All fingers happened to be pointed at bad governance and weak or insufficient institutions.

Figure 7: Percentage measures of strength of factors upon which ethnicity thrives



Therefore, the successful transition to democracy in Kenya needs to address first, the problem of governance. Good governance only comes with good leadership, strong institutions of government respect for the rule of law embedded in a constitution that is good or affair to the interests within the state.

3.6 Enduring Dual Citizenship in Multiethnic Societies

Of significance to note also is the question of dual citizenship in a multiethnic society as argued by Stephen Ndegwa⁷⁶. Citizenship theory is appropriate in reviewing ethnicity in Africa because it introduces a discourse of rights and obligations as well as of opportunity

⁷⁶ Stephen Ndegwa, *opcit*

and constraint in a political community. Fundamentally, citizenship defines those who are, and who are not, members of a common society. Therefore, citizenship allows one to participate in a community while enjoying certain rights and being obligated to perform certain duties in return.

In ethnic groups, legitimacy and authority rest on non-legal, non-bureaucratic forms of organization and cultural practice. Ethnic authority is vested in the family, clan, extended kin and beyond. In the absence of a central state authority, it is dispersed in the community and legitimated by customs and sanctions that are publicly enacted. Some initiation rites like circumcision among some communities in Kenya like the Kikuyu enables one to acquire full citizenship in the community. Among the Kikuyu, uninitiated men cannot inherit property or adjudicate in clan disputes. In post-colonial Kenya, the socially enacted relationship between ethnic identity, authority, and legitimacy competes with the legally sanctioned membership, authority, and legitimacy of the nation-state. Since neither has been able to erase the other, most individuals assume contingent and hierarchical allegiances, hence the pervasiveness of ethnicity in multiethnic societies like Kenya.

3.7 Level of Ethnic Consciousness

As indicated in figure 5, a study conducted revealed a very high level of ethnic consciousness among the respondents. All interviewees considered most their tribal or ethnic identity. To them, the nation called Kenya was vague and non-existent. They all sounded skeptic and pessimistic of the efforts directed towards the building of a well integrated and cohesive nation called Kenya.

To the question: "From which of the following do you derive your true identity?" the following responses were obtained:-

Figure 8: Ethnic consciousness test



CHAPTER FOUR

THE IMPACT OF ETHNICITY IN THE INSTRUMENTALIZATION AND MOBILIZATION OF POLITICS IN KENYA

4.0 INTRODUCTION

The main concern of democracy is the need for ordinary citizens to exert control over leaders. This is possible when there is freedom of association, organization, universal suffrage and free competition, access to information, free and fair elections and accountability. In emerging democracies, liberal framework remains fundamentally one of the core elements. In reality, is the need for state to dominate instruments of violence.

This chapter analyzes the impact of instrumentalization of ethnicity on democracy from the following perspective. It specifically grapples with the second objective which is to analyze the impact of ethnic instrumentalization and mobilization on the democratization process in Kenya. Main assumption is that instrumentalization has a wide range of impact on democracy. These are both negative and unintended positives. The chapter examines impact such as the changing ethnicity levels and modes of violence. We also look at institutions such as the electoral commission, political parties and law and order. We essentially examine the roles as they are captured by various actors and its impact on democratization. We also look at the political behaviour such as voting trends, discourses, rhetoric and ideological constructions over time and how this informs voting trends at one level and the overall impact on the process at another level.

The chapter equally examines impact at the socio-economics level. Here we examine attempts by groups to plan how to capture power, by allocating themselves resources and also look how this in turn animates tension, competition and finally feed into instrumentalization.

In this case we seek to show that instrumentalized ethnicity can be a problem for democracy given the fact that it prevents rationalized engagement based on collective values.

4.1 The Struggle for Constitutional Reform

The agitation for a new constitutional order was one of the most positive impacts of ethnic instrumentalization. Those ethnic groups which felt marginalized due to inequitable distribution of national resources including recruitment in the public sector and lack of development in their home areas became the most vocal. They believed that these problems can only be addressed through a new constitutional order. Consequently, the pressure to reconstruct institutions began as early as on 1st January 1990, when Reverend Timothy Njoya of the Presbyterian Church of East Africa (PCEA) called for a change to multi-party democracy. Bishop Henry Okullu of the Church of Province of Kenya (CPK), Maseno South Diocese, also called for the introduction of multi-party democracy. Other prominent politicians like Kenneth Matiba a former Minister, Charles Rubia, Oginga Odinga and Martin Shikuku also added their voices for the introduction of multi-party political system. Following a move by Matiba, Rubia and Raila Odinga, to hold a political rally in Kamukunji, to agitate for multiparty democracy, they were arrested and detained and the rally banned. Other leaders however still went ahead to hold the meeting, which was named saba-saba. The government dispersed the meeting violently killing at least 20 people⁷⁷. In March 1990, while meeting the president of the International Red Cross in Nairobi, Moi attacked multipartism in Africa claiming it would lead to alliances forged along ethnic lines, which would inevitably lead to the dismemberment of African countries on ethnic lines. He ruled out multipartism before all ethnic groups had been welded into a cohesive nation.

⁷⁷ *ibid*

This agitation led to the formation of a review committee under the Chairmanship of the party Vice President George Saitoti to find out whether there was need for political reforms. Among some of the key reform demands made by people were: re-introduction of the second chamber of parliament, restriction of the president's tenure to two terms of five years each, introduction of a non-executive Presidential system, the creation of an executive Prime Minister and freeing of Parliament and Judiciary from executive control⁷⁸.

On 3rd March 1990, Oginga Odinga's attempt to register the National Democratic Party was turned down as the Constitution still outlawed formation of other parties. By July 1991, Oginga Odinga, Martin Shikuku, George Nthenge, James Orengo, Philip Gachoka and Barmariz, formed a pressure group called the Forum for the Restoration of Democracy (FORD) to agitate for the restoration of democracy in Kenya.

As would be expected the regime reacted immediately by denying it recognition. Moi labeled it 'subversive' and ordered the security forces to arrest its supporters and leaders. Many arrests were carried out thereafter. It was around that time that some Western Embassies and donor organizations began to intervene on behalf of those arrested while at the same time giving their support to the movement for change.

It is significant to note that this agitation was taking place at a time when the cold war was coming to an end and countries like the US, Germany and Britain began pressurizing Kenya to Democratize. Donor organizations, notably the IMF and the World Bank, also began to link aid with political and economic liberalization. During the 26th and 27th OAU summits in Addis Ababa (July, 1990 and Abuja (June, 1991) respectively, the heads of state reiterated

⁷⁸ *ibid*

their admission that there was need for political change. This external involvement emboldened and catalyzed the national democratic movement.

The turning point for Kenya came in November 1991 at the annual Donor consultative meeting in Paris. The aid donors decided to withhold financial assistance to Kenya pending political reforms. It was against this background that the relevant organs of KANU met in early December 1991 to recommend to parliament the scraping of the section of the State constitution, section 2 (a) that gave sanction to the one party system, thereby ending a decade (1982- 1991) of *dejure* one party rule⁷⁹.

In Kenya, while the regime of Daniel Arap Moi succumbed to both internal and external pressure to democratize and repeal Section 2 (a) to allow for multiparty democracy, the regime resisted all other pressures to repeal the constitution to suit the multiparty situation⁸⁰. Thus, the move to the shift to multipartism without putting in place the requisite rules of the game, either through constitutional reform or by constitution like pact making proved to be a major undoing in the democratization process and only gave room to the incumbent government to entrench itself⁸¹.

Immediately after the 1992 elections, opposition parties were in the forefront in making demands for constitutional reform in order to even the playing field. The agitation for constitutional reform was supported by Catholic bishops, who in 1994 released a pastoral letter calling for a complete revision of the constitution by a large constituent body of experienced and competent citizens representing all trends of society and not just a small group of politicians. The Law Society of Kenya, the Kenya Human Rights Commission and

⁷⁹ Philip Nyinguro, *External Sources of Kenya's Democratization Process*. *The Journal of Political Science* vol 25, 1997. Pg 26.

⁸⁰ Bethwell Ogot *opcit*

⁸¹ John Harbeson *opcit*

the Kenya Chapter of the International Commission of Jurists also unveiled a proposal for a model constitution⁸².

This agitation led to the birth of the Inter-Parties Parliamentary Group (IPPG) in 1997⁸³, which later came up with minimum constitutional reforms. It allowed the President to name his cabinet from any Member of Parliament irrespective of his/her party and outlawed the preservation of Public Security Act. It also gave way to the formation of the Electoral Commission of Kenya (ECK), with parties nominating members and allowed political parties to nominate the 12 members of Parliament according to their Parliamentary strength. It is however significant to note that Parliament failed to entrench the IPPG agreement in the constitution and at most it remained a Gentleman's agreement depending largely on the whims of the President⁸⁴. The agitation for a new constitution however continued to gather momentum.

One of the most important parts of the IPPG reform package was an act passed by the Seventh Parliament in November 1997 to create the Constitution of Kenya Review Commission with a broad mandate to collect and collate the views of Kenyans on the shape and form of a new constitutional order in Kenya.

The aim and purpose of establishing the Constitution of Kenya Review Commission (CKRC) was to facilitate the collection and collation of the views of the people of Kenya on proposals to alter the constitution and make recommendations thereon to the National Assembly. This was based on the fundamental principle that it is Kenyans themselves who must state clearly

⁸² Adams Oloo and Winnie Mitullah, (2002), *The Legislature and Constitutionalism in Kenya in when the Constitution Begins To flower by Lawrence Murugu and smokin Wanjala* pg 45

⁸³ *ibid*

⁸⁴ *ibid*

what they want. To this end, the commission was mandated to receive memoranda; hold public or private meetings throughout the Republic. The commission was further mandated to stimulate public discussions and awareness on constitutional issues and to carry out studies, researches and on evaluations concerning the constitution and other constitutions and constitutional systems⁸⁵. The underlying principle of the act is that the constitutional review process must itself be open and the people of Kenya as a whole must fully and effectively participate in it.

The Constitution of Kenya Review (Amendment) Act of 2001 and the Kenya Constitution Amendment Act of 2001 were passed paving the way for new constitution making by the CKRC Commission headed by Professor Yash Pal Ghai, doubling up as chairman and constitutional expert. The main mandate for the team was to collect views and thereafter draft a constitution for approval by a National Conference and/or a referendum⁸⁶.

The CKRC eventually produced the Bomas Draft after an acrimonious debate between the LDP and the Government. The question of Power Sharing and Land emerged among the Key contentious issues. In the Bomas Draft produced by the CKRC, it proposed the President as head of State and the Prime Minister as Head of Government. The Government was opposed to the power arrangement in the Bomas Draft and worked on another draft in Kilifi which came to be known as the Wako Draft. In this draft, the President was the Head of State and Government, but with a non executive Prime Minister. The Liberal Democratic Party and KANU rejected the Wako Draft. The Government however decided to take the draft to a referendum.

⁸⁵ *Weekly Review February 1998 pg 9*

⁸⁶ *Agweli Onalo, (2001), Constitution-Making in Kenya pg 197*

Opposition groups, including the LDP factions of the ruling coalition, constituted themselves on the 'NO' side of the campaign around the draft. They formed the Orange Democratic Movement (ODM) and effectively mobilized against the draft constitution. 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 the Kikuyu in the public sector positions was effectively used by ODM to convince especially the ordinary citizens that the Government was simply interested in consolidating Kikuyu dominance over other groups.

The draft was subsequently subjected to referendum on 21st November, 2005. Only Central Province voted strongly in favour of the draft constitution. Eastern Province was split almost by half between those in favour and against. Those in favour comprised the groups allied to the Kikuyu-Embu and Meru. They voted in the same manner as the Kikuyu in Central Kenya and the diaspora. Other groups in the provinces voted against the constitution (See Appendix 4).

4.2 Eruption of Ethnic Clashes

The politically motivated ethnic violence in Kenya in 1991-1992 following the re-introduction of multiparty politics could be explained in terms of the misuse of the state to the advantage of a few, and the consequent instigation of parochial identities by political leaders for their own selfish interest. At this particular moment, President Moi for the first time in his fourteen-year tenure as a president faced political challenge and hence the prospect of losing in the presidential election under a multi-party system stared him in the face. He thus turned to the ethnic sentiment and sensitized his people and the minority groups to the prospect of losing their privileged status under him, arguing that as Kenyatta's vice President for twelve

years, he had remained steadfast in his loyalty to, and support of Kenyatta yet now the Kikuyu were out to toss him out of office under the guise of political pluralism⁸⁷. The common Kalenjin was thus made to understand that the idea of multi-partism was a mere conspiracy by other communities to wrest the Presidency from one of their own, and hence deny them accessibility to the “national cake” rather than an opportunity for healthy political competition intended to ensure accountability and transparency in the governing process.

It was against this background that ethnic clashes erupted in the run-up to the 1992 general elections especially in the Rift Valley and parts of western Kenya. In September 1991, a clique of Rift Valley Kalenjin politicians first broached the subject during a series of Kanu rallies in the province thus resurrecting an idea which had lain buried since Kenya got independence under a unitarist government in 1963. The campaigners made it clear that they would refrain from pressing the majimbo issue only if the advocates of multi-party politics did the same.

Much of the campaign was devoted to warnings to certain communities not indigenous to the Rift Valley and which were presumed to be backing multi-partism that they risked being evicted from the province if the clamour for pluralism did not stop. The sentiments were reflected by the then MP for Chepalungu, Mr. Kimunai Soi, who stated that “all have to move and leave the same land to our children”. The “outsiders” in question were assumed to be the Kikuyu, who have settled in the Rift Valley Province in large numbers, and who were then generally being identified with the calls for pluralism.

⁸⁷ *ibid*

In the Rift Valley it was the Kikuyu who bore the brunt of the clashes, which were spearheaded by the Kalenjin, Maasai, and Pokot. Thousands of them were chased away and told to return to their Central province “homeland”. In the west of the country, the heat of the clashes was turned on the Luo and Luhya, especially the Bukusu sub-group who were chased away from the predominantly Kalenjin Mount Elgon districts, never to return to the only homes they had known for ages. The paradox of this scenario is that prior to multi-party elections, the different communities had co-existed amicably without any instances of hostility between them⁸⁸.

In the ethnic clashes that first broke out in October 1991 at Meteitei farm in Tinderet Division, Nandi District and soon spread to Western, Nyanza and Rift Valley Provinces⁸⁹, a clearly discernible pattern emerged in the manner in which the raids were executed. In virtually all the raids, the attacks were normally triggered off by some benign skirmishes, ostensibly revolving around some trivial inter-tribal misunderstanding and quickly escalated to take the shape of a bitter all out inter-ethnic confrontation. The raids were normally concentrated on a particular area for a period of time with a few sporadic forays elsewhere to divert attention from the particularized zone of operation when the spotlights appear to be too keen on it. This is the pattern the clashes took since they broke out in late 1991. For a time, the clashes were concentrated in Nandi District, and then shifted to Saboti, Endebess and Kwanza divisions in Trans-Nzoia and West Pokot Districts in the Rift Valley. By January 1992, the raids had spread to Mount Elgon, Nyamaiya, Nyangusu and Kilgoris on the border of Kisii and Narok districts, Eronge and Sondu on the border of Kisumu and Kericho districts, and the Molo and Olonguruone areas of Nakuru District.

⁸⁸ Weekly review, September 10 1993

⁸⁹ Weekly review, *Opcit*

Tales of selective harassment based on ethnic considerations indicate that the Kalenjin living along the western part of the rift valley province were the instigators of the trouble. At first, the clashes appeared sporadic but as they spread there were reports of lorry loads of armed men being delivered to the war zones. The aggressors were setting houses on fire during the night then waylaying the fleeing occupants and their animals. They were ruthless as they burned down food stores and grain fields, leaving the displaced people with the additional burden of finding food. Other ethnic flare-ups were witnessed along the Kericho, Nandi, Kisumu and Kisii districts common borders that left a number of people dead and others injured in November⁹⁰.

The provincial administration was blamed for not dealing timely with the explosive situation. That was the feeling of two top Ford interim officials, chairman Mr. Oginga Odinga and vice chairman Masinde Muliro, who took issue with the government over the manner in which it had dealt with the situation specifically blaming the clashes on the Kalenjin, whom it urged the authorities to restrain from continuing to perpetrate political thuggery.

Odinga accused the Kanu government of abetting the crisis and dismissed the notion by the Kanu government that they were ordinary inter tribal skirmishes. He also claimed that the ready availability of resources for the aggressors showed that they were acting at the behest of more powerful persons. Some of the fleeing people reported that their Kalenjin assailants had declared their determination to root out of their midst those who did not belong to Kanu. A series of leaders' meetings had been held in Nandi and Kericho districts in which Kalenjin leaders advocated a return to a federal system of government to counter multi party

⁹⁰ *Weekly Review*, January 3 1992

pressures⁹¹. In this respect, other ethnic communities within the affected areas saw the clashes in terms of a political strategy aimed at boosting Kanu on the belief that it is likely to work against the party if it gains ground.

The epicenter of the ethnic violence had been the Molo area of Nakuru district, where at least 35 people had been killed and thousands rendered homeless after fighting between the Kalenjin and the Kikuyu. In Nairobi and nearby Kiambu several men at least two women were said to have been harassed and badly beaten up by rowdy mobs because they belonged to the Kalenjin tribe. Amid all the anger, confusion and panic generated by the escalation of ethnic violence, the government maintained that it was doing its utmost to quell the tribal clashes and continued to blame the opposition especially Ford, for being the force behind the violence.

As the clashes continued, inflammatory and specific statements were made by leaders within the governments own ranks threatening opposition members of parliament with violence, declaring the Rift Valley province an exclusive Kanu zone and threatening to introduce majimboism (regional government) if the clamor for pluralism continued and warned other tribes to leave the Rift Valley if they did not support the ruling party Kanu or if they support the opposition⁹².

Clergymen blamed the government and some Kalenjin leaders who publicly advocated majimboism to counter the clamor of pluralism. Speaking at an inter-denominational service at Molo, bishop Ndingi Mwana'a Nzeki⁹³ of the Nakuru diocese of the Roman Catholic by

⁹¹ *ibid*

⁹² *ibid*

⁹³ *ibid*

then absolved the opposition parties from blame for the ethnic violence and said that if the claims by the government and Kanu leaders were right then Kanu would be the opposition party referred to rather than Ford. He noted that long before the era of political pluralism, Kanu leaders had threatened to “crush some people like rats”. Other clergymen of various churches also blamed the government for the violence. By this time the collective wrath of the Kikuyu, Kisii, Luo and Luhya, who had been mainly affected by the violence was running high.

Despite constant official denials, allegations that the Kalenjin had been launching attacks on neighbouring communities were prevalent since the clashes began. There were also claims that the government and the security forces deployed in the affected areas had been abetting the attacks or turning a blind eye to them as part of a strategy to make political pluralism appear unworkable, and hence fulfill an earlier prophecy by Kanu leaders that multi – partism would bring bloodshed⁹⁴. In a pastoral letter, the Roman Catholic bishops accused the government of “complicity” in the clashes. The accusation was also made by the National Council of Churches of Kenya (NCCCK), an umbrella organization of protestant churches in the country. The government however attributed the clashes to local community misunderstandings or to the opposition.

At one of the *Majimbo* rallies in Kericho, Kanu leaders among them Ntimama⁹⁵, declared their respective districts Kanu zones and went on to warn any outsiders residing in their midst to either toe the Kanu line or quit. Ntimama took advantage of one such rally in his home turf, Narok, in September 1991 to threaten eviction of Kikuyu in the district if they did not

⁹⁴ *ibid*

⁹⁵ *Weekly review*, 29 October 1993 pg 9

stop supporting multi-party advocates. He went on to tell his people to take arms and confront those bent on introducing what he called anti-government politics into the area.

Following complainants by Ntimama and the Narok County Council that Enosupukia, which they considered a water catchment area, was being depleted by illegal settlers, about 30,000 people who were said to have settled in the area were ordered by the provincial administration to move out immediately. But they resisted leading to an outbreak of violence in which over 20 people died and property was destroyed⁹⁶.

Immediately also after the 1997 general elections, ethnic violence pitting members of Samburu, Pokot and Turkana on one side against those from the Kikuyu community on the other, erupted in Laikipia. This incident left many lives lost on both sides. The clashes then spread to Njoro division of Nakuru District, in which members of the Kalenjin community were engaged in protracted fighting with the Kikuyu community. This also saw a number of citizens from both sides killed,

Violence also erupted in Mombasa and its environs pitting mainly the Digo people against members of migrant upcountry communities after the general elections. Initially, fighting was between the Digo and the Luo, but other upcountry tribes like the Kamba, the Kikuyu and even the Taita were subsequently drawn in. The first flare-up was reported in a village called Shika Adabu in Mombasa's South Coast that is largely inhabited by the Luo. Youths armed with machetes and other weapons invaded the village, and two people were reportedly killed, in the fracas, while scores of others were injured. The attackers also burned down houses belonging to non-coastal people. The fighting quickly spread to other parts of Likoni and

⁹⁶ *ibid*

Kwale District, even as police said they were moving reinforcements to check the violence. Over 60 lives were lost and an estimated 100,000 up-country people fled the province, allegedly in a move aimed at disenfranchising up-country people who were supporting the opposition⁹⁷.

Earlier in April, fierce clashes had erupted in Mt. Elgon leaving more than forty people dead, many homes destroyed and over two thousand families displaced. For the Bukusu leaders, the ethnic clashes in the Mount Elgon area were being caused by the misconception among the Sabaoths that multiparty democracy would lead to loss of the land to the dominant ethnic groups in the area like the Bukusu and the Teso. In Sabaoth division, over fifty houses were also burnt in renewed clashes, and later in Sirisia where eight people were killed.

4.3 Ethnicisation of Political Parties and Voting Trends

Most of Africa, Kenya included was largely governed under the single party political system since independence in the early 1960's, before democratization and the multipartism wind of change blew across Eastern Europe and Africa in the late 1980's and early 1990's. The new wave of democratisation was largely as a result of the end of the Cold War Competition revolving around Capitalism and Socialism, between the West and the East respectively.

Prior to multipartism, during the single party era, majority of the post independence parties were largely a product of the anti-colonial struggle and nationalist in character⁹⁸. With also a very few exemptions, most of the African countries became independent as multi-party states, however, a significant number of them immediately reverted into single-party systems. Despite the criticism in the shift to single-party rule, majority of African leaders argued that

⁹⁷ Wanjala Nasongo, *opcit*

⁹⁸ Nick Wanjohi, *opcit*

the single party system was consistent with African traditions, where people paid loyalty to the established tradition, and systems of authority, without belonging to different political camps. They further added that decision-making was by consensus as opposed to a majority decision making, which leaves the minority dissatisfied⁹⁹. This was besides the contestation that it helped to forge unity amongst the diverse African ethnic groups.

In the Kenyan situation, just one year after Kenya's independence in 1964, KADU was pressurized to dissolve and merged with KANU, making Kenya a de-facto one – party State from 1965 to 1966, when the Kenya People's Union (KPU) was formed and again between 1969 to 1982, when Kenya became a de-jure one party state. This trend was reversed when section 2(a) of the Constitution was repealed to make Kenya a multiparty political State in December 1991.¹⁰⁰

The other factor, which led to the emergence and sustenance of a single party system, was the absence of interest groups to pressurize authorities to subscribe to the principles of accountability, transparency and responsiveness to the people. This included the right to form and belong to a political party of one's own choice. Instead, allegiances were directed, not at interests and related programmes, but to a particular political leader in power who had demonstrated capability to dish out patronage in form of state resources to individuals and groups considered loyal to him and his party. In this type of system therefore, the country normally ended up with a very weak legislature and Judiciary which all worked under the whims of an overbearing executive.

⁹⁹ *ibid*

¹⁰⁰ *ibid*

With the dawn of multipartism, which was accentuated in the 1990's by the discrediting of socialism, Kenya experienced the formation of a number of political parties. It is however significant to note that most of them emerged to be overtly or covertly ethnic political parties¹⁰¹. This made it difficult for political parties to define themselves in ideological terms and attract multiethnic cross sections of the population on the basis of their programmatic appeal. The swiftness of the transformation to multipartism also left new parties with little time to develop their programs. The absence of ideological and programmatic differences coupled with the weak institutional framework left ethnicity as the major characteristic by which the various parties could mobilize and differentiate themselves¹⁰².

Consequently, as the shift to multipartism was taking place, in itself an important facet in democratization, the process remained bedeviled with a number of obstacles, as the KANU regime was reluctant to embrace it wholly, while the political environment was still not conducive for the operation of multipartism.

Some of these obstacles were executive interference, lack of political will, flawed origin of parties, limited institutional capacity, lack of funding, personification of political parties and ethnicity. This may have been adequately addressed through comprehensive constitutional reforms, rather than the mere repeal of section 2(a) that led to the opening up of the country to multipartism. This is because multipartism could not effectively take root while laws touching on the overbearing powers of the executive, enhanced freedom of speech, assembly and association and an independent Judiciary and autonomous electoral commission had not been adequately addressed.

¹⁰¹ Marina Ottaway, *opcit*

¹⁰² *ibid*

The ruling party by then, KANU, while it gave in to plural politics, it still continued to retain the power to regulate and control the political process out of fear of losing power. As a result, because of this institutional weakness, the role of the political party remained intricately tied to the wishes of the executive arm of the government. Political parties therefore continued to operate in a very difficult political environment, monopolized by the executive, which did not have the political will to effect constitutional changes, to bring sanity to political competition. Lack of adequate funding has also been a major drawback in building the capacity of political parties. Most of them have therefore been largely dependant on the patronage and goodwill of the party leader and his friends leading to the personification of political parties. Political parties are hence not identified with principles, concepts/ideologies but with individuals. This has somehow been institutionalized in political parties in Kenya where the electorate tend to be identified not so much with party names or party manifestos but with the leaders. This has in essence led to the emergence of personality cult and promotion of mediocrity¹⁰³.

All these factors have to a very large extent given room for the ethnicisation of political parties and voting trends in Kenya, a phenomenon that is at the core of political instability in the country. Parties have thus ended up as a pole around which members of a particular ethnic group rally around.

The dawn of multipartism in Kenya therefore saw politics being played along tribal lines and regionalism, than was the case during the single party era. KANU (the governing party by then) promoted divergent interests rather than build consensus among the different interests being pursued by the various groups in society. This resulted in loyalty to a tribe while

¹⁰³ Solomon Owuoché and Fred Jonyo 2002, *Political Parties and Civil Society in Governance and Development*. Published by Birds printers and equipment limited, Nairobi. Pg 57.

loyalty to the nation was evidently lacking. Ethnic loyalties, not ideology, ended up determining voter allegiance in the hope that the party will be a partial distributor of the wealth of a nation¹⁰⁴. The voters developed a political culture that sees both the party and its leaders as the biased distributor of societal resources aimed at benefiting one of their own¹⁰⁵. This 'institutionalization' of ethnicity has led to so much suspicion within and between parties leading to the division of citizens along regional, ethnic and linguistic lines¹⁰⁶.

4.4 Emergence and Ethnicisation of Parties

It is therefore not surprising that when the country opened up to multipartism, following the repeal of section 2(a), KANU and the other parties, which were formed thereafter like FORD, which later split into FORD KENYA and FORD ASILI and the Democratic Party (DP) became largely ethnic in nature, devoid of any ideological orientation.

With the repeal of Section 2(a), FORD was subsequently registered as a party in December 1991. It drew most of its support from the Kikuyu, Luo and Luhya; the three major dominant ethnic groups in Kenya. The bedrock of support for KANU remained the Kalenjin, Maasai, Turkana and the Somali from North Eastern. It was evident going by ethnic calculations which had began to take root in Kenyan politics, FORD was poised to make a major political impact on the Kenyan political landscape, and posed a major threat to Moi's continued hold on power. It was therefore not surprising that the KANU regime employed all manner of machinations to break it. This is also the same reason, why KANU, even though it opened up the country to multipartism, remained reluctant to initiate the necessary democratic reforms

104 ibid

105 ibid

106 ibid

like establishing an independent electoral commission, to open the way for the conduct of free and fair elections, as well as address the overbearing powers of the executive.

It was in this light that following the announcement of the formation FORD as a pressure group that it came under intense criticism from president Daniel Moi who denounced it as an illegal political organization and directed security agencies to crack it down and arrest its members for belonging to an illegal organizations. These forces began to target some of its founder members like Oginga Odinga, Salim Ndamwe, Ahmed Bamahariz and Masinde Muliro by raiding their premises, arresting some of them and by violently stopping their meetings/demonstrations. On the other hand, members of the Kalenjin community did not read a political agenda but an ethnic one in the new push for multipartism. They therefore decided to counter it with the call for Majimbo.

Consequently, a number of Kalenjin leaders organized a series of controversial political rallies in the Rift –Valley province advocating violence against perceived dissidents and anti-government and anti- Kanu communities in the province. During the rallies, the speakers warned of dire consequences for dissidents and “opposition groups” in the Rift- valley who did not relent in their campaign against the Kanu government and warned that their community was ready to take up arms in defense of the government and “destroy Ford members.

During subsequent rallies, speakers alluded to the Rift Valley as the homeland of the Kalenjin and warned other communities residing there that they risked being “evicted” if they were found identifying with opposition politics. They later banned leaders of the nascent Ford Pressure group, Messrs. Oginga Odinga, Masinde Muliro, and Martin Shikuku, as well as the

Law Society of Kenya chairman by then, Paul Muite, from setting foot in Rift Valley Province. This subsequently sparked off ethnic clashes in parts of Rift Valley and Western Province. This had the negative effect of raising ethnic animosities and in the process also ethnicising both KANU and the new opposition parties. This therefore only helped to consolidate the support FORD drew from the Kikuyu, Luo, Luhya, and Kamba, making the new party a formidable political force. The support for KANU remained largely confined to the Kalenjin who saw it as their duty to protect the presidency.

When FORD began to gain popularity, ethnic rather than democratic interests began to occupy the leadership of the party and their respective communities. There was dissatisfaction among the Kikuyu over the composition of the interim leadership of FORD as it was felt their key man, Gachoka could not match the stature of other FORD leaders like Odinga, Shikuku and Muliro. This later culminated in the formation of the Democratic Party with Mwai Kibaki as its Chairman. With time, DP ended up drawing the bulk of its support from the northern Kikuyu (in Nyeri and Kirinyaga), Embu and Meru¹⁰⁷. Kenneth Matiba who was recovering from a stroke in London remained in FORD. Other parties, which were formed, were the Social Democratic Party (SDP) led by Johnstone Makau, Kenya Social Congress (KSC) led By George Anyona, Party of Independent Candidates of Kenya (PICK) whose leader is Harun Mwau, Kenya National Congress (KNC) initially led by Onesmus Mbali and the Kenya National Democratic Alliance (KENDA)¹⁰⁸. They however did not draw any popular support.

Odinga later emerged as the undisputed leader of FORD, a factor that did not go down well with the Kikuyu, who began to pressurize Matiba to declare his interest to contest the

¹⁰⁷ Walter Oyugi, *opcit*

¹⁰⁸ Nick Wanjohi, *opcit*

Presidency on the FORD ticket. They also began a concerted attack on Odinga's cultural inadequacies with George Nyanja (later to be elected as MP for Limuru) remarking publicly that Odinga couldn't lead anybody "because he is not circumcised"¹⁰⁹.

Matiba eventually declared his candidature on a FORD ticket and upon his return from London after recuperating from the stroke; a power struggle for the control of the party between him and Odinga ensued. This led to the emergence of two clear factions one led by Odinga, while the other one was led by Matiba, culminating in the split of the party into FORD-Asili and FORD Kenya with Matiba and Odinga in charge respectively. This in effect weakened the hitherto strong opposition and gave KANU and Moi a new lease of life, as the chances of Moi being returned to power became a reality. The struggle between Odinga and Matiba thus ultimately derailed the democratization process by preoccupying those who had been agitating for change with power rather than the common good¹¹⁰.

When the general elections were called in 1992, the Luo voted overwhelmingly for Odinga Odinga, the Kikuyu in Nyeri, Meru and Embu voted for the Democratic Party presidential candidate Mwai Kibaki, while the Kikuyu of Kiambu, Muranga and Nairobi voted for the Ford Asili presidential candidate Kenneth Matiba. The Luhya voted overwhelmingly for Ford Asili, on account of Martin Shikuku because of his position as the Secretary General of the Party. The Kalenjin, Maasai, Turkana and other smaller tribes like the Somali voted for Moi the KANU presidential candidate. **See Appendix 3.** This in essence marked the beginning of the ethnicisation of political parties and voting trends in post Cold war era of multipartism in Kenya.

¹⁰⁹ *ibid*

¹¹⁰ *ibid*

Shortly after the elections, Ford Kenya began to experience factional struggle following the death of its founder leader Oginga Odinga in 1994. The initial struggle pitted Raila Odinga who at that time was the party's Deputy Director of Elections and James Orengo the then party Secretary for Legal Affairs. Raila was defeated, but later on acquired the moribund National Development Party, which early in 1997 elected him as its leader. Thereafter, there were many declarations of defections from Ford Kenya to the National Development Party of Kenya (NDP) mainly among MPs from Luo Nyanza and thereby confining most of the support for Wamalwa the new leader of Ford Kenya among the Bukusu clan of the Luhya community, which inhabits Bungoma district of western province and parts of Trans Nzoia district in the rift valley province.

The 1997 general elections again exhibited ethnic trends. Fifteen candidates vied for the presidency in the 1997 elections, although only five were considered serious contenders: Daniel Moi (KANU), Mwai Kibaki (DP), Kijana Wamalwa (Ford Kenya), Raila Odinga (NDP), and Charity Ngilu (SDP). Subsequently, only Moi managed to obtain the required 25 per cent of total votes cast in at least five provinces in accordance with the law. The president obtained 72.89 per cent in North Eastern Province, 63.09 per cent in Rift Valley Province, 45.96 per cent in Western Province, 60.09 per cent in Coast Province, and 35.30 per cent in Eastern Province.

Mwai Kibaki received 88.64 per cent votes in Central Province, 43.73 per cent in Nairobi, and 28.20 per cent in Eastern Province. The other three candidates managed to obtain the 25 per cent vote requirement only in their ethnic home Provinces. Raila Odinga obtained 56.56 per cent in Nyanza, Wamalwa 49.37 per cent in Western Province, and Ngilu 33.28 per cent in her predominantly Kamba Eastern Province. Despite winning 50.9 per cent of the

parliamentary seats, KANU received only 38.43 per cent of the total votes cast (2,243,263 votes) against the combined opposition's 61.57 per cent or (3,594,145 votes). Ethnic divisions had again prevented the opposition from consolidating their combined strength as a strategy to vote out KANU. All the parties had strong showing in provinces their respective presidential candidates hail from. Rift Valley Province was therefore the KANU stronghold where it obtained 39 out of 49 parliamentary seats (36.5 per cent) of its elected seats countrywide. It also won majority of seats in Western, Coast, Eastern and North Eastern provinces due to the ethnic alliances with the people of these provinces.

Central Province was a DP stronghold where the party acquired 17 out of 23 (72.9 per cent) of elected parliamentary seats. Eastern Province was the SDP electoral tuff where the party obtained 9 out of 15 parliamentary seats (60 per cent). FORD-Kenya got 9 of its 17 parliamentary seats (52.9 per cent) in the Luhya Western Province while the NDP had its main strength in Nyanza, securing 19 of its 21 elected MPs¹¹¹ (see Appendix 2).

After the 1997 elections, the focus began to shift on the Moi succession, as he was on his final five-year term. This period was marked with major realignments and alliance building among some of the major opposition parties. The National Development Party (NDP) of Raila made the first move, largely informed by the strategic need to prop up the weak KANU party, with a focus to the 2002 elections, as it was not easy for it to push through bills without getting support from other parties. Raila and a few of his NDP MPs were subsequently appointed to the cabinet, and thereafter the two parties merged in March 2002 leading to the

¹¹¹ Fred Jonyo, *opcit*

dissolution of NDP. KANU was also restructured and its new set-up comprised the party chairman and four vice-chairmen, among others¹¹².

The choice of Uhuru Kenyatta by Moi as his preferred successor and the party's presidential candidate however sparked a rebellion in KANU forcing Raila, George Saitoti, the Vice President, Kalonzo Musyoka and other key KANU supporters to leave the party to form the Rainbow Alliance which later took over the moribund Liberal Democratic Party (LDP). LDP later joined the National Alliance (Party) of Kenya-NAK, an alliance that had been formed by mainstream opposition parties to counter KANU-NDP alliance. NAK was an alliance of 13 political parties among them the Democratic Party (DP), Ford Kenya (FK) and the National Party of Kenya (NPK) of charity Ngilu, who formed it after failure to win the presidency in the 1997 general elections. DP represented the Central and Mt. Kenya regions, Ford Kenya represented segments of the Luhya community, while NPK represented a section of the Kamba community. When LDP trooped into NAK, they transformed themselves into the National Rainbow Coalition (NARC). Subsequently, the two parties signed a Memorandum of Understanding (MOU) to govern the formation of the government upon winning the elections¹¹³.

In order to give meaning to the structure, they formed the NARC Summit whose membership comprised Mwai Kibaki, a Kikuyu; Raila Odinga, a Luo; Kijana Wamalwa and Moody Awori, Luhya; Kipruto Kirwa, Kalenjin; and Charity Ngilu and Kalonzo Musyoka, Kamba.

112 Karuti Kanyinga, (2006) Governance Institutions and Inequality in Kenya, in Readings on inequality in Kenya by Society for International Development (SID). Pg 359.

113 ibid

NARC eventually won the December 2002 elections with a big majority. The party's presidential candidate, Mwai Kibaki, won 62 percent of the votes cast, Uhuru 31 percent and Simeon Nyachae 6 percent mostly from his Kisii ethnic group. Kibaki won majority votes in the home areas of NARC summit members (see appendix 1). The elections were won by NARC on the platform of zero tolerance on corruption, enactment of a new constitution and creation of 500,000 jobs annually. Wamalwa Kijana was appointed as the vice president in the first cabinet of 23 ministers.

Following the formation of the new government, mistrust and suspicion gripped it, as LDP began to grumble that its MoU with NAK had not been honoured. According to the MoU, President Kibaki was allegedly to serve for a one five year term only and hand over power to Kijana Wamalwa the Ford K leader. He was also to share political power evenly between the two coalition partners . President Kibaki however, did not go by this arrangement when constituting his cabinet. Raila later claimed that the NARC Summit had agreed on a 23 member cabinet composed of 12 from NAK and 11 from LDP. The President however gave LDP 7 cabinet posts and NAK 16. The other point of divergence between LDP and NAK was on the draft constitution.

4.5 Ethnic Manifestations in the Run-up to 2007 General Elections

Early September 2006, Luhya political leaders from Western Province and the North Rift Valley who included KADDU Chairman Cyrus Jirongo, Assistant Minister Dr. Bonny Khalwale, MPs Daniel Liula Khamasi (Shinyalu), Wafula Wamunyinyi (Kanduyi), Davies Nakitare (Saboti), Wycliffe Osundwa (Mumias) and councilors led by their mayors and chairmen from the entire region officially launched a campaign to have one of their own vie for the Presidency in the next General Election.

They accused President Mwai Kibaki of reneging on his agreement with former Vice-President, the late Michael Kijana Wamalwa, to back the Luhya community for the Presidency in 2007. They said they would not support Kibaki for another term as President and that *“he should forget about any support from the Luhya and other residents of Western province and the North Rift region.”*¹¹⁴

The leaders declared that the Luhya would no longer be used as a ladder by other communities to gain political glory. They also said they were fed up with being given the Vice-Presidency, adding that it was now their turn to go for the top seat. The leaders present resolved to ensure that the community fielded one presidential candidate in the elections who the residents will vote for as a bloc.

The Chairman of Nzoia Sugar Company Burudi Nabwera who is member of the Luhya Elders Council, also read resolutions of the meeting which demanded that the Government elevates the Western University College to a full-fledged varsity, revive the Busia Sugar Factory and sell State Corporations in the area to local residents.¹¹⁵

On the other hand, leaders from the Meru community blamed the Government for sidelining them despite their overwhelming support for President Mwai Kibaki during the 2002 General Election. South Imenti MP, Mr. Kiraitu Murungi, seen as a close friend of Kibaki, warned the President against sidelining the community¹¹⁶. Kiraitu put Kibaki on notice for having dropped Meru MPs from the Cabinet. He reminded the President that the community had

¹¹⁴ *Sunday Times* 3.9.2006

¹¹⁵ *ibid*

¹¹⁶ *Sunday standard*, 1.10.2006

stuck with him even during times when they knew he would lose – like in the 1992 General Election when he was defeated by former President Daniel Moi in the presidential race. Minister Mwiraria, who later resigned amid graft claims, reminded Kibaki that the community was running out of patience. Mr. Paul M’Ithika, the chairman of the Njuri Ncheke, urged the community to unite and to resist any threats from other communities.¹¹⁷

The problems dogging the Orange Democratic Movement- Kenya the main opposition party as it tried to pick its presidential candidate were also largely a function of the intense competition of the various ethnic and personal interests inherent in the party. By then, the frontrunners of the ODM-Kenya Presidential aspirants before they split into ODM and ODM-K who also apparently were the foremost prisoners of their respective ethnic communities were Lang’ata MP Raila Odinga, Mwingi North MP Kalonzo Musyoka, former Vice President Musalia Mudavadi and Leader of Official Opposition Uhuru Kenyatta¹¹⁸.

For Raila, Kalonzo and Musalia, the loud message they received from their respective communities was that they are the ODM-K presidential aspirant or nobody else. Mudavadi underscored this dilemma when he said he would not step down for anyone because his community will brand him a coward the way it did in 2002 when he abandoned the Rainbow Movement to back Uhuru Kenyatta’s bid for the top seat. Due to the bad blood between Raila and Kalonzo that had existed for a while now, the Kamba maintained that if Kalonzo is not nominated as the ODM-K candidate, they would rather he run for the presidency on another outfit or they vote for Kibaki. MPs from Ukambani both in Government and Opposition were pressurizing Kalonzo to quit the party if he is not given the party flag. There was talk of Kalonzo’s allies forming alternative parties just in case their man is not

¹¹⁷ *ibid*

¹¹⁸ *Sunday Times*, 22.7.2007

picked to be ODM-K candidate¹¹⁹. As regards Uhuru Kenyatta, the pro-Kibaki wave in Central Province and diaspora made it extremely difficult for Uhuru to navigate the region selling ODM-K.

An attempt by a section of Orange Democratic Movement Kenya (ODM-K) Members of Parliament to strike a consensus deal flopped, after Raila Odinga's allies rejected a bid to get him to step down. Fifteen MPs from Rift Valley allegedly told their Nyanza counterparts, who included representatives from Gusiiland, that former vice-president Musalia Mudavadi and Mwingi North MP Kalonzo Musyoka stood a better chance of beating President Kibaki at the polls¹²⁰. They told Raila to his face it would be difficult for him to beat the incumbent if he was to be nominated the party's flagbearer. Nominated MP Franklin Bett proposed that either Mudavadi or Kalonzo be nominated for president and vice-president while Raila and Ruto should settle for the positions of prime minister and deputy prime minister, respectively. However, their Nyanza counterparts, led by Raila, were reluctant to endorse the proposal. At one point, Raila reportedly asked the Ruto group why everyone was insisting that "*I step down or support so and so and not the other way round*". Those in the race for ODM-K ticket by then were Raila, Musyoka, Mudavadi, Ruto, Joe Nyagah (Gachoka), Julia Ojiambo (nominated) and Najib Balala (Mvita)¹²¹.

The differences within ODM-K later led to its break-up and Raila, Mudavadi, Ruto, Balala and Nyagah secured the ODM party from Mugambi Imanyara, while Kalonzo and Julia remained with ODM-K. This split triggered a frenzy of political activities evident in a series of mainly tribal meetings by politicians seeking to consolidate their voting blocks.

¹¹⁹ *ibid*

¹²⁰ *The people*, 22.6.2007

¹²¹ *ibid*

Politicians from two of the main regions that traditionally determine voting patterns went into intense consultations seeking to bring their regions under one voting block. On 15th August 2007, 27 Rift Valley MPs from both the Government and the Opposition among them Agriculture minister Mr. Kipruto arap Kirwa, Assistant ministers Mr. Stephen Tarus, Ms Alicen Chelaite and former Narc-Kenya chairman Mr. Asman Kamama, attended a meeting where Ruto and other Rift Valley ODM MPs converged to try and chart a common way forward in the emerging political scenario¹²².

The meeting held at Caledonia Restaurant near State House, was also attended by MPs Nicholas Biwott, Nick Salat, Paul Sang, Gideon Moi, Musa Sirma and Lina Kilimo, among others. The issue of backing ODM was floated subtly, but the MPs ended the meeting without taking any decision. Kirwa was said to have stood for the side that backs President Kibaki while Ruto stood for the ODM side.

Ruto said in the meeting: *“The Rift Valley vote must go in one direction. The direction is that which is in synchrony with the grassroots support the party enjoys in the region.”* On the other hand, Kirwa – who had shown interest in becoming President Kibaki’s running mate – maintained: *“The Kalenjin community must be in the Government. When we are looking at the options, our community should not be plunged into the opposition.”* Kirwa added: *“The interest of the community supersedes those of individuals or parties: The place the majority of the community will be is where we will be.”*

¹²² *The Standard*, 17.7.2007

Gideon Moi said the unity of the Kalenjin community was crucial ahead of the General Election due in December. Biwot was reported saying "*I support the initiative to unite the Kalenjin community; the unity of purpose is important for us to prosper.*"¹²³

Western Province MPs who met at the Nairobi Club for breakfast haggled over an equation that could lead to a Mudavadi presidential nomination by ODM.

The meeting also drew MPs from across the divides that have been poised against each other before. The MPs said they would back Mudavadi as a block on condition he is nominated a presidential candidate.

The meeting was attended by, among others, Ford-Kenya chairman Mr. Musikari Kombo, Mr. Soita Shitanda (New Ford Kenya) and Dr. Noah Wekesa (Ford Kenya).

The MPs said if Mudavadi does not get the ODM presidential ticket, then they would have to agree who to back between President Kibaki and any other contender. The breakfast meeting at the Nairobi Club, chaired by Westlands MP Mr. Fred Gumo, was also attended by Assistant ministers Mr. David Were, Dr Bonny Khalwale, Dr. Enock Kibunguchy, Mr. Chris Okemo, Prof Christine Mango, Prof Ruth Oniang'o, Mr. Bifwoli Wakoli, Mr. Wycliffe Oparanya and Mr. Kenneth Marende, among others.

3.6 Ethnicity and Authoritative Allocation of Values and Resources

Apart from waiting for ODM-K to fall apart, Kibaki strategists were also busy creating small parties with strong ethnic and regional identity which were seen as his strategy to re-election. The defection of several politicians including Cabinet Ministers from Coast Province from Narc Kenya to Shirikisho Party was read in this light. Significantly, the politicians led by

¹²³ *ibid*

Transport Minister Chirau Ali Mwakwere made it clear that they would support Kibaki's re-election bid. Shirikisho is known for its role in voicing distinctly Coastal concerns like the perennial squatters' problem and majimbo.

The other parties which were expected to play this role of baiting regional votes into Kibaki's basket included Simeon Nyachae's Ford People which was expected to woo the Abagusii. The party was keen to retain its identity, while ensuring that it backed the President in order to have a significant stake in the formation of the next Government. Ford-P's role would be to fight ODM's strong presence in Nyanza and give Kibaki the 25 per cent vote in the Province¹²⁴.

In Western Kenya, it was expected that Ford-K will be doing Kibaki's bidding. Ford-K's job of campaigning for Kibaki will be made even easier if Mudavadi does not emerge as the ODM's candidate. Apart from Kombo's Ford-K, Narc-K which was represented by party deputy leader VP Moody Awori and the then Secretary-General Dr. Mukhisa Kituyi was also campaigning for Kibaki among the Luhya community¹²⁵.

Narc-Kenya was also grappling with the ethnic problem and in its attempt to skirt round the problem, Vice President Moody Awori who was also the party's deputy leader, named Foreign Affairs Minister, Raphael Tuju as the national chairman and Trade Minister, Dr Mukhisa Kituyi, Secretary-General though Kituyi later left the party to join New Ford Kenya, whose other members were only Soita Shitanda MP Malava and Minister for Housing and Bonny Khalwale MP for Ikolomani and an Assistant Minister by then¹²⁶. The then Justice

¹²⁴ *ibid*

¹²⁵ *ibid*

¹²⁶ *Sunday Times*, 4.5.2007

Assistant Minister, Danson Mungatana was named the national organizing secretary while the then Tourism and Wildlife minister Morris Dzoro became the party's national treasurer.

In a bid to achieve regional balance and bring everyone on board, the party named eight vice-chairman namely, Ministers Professor George Saitoti a Masaai (Education), Kiraitu Murungi a Meru (Energy), Professor Kivutha Kibwana a Kamba (Lands and Settlement), Kipruto arap Kirwa a Kalenjin (Agriculture), and Ali Chirau Makwere Miji Kenda (Transport), Mutua Katuku a Kamba (Water) and Mahammud Mohammed a Somali (Regional Development). Dr. Kituyi and four of the vice-chairmen, Prof. Saitoti, Murungi, Prof. Kibwana and Kirwa had declared their candidature for the national chairman's position¹²⁷.

4.6 The Traitor Factor

In the run-up to the 2007 general elections, the infamous '*traitor*' tag of the 1980s hovered again over '*regionally*' unpopular politicians like Foreign minister Raphael Tuju who was being treated as a pariah politician in Luo Nyanza, while in Eastern Province, Ntonyiri MP Maoka Maore of KANU and Kibwezi MP Kalembe Ndile of NARC Kenya, were both viewed as backing candidates either unpopular or alien to their political bloc. In Western Kenya, the then Narc Kenya chairman, Dr. Mukhisa Kituyi was fighting the widely held view that it is a Ford-Kenya zone. He however orchestrated several high-profiled defections to his party from Ford-Kenya. Maoka Maore's was seen by his political detractors as an enemy of Narc-Kenya and by extension President Kibaki mainly because of his whistle-blowing role on

¹²⁷ *ibid*

the Anglo Leasing scandal, which dramatically blotted the careers of two Meru political supremos – Former Finance minister David Mwiraria and minister Kiraitu Murungi¹²⁸.

The list of other political traitors also included Mathioya MP Mr Joseph Kamotho and the chairman of Kenya National Commission on Human Rights, Mr. Maina Kiai as well as two Assistant Ministers from the Rift Valley; Mr. Asman Kamama (Baringo East) and Mr Stephen Tarus (Emgwen). However, the talk of “*traitor*” was more on individuals from the President’s community. For instance, revealing that he receives a flood of hate mail and threats via his mobile phone from members of his community accusing him of being a traitor, Maina Kiai Chairman of the Kenya National Commission on Human Rights (KNCHR) remarked as follows,

“Unfortunately, there is a feeling among Kenyans that because we speak the same language, then we have a uniform way of thinking and that nothing else defines our identity other than the language,” Kiai was also alarmed that this trend might lead to an even bigger danger of the emergence of what he called political slavery under the “*Big Five*” – Luhya, Luo, Kikuyu, Kalenjin and Kamba communities. *“What will stop the political leaders from these communities from colluding or retaining leadership amongst themselves?”* he asked¹²⁹.

He further added that. *“Everywhere in the world, the State is the biggest culprit of human rights abuse and I am personally not going to run away from ensuring the current Government is accountable to its electorate simply because I am a member of the President’s community,”* said Kiai, who hails from Nyeri – President Kibaki’s home District¹³⁰.

¹²⁸ *Saturday Standard*, 24th February 2007

¹²⁹ *ibid*

¹³⁰ *ibid*

Similarly, self-exiled John Githongo, former Permanent Secretary in charge of Ethics and governance, while reacting angrily to similar traitor accusations in an interview also remarked that. *“Now and again I have been reminded that I have done the Gikuyu community a great disservice. My employment contract did not say Gikuyu Inc. at the top. I was employed by the Kenyan People.”*¹³¹

Meanwhile, Uhuru who had all along interpreted this trend as tribalism warned leaders from Central Province against the vice saying it would isolate the region politically.

He dismissed those accusing him of selling his community to other tribes saying his alignment with ODM-Kenya by then was aimed at uniting them with other Kenyans.

Citing the 2005 referendum campaigns on the draft Constitution, Uhuru said tribalism led the government to lose to a united opposition. During the exercise, Uhuru and Kamotho, who spearheaded the Orange campaign in the area, were labeled traitors. Although he was second to Kibaki during the 2002 elections including bagging nearly all the parliamentary seats in Kiambu and Thika Districts for Kanu, this cluster of MPs later moved to the Government side in the 9th Parliament¹³².

The traitor label has not been confined to Central Kenya. In Nyanza Province, the tag *“traitor”* hanged loosely on the neck of Tuju, who had almost been declared *persona non grata* in his own province for opposing presidential ticket aspirant Mr Raila Odinga’s on an ODM ticket. During the referendum campaign, local residents even made it difficult for the Rarieda MP to land in a helicopter to campaign, pelting him with stones each time he

¹³¹ *ibid*

¹³² *ibid*

attempted to do so. The drama ended tragically with the death of three people including a pupil killed during a shoot-out at a rally hosted by Tuju in Kisumu town¹³³.

Late in 2006, Ndile, a strong critic of another ODM-Kenya presidential aspirant, Mr. Kalonzo Musyoka, was forced to flee from a hostile crowd in Mwingi town. He accused Kalonzo and his ODM-Kenya colleagues of turning a cultural festival into a political rally to drum up support for the then newly formed party. Ndile, who hails from the same community as Mr. Kalonzo, was also viewed as “*traitor number one*” for siding with the enemy (Government) to stop the ‘*homeboy*’ from marching to State House¹³⁴. Tarus of Narc Kenya and the Emgwen MP in the 9th Parliament, who is from the same community as Eldoret North MP William Ruto, who was by then also eyeing the presidency on an ODM ticket did not also avoid the traitor tag from his community¹³⁵.

On his part, Muite, who was chairman of the Parliamentary Committee on Administration of Justice and Legal Affairs in the 9th Parliament was accused for auditing the Kibaki Government and putting pressure on the President over the constitutional review process.

Koigi on his part vowed to fight the culture of tribalism and political traitors, which he described as the next phase of the country’s political struggle. He said as follows: “*The war continues, for if we give in and let those labeling us traitors to succeed, then we shall be promoting this culture. But if we resist this and stay steadfast then perpetrators of the culture will retreat.*”¹³⁶

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134 *ibid*

135 *ibid*

136 *ibid*

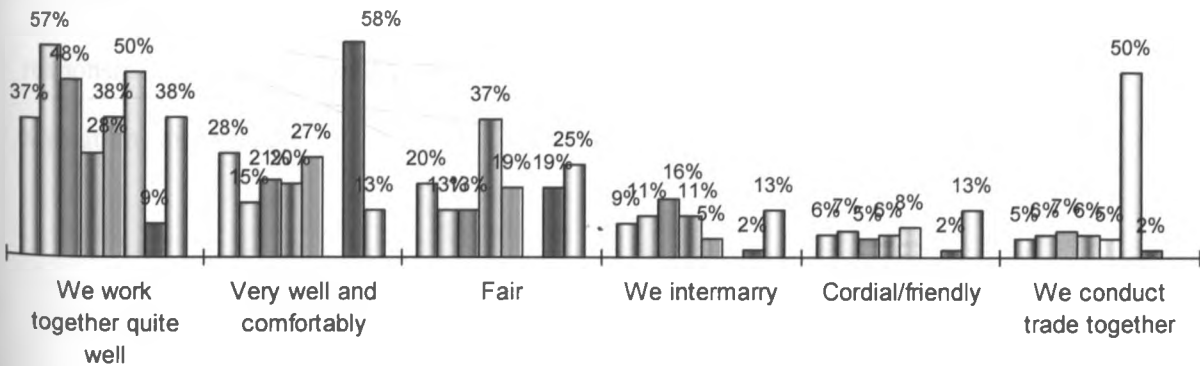
"We have to put our votes in one basket. The basket should be where the interest of the community will be considered," Kombo is said to have told the meeting.

"We must understand the mood on the ground. It is important that our brothers from the Bukusu community have been brought on board into these talks" Shitanda is reported to have said when he got the chance to speak. They said the talks will continue because their final resolution will be based on the outcome of the ODM presidential nomination¹³⁷.

Another major factor, which enabled ethnicity to take root in the country, was that no any other group clusters like religion or class or ideology could march ethnicity when it came to mobilization. Class, because of the poor economic base, and the fact that almost 85% of our population is rural, has not made class a key determinant of the country's politics. While ideology played a significant role during the cold war era in terms of mobilization, the end of the cold war, which led to the triumph of capitalism over socialism, has rendered it irrelevant.

Figure 9: Measure of ethnic relation

■ TOTAL(300) ■ Secondary teacher (54) ■ Primary teacher (56) ■ Councilor (54)
 ■ Registered voter (73) ■ Church leader (2) ■ Civil servant (53) ■ Member of Parliament (8)



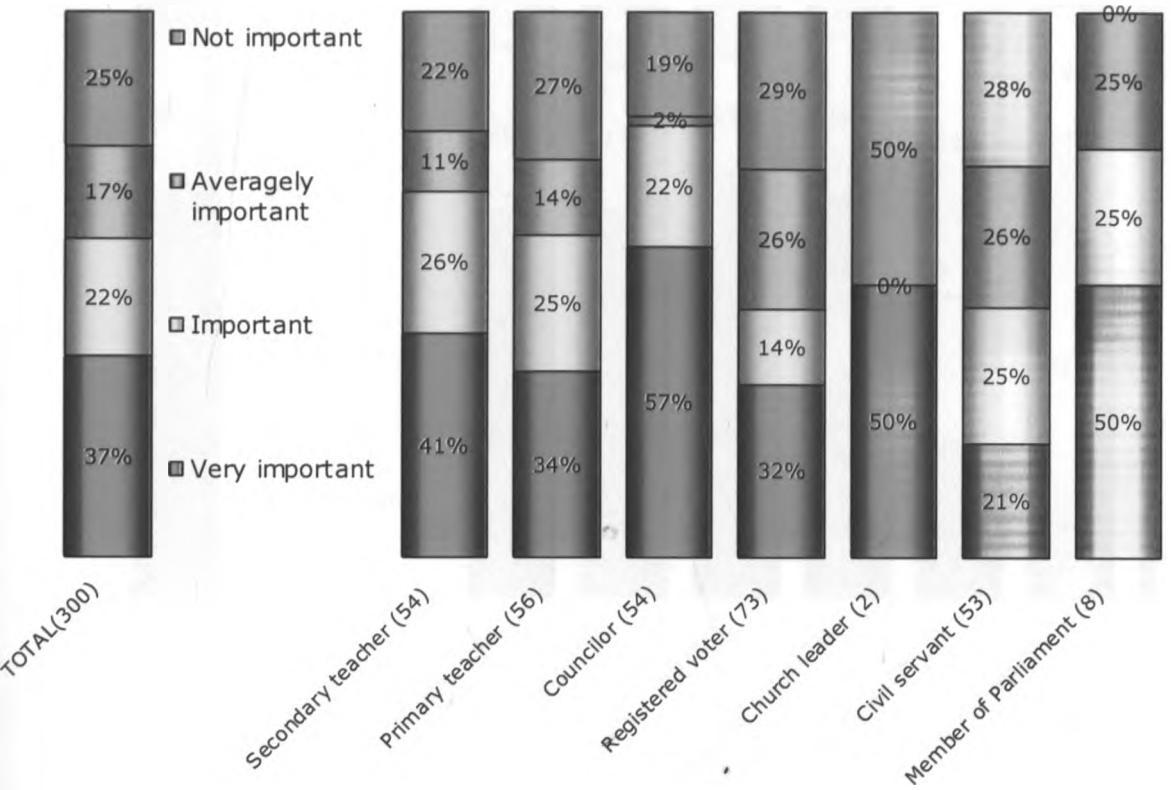
137 *ibid*

Findings of the survey indicate that ethnicity had eaten so much into the fabrics of the Kenyan society leading to a very high level of inter-ethnic or inter-tribal mistrust and bad relations. As expressed by interviewees, it was difficult for Kenyans to work together well because “ethnicity has put them in bad blood” and undermined the spirit of teamwork and any feeling of togetherness. From the interview, 63% of the respondents said that ethnicity had made it difficult to eradicate nepotism and favourism in all spheres of work making life so difficult for those who did not have “correct ethnic connections.” Asked on how they relate with others in the socio-political and economic spheres, especially people from different ethnic backgrounds, an average 72% said they were never comfortable due to injustices springing from ethnicity. They observed that ethnicity was so potent and strong that intermarriage and other factors necessitating interdependence such as trade were unable to mitigate negative ethnicity.

4.7 Ethnicity and the Political Process

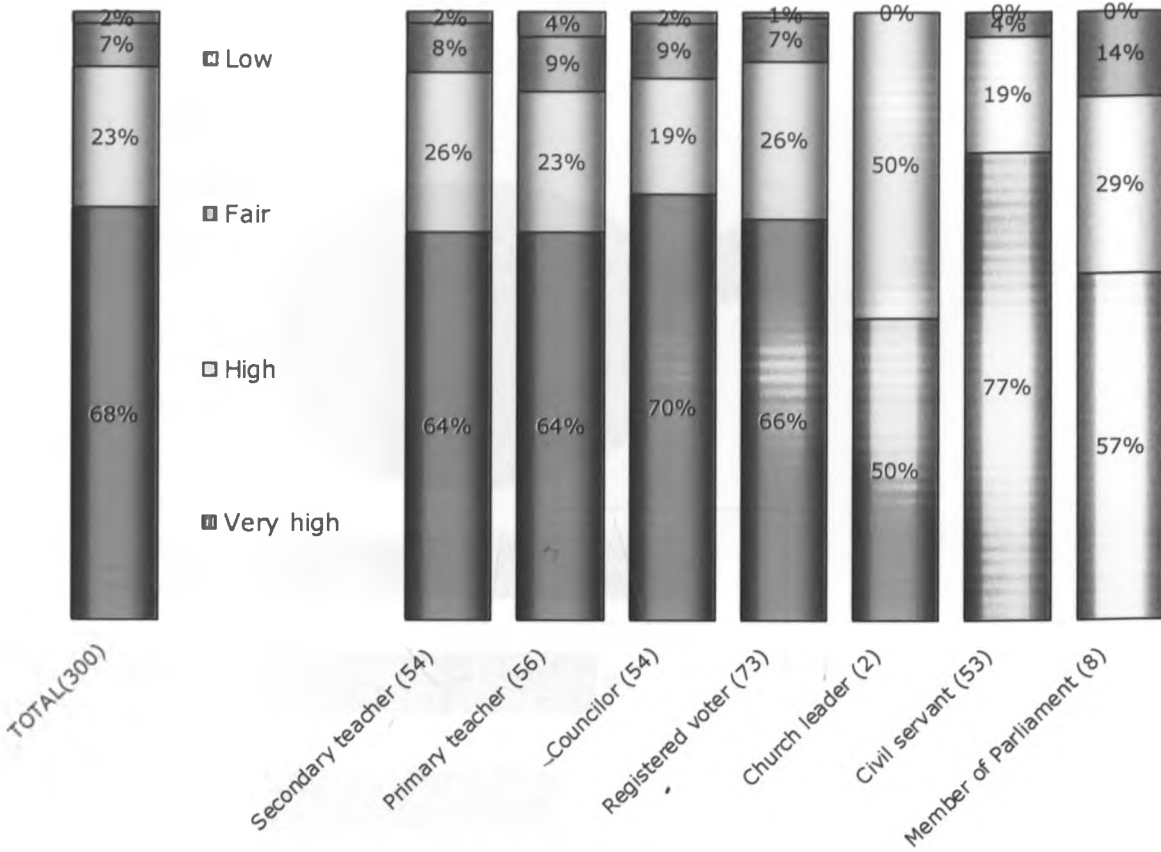
In the interviews, one Member of Parliament drew an analogy between Kenya’s politics and a moving vehicle. He compared ethnicity to an engine in all automobiles, and observed that ethnicity is not just the engine but also the fuel that drives politics in Kenya. From the responses obtained, 75% said that ones’ ethnic group was important in the pursuit of political aspirations and agenda.

Figure 10: Ordinal measure of the importance of ethnicity in Kenya's politics



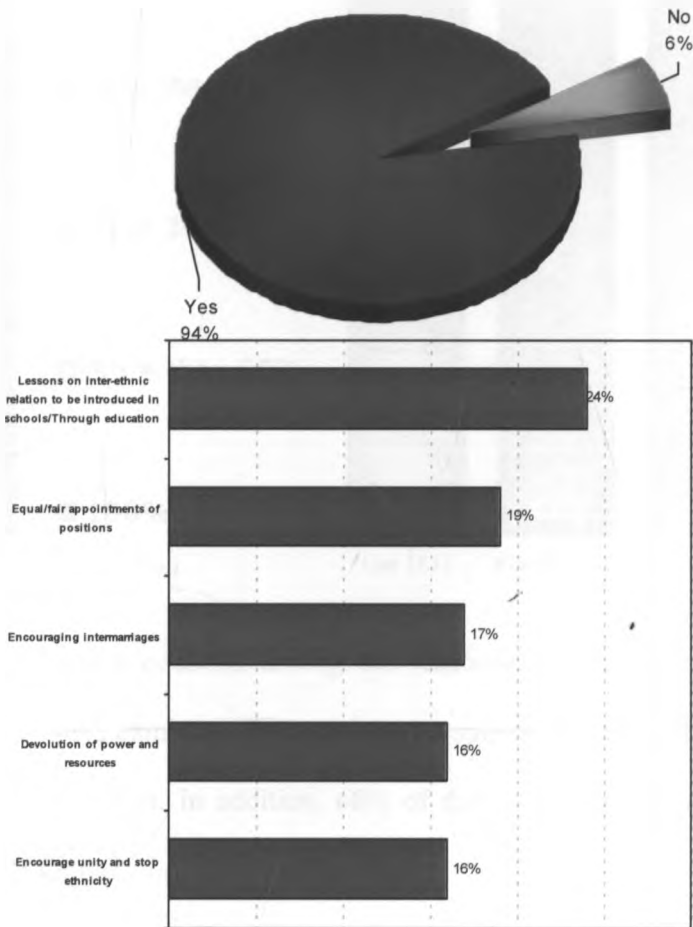
Politicians, especially the civic leaders and Members of Parliament in the study group gave ethnicity the highest rating as a key factor in the political process. In fact, 57% of the civic leaders interviewed said that if it were not for the support of their ethnic groups, they could not be in the positions they held. 50% of the members of parliament confessed that they often appealed to ethnicity to garner support for any course of action they wanted.

Figure 11: Rating of ethnicity as a tool for political mobilization



In the absence of a homogeneous nation, the Kenyan society is stratified into many nations in their own standing. These are organized and consolidated around tribes or ethnic groups that provide people with a common history, culture and sense of belonging. However, 93% of the respondents saw ethnicity as a bad thing. Ordinary citizens were unable to concretize any real benefits they had derived from ethnicity. And they said it was an obstacle to many of their aspirations as Kenyans.

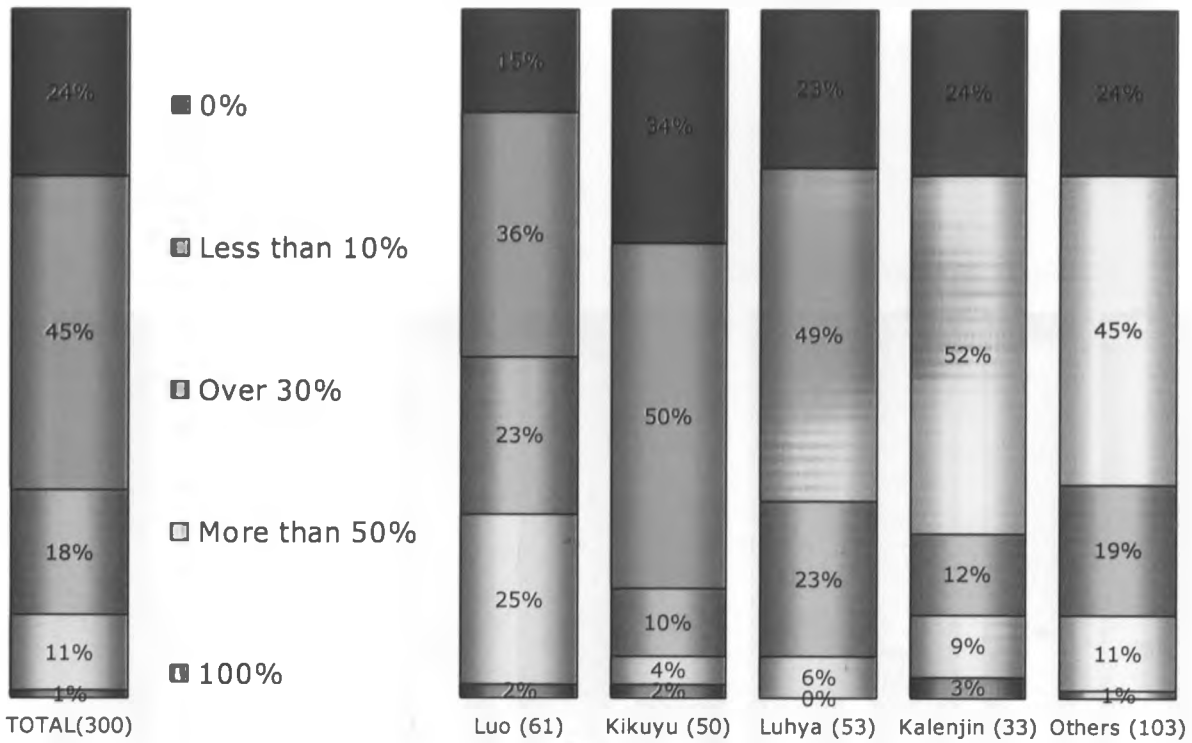
Figure 12: Percentage agreement/Disagreement on ethnicity as a problem for Kenya



The breeding grounds for ethnicity were identified as inter-tribal rivalry, politicians who have no other viable agenda, and the tendency of political elites using political office/power as a means of accumulating wealth and advantages for themselves and for their people.

Campaign Machinery and Mobilization Tool

Figure 13: Importance of Ethnicity in the political arena



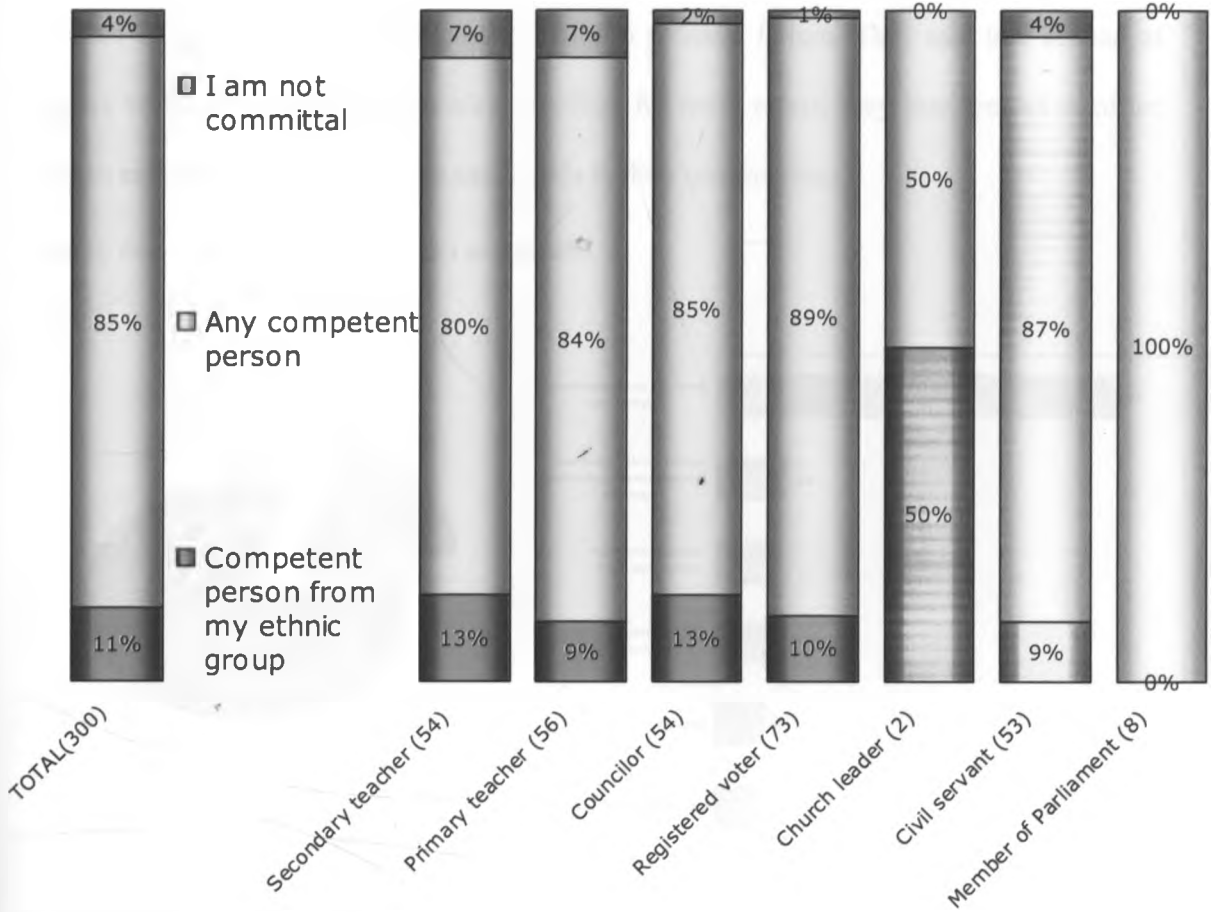
The study did not establish among the respondents any more efficient tool for political mobilization than ethnicity. A total of 98% response saw ethnicity as playing a major role in political mobilization. In addition, 68% of the same category rated ethnicity highest as a crucial tool for political mobilization.

4.8 Ethnicity and Access to Leadership Positions

From the study, ethnicity stands out as the most powerful vehicle to take aspirants to positions of leadership. One had only 1% sure chance of winning a civic or parliamentary sit if he/she contested away from his ethnic home turf or where the person cannot get enough support of his ethnic group. In voting most respondents said they vote following the trends of ethnic groups and the personalities preferred.

Respondents were tested on who they could vote for if a person from their own ethnic group was contesting any political position against another equally competent person, but who hails from a different ethnic group.

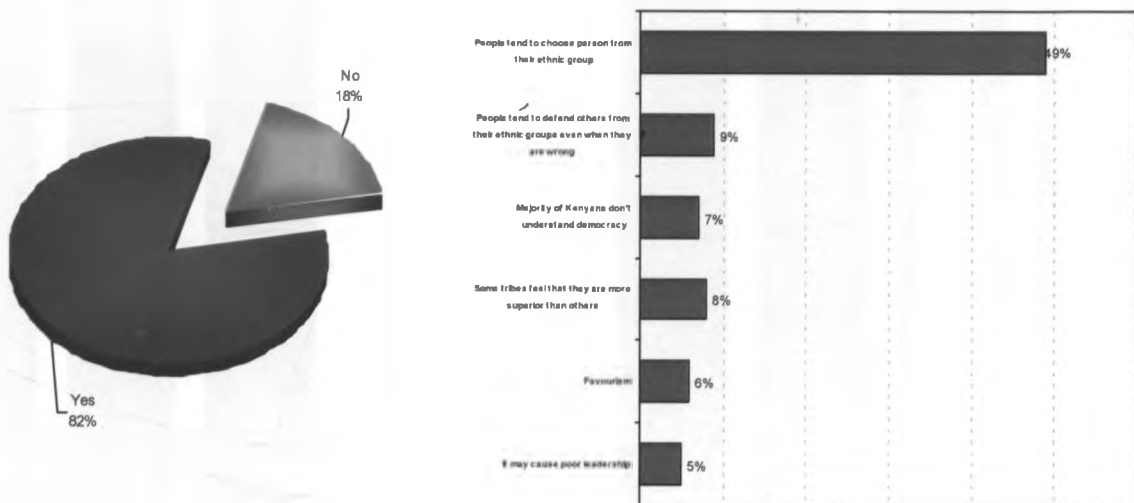
Figure 14: The voting pattern and ethnic inclinations



While 85% of the population said they could vote for any competent person, 11% said they could vote for the candidate who belonged to their ethnic group. This group highly believed that with their own person in power, they could benefit more. And one interviewee from one of the pastoralist communities said, “It is common sense that he who skins a cow pulls in his own direction.”

82% of the study population were in agreement with the assumption that ethnicity had been and remained a stumbling bloc to the democratization of Kenya. This was attributed to divisive politics perpetuated by the political king-pins in the political arena, voting along ethnic lines, and leaders seeking refuge and defence in their ethnic groups when they failed or made grave mistakes in office. All the church leaders condemned this behaviour saying that it derailed all the aspects of development owing to political failure. They said that instead of leaders working to earn their retention in office for more terms; they laze around in office only to ensure that they remain the small gods in their communities.

Figure 15: Views on Ethnicity an obstacle to Kenya's democratization

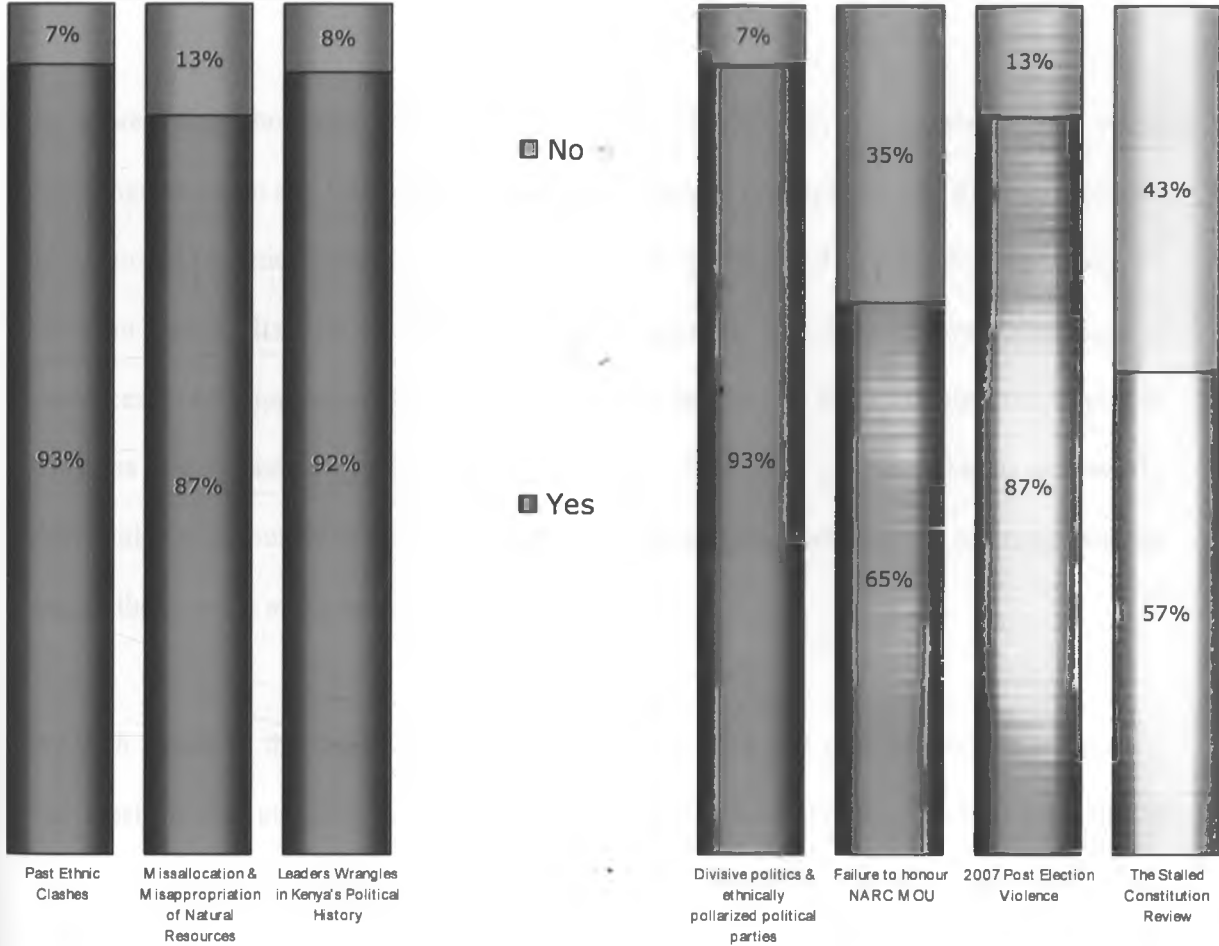


4.9 The Trouble with Ethnicity

Following the survey results, it is apparent that politicians use ethnicity to serve their interests in the political process. As for the masses, no interviewee was able to mention any tangible gains that he/she could credit to ethnicity. Instead, 94% of the respondents looked at ethnicity more as a problem and an organizational principle. And they were quick to blame most political turmoils that the country had experienced on ethnicity.

There was an 82% average agreement that ethnicity had been the efficient cause of the following: ethnic clashes, misallocation and misappropriation of national resources, leadership wrangles, divisive politics and the proliferation of many political parties without a national outlook, collapse of the NARC MOU and Government, the 2007 post election violence and, the stalled constitution review.

Figure 16: Blame on ethnicity for political problems in Kenya's political history



RECAPITULATION-CONCLUSION AND RECOMMENDATIONS

5.0 Recapitulation and Conclusion

This chapter sets out three tasks: The first provides us with recapitulation of our two main objectives. It sets out to demonstrate the extent to which we have fulfilled these tasks. The second task provides as with conclusion. It also anchors the thesis of our study. The third objective focuses on the recommendations .

In appreciating the logic of instrumentalization of ethnicity, our thesis is that ethnic instrumentalization and mobilization is the organizational principle around which our politics is organized. Political entrepreneurs have effectively mastered this art by exploiting the apparent marginalization of their respective communities through skewed allocation of resources, public appointments and development by mobilizing them against those in power. This has largely been a factor of weak institutions which have not been able to mediate the distribution of resources to the satisfaction of all communities, but favoring communities who one of their own is at the helm of power.

As with regard to the impact of ethnic instrumentalization and mobilization on democracy; our thesis is that ethnicity has undermined the democratization process in Kenya. This is vividly shown by the formation of political parties in the country largely along ethnic lines, and not on ideological basis. Looking at political party composition since the country reverted to multipartism in 1992; DP was largely dominated by the Kikuyu and other tribes around Mt. Kenya region like the Meru and Embu. KANU remained largely dominated by the Kalenjin, Maasai and Somali. Ford Kenya, drew most of its support from the Luo and the Bukusu a Luhya sub-tribe, while the other major party, Ford Asili drew its support from parts

of Central province and some sections of the Luhya community because of Martin Shikuku its Secretary General. The voting patterns during the 1992 general elections reflected ethnic trends in line with the party support. Each of this party also had a clearly identified ethnic leader and whom the community rallied behind. DP was identified with Mwai Kibaki, KANU with President Daniel Arap Moi, Ford Kenya with Oginga Odinga and Ford Asili with Kenneth Matiba. The ideological orientation of the party did not play a significant role.

During the 1997 general elections, party affiliations again took an entirely ethnic line with KANU and DP maintaining their traditional ethnic support base. The support of Ford K moved to Bungoma and some parts of Western Kenya. It lost its Luo support after Raila Odinga defected from Ford Kenya following a power struggle with Wamalwa Kijana. Raila later took over the National Development Party (NDP) and succeeded in attracting considerable support from Luo Nyanza. The other major party was the Social Democratic Party whose candidate was Charity Kaluki Ngilu. It succeeded in drawing substantial support in lower Eastern dominated by the Kamba community. Voting patterns during the election also reflected the ethnic orientation of the party.

The 2002 general elections saw KANU still maintain its traditional ethnic base, while the Liberal Democratic Party, which was formed after some KANU rebels among them Kalonzo Musyoka, George Saitoti and Raila Odinga who had dissolved his NDP during his merger with KANU took with them their respective ethnic groups in the new party. LDP later merged with the National Alliance Party of Kenya (NAK) made up of DP, National Party of Kenya (NPK) of Ngilu and Ford Kenya of Wamalwa Kijana to form the National Rainbow Coalition (NARC). Ethnic rather than ideological orientation still dictated the general election. NARC easily won them as the populous ethnic groups of the Kikuyu, Luhya, Luo

and Kamba supported it. Ford People of Simeon Nyachae which refused to join the coalition drew its support from Kisii only.

The run-up to the 2007 general elections witnessed LDP and some sections of KANU mostly from Rift Valley forming the Orange Democratic Movement (ODM). ODM drew its support from Luo Nyanza, the Luhya community in Western including parts of Bungoma. Coast province, Rift Valley and parts of North Eastern. ODM-K of Kalonzo Musyoka drew its support mainly from Ukambani, while the PNU which incorporated DP, sections of KANU, Ford Kenya and Ford People, drew most of its support from Mt. Kenya Region and North Eastern. The 2007 general elections reflected these ethnic trends.

From the foregoing, it is quite apparent that since the repeal of section 2(a) to allow for Multipartyism, mobilization of the electorate remains largely dictated by ethnicity rather than ideological orientation and democratic ideals. This has left voters at the mercy of politicians who appeal to tribal and regional emotions to win support as they reach out to their kinsmen in different political parties to form formidable bargaining tools. Thus, instead of the electorate having an opportunity, to interrogate their political leaders, based on their democratic credentials and their policies, and also as to how accountable and transparent they are and as to whether their policies are going to benefit them, they are manipulated to look only at the ethnic factor. Consequently, instead of the country witnessing the emergence of political parties based on clear ideas, vision and philosophy, the multiparty era in the country has only seen the mushrooming of ethnic based parties.

Ethnic animosities were not only experienced in the post election violence which gripped the country after the 2007 general elections, but it has been a perennial problem since the country reverted to Multipartyism in 1992. The 1992, 1997 and 2002 general elections witnessed cases of ethnic clashes prior to and after the general elections, largely as a result of the mobilization and instrumentalization of ethnic group identity by politicians in their quest to win votes. While the epicenter of these ethnic clashes has been the Rift Valley because of the large settler community in the Province, the Coastal region has been another flashpoint because of the acute squatter problem.

Ethnic sentiments have also been able to manifest themselves in the quest for a new constitutional dispensation for the country. Constitutional amendments which were made in the early years of our independence shifted significant powers to the Presidency, thus making it very powerful. The implications here were that communities from which the President hails from benefited a lot by dominating government echelons by being appointed to positions of Permanent Secretaries, Provincial and District Commissioners, State corporation chairmen and envoys. Conversely, communities that were not adequately represented in government felt marginalized thus causing ethnic resentment. Thus, while the agitation for a new Constitution was being pushed by those who felt marginalized and mainly targeting the devolution of powers, those in power strongly resented any push for a new Constitutional dispensation, as it will considerably erode their powers. Consequently, KANU and by extension the Kalenjin community during Moi's reign strongly resisted the agitation for a new Constitution, as it will erode the powers of the Presidency, and hence their access to State resources. When KANU lost power in 2002 and NARC took over, KANU became a strong proponent for a new Constitutional dispensation. NARC more so the NAK faction, backed in their earlier position to have the President's powers whittled down. They argued

that devolving powers of the President to the Prime Minister will create two centers of power. The Kikuyu community, which during the Moi reign had argued strongly against a strong presidency became its strongest supporter, largely because they were able to benefit mostly in terms of appointments to senior government positions and allocation of resources for development as the President hailed from their community.

Therefore, the failures by the government to enact a new Constitution as promised, and hence strengthen its governance institutions, left it with a very weak institutional framework. The overbearing executive continued to load itself over other arms of government; the legislature and the Judiciary, hence leaving them very weak to be able to check on the excesses of the Executive. This in essence affected the equitable distribution of resources making those in the opposition feel marginalized. These only helped to exacerbate animosities, as party politics revolved largely around ethnic blocs.

It is also significant to note that about 80% of the Kenyan population is rural, and specific ethnic communities occupy particular areas. Most of the Kenyan communities are also known to be attached to their age old traditions like the age group factor of the Maasai, the cattle rustling activities by the Pokot, Turkana and to some extent the Samburu and the circumcision tradition of the Kikuyu and a majority of Luhya communities. This has only helped in making the family, clan and by extension the ethnic unit very strong. Matters have therefore not been helped by failure by successive Kenyan governments to come with clear policies which can help to bring the various ethnic entities together. Consequently, the government has always remained a very alien entity to the majority of the communities. It is only those whom their ethnic group controls the Presidency, have felt an attachment to the government, but again withdrawn once one of their own is not the President. Those who one

of their own is not the President, have always felt marginalized, and hence retreated to their ethnic groups for protection from the State.

Following this study, it is apparent that the winner takes all system of government is not conducive for a deeply multiethnic society like Kenya since the electorate votes along ethnic lines and as a consequence, those whose party fails to form government feel alienated and marginalized. If those left out form close to or over 50% of the population, this may not augur well for the stability of the country. Also, as long as the ethnic factor remains the main organizational principle around which our politics revolve, any constitutional framework must duly take cognizance of this fact. A thorough review and evaluation of the powerful presidential system may also need to be made, with the sole purpose of exploiting whether devolving power both horizontally and vertically will address the question of inequitable distribution of resources and hence ethnicity.

It is also imperative to note that belonging to an ethnic group is a reality of life and not a negative factor. The problem only arises when some politicians start using it to advance their own selfish interests. Measures however need to be put in place to ensure that its magnitude and role in shaping politics is reduced to the periphery so that focus shifts to issue based rather than ethnic based politics. It has also emerged that it is basically the issue of resource distribution which has played a pivotal role in entrenching ethnicity in the Kenyan society, and dealing with it will play an important role in redressing the problem.

It is also evident that most political parties in Kenya do not have any ideological nor programmatic differences, which initially was a very strong factor during the cold war. With the triumph of capitalism over socialism, the ideological appeal, by opposing forces almost

disappeared. Class differences in Kenya are not as prominent, because over 80% of the Kenyan population is rural while the level of development economically and socially remains low. Religion has also not been a very major factor in influencing the policies of parties. This has apparently left ethnicity to be easily exploited by some politicians.

It is therefore clear from this study that it has been able to prove the thesis that the sluggish pace in the transition to democracy in Kenya is a function of ethnicity. This is because ethnicity poses a major challenge to Kenya's multiethnic society in the quest to democratize, because of the negative impact it has had on Kenya's democratic transition and the contradiction between normative democracy and ethnicity.

It is also clear that ethnic mobilization directly defies the fundamental concepts on which the modern Kenyan nation state has been built and therefore presents a formidable challenge to policy makers and the task of nation building. The Kenyan state has also not faced this question directly in its constitution and legislations leading to tension between ethnicity and the state thus derailing the transition to democratic governance. Ethnicity, in postcolonial Kenya has also become a dependable locus for the articulation of legitimate interest. This is largely due to the innate contradictions within the normative democratic theory itself as adopting liberal democratic institutions in the "raw" form is not a solution and the country may need to formulate a democratic formula which answers and conforms to its unique status.

For Democracy to succeed it is also imperative that nation building must succeed. The various ethnic groups making up a country must evolve gradually into a nation; otherwise voting trends will continue being dictated by ethnic rather than democratic considerations.

Consequently, ethnicity continues to affect the capacity and legitimacy of the government and unity, besides undermining national cohesion and stability, with the attendant adverse ramifications on the national security of the state. From the foregoing, it is imperative that any constitutional framework must be able to address the influence of ethnicity in Kenya's democratic transition.

This situation therefore calls for the need for the State to craft and put in place a Constitutional framework which takes cognizance of the ethnic factor in our society and develop clear policies to address it as it cannot just be wished away. It must also be able to address the question of justice, issue of land rights which is behind the perennial ethnic clashes in Rift Valley, equitable development, fair sharing of resources and the widening gap between the rich and the poor to be able to deal with the problem of ethnicity and Kenya's transition to democracy. Failure to do that will only exacerbate the problem of ethnicity, derail any effort at constructing Kenya as a nation state and hamper the democratization process.

5.1 RECOMMENDATIONS

The recommendations aim to address the following; the need to appreciate the role of ethnicity as the main organizational principle around which our politics revolve; Policy options on the appropriate institutional framework the country needs to put in place to mitigate the negative impact of ethnicity in Kenya's transition to democracy.

5.1.1 Constructing the Kenyan Nation State

For Democracy to hold in a multi-ethnic Society, the first goal is to be committed to the task of constructing a nation. This is because Democracy cannot easily be practiced in a Society where ethnicity holds sway and poses a challenge to the State. The current trend where one looks at himself first or owes allegiance to his ethnic group first and then to the State needs to be reversed. This can only be done after an acknowledgment by the ruling (political) elite, who are the ones behind the promotion of ethnicity, admitting that they are yet to succeed in building a strong nation State. What is there at the moment is a weak – nation State, with many diverse nationalities. There is need for commitment in building a Kenyan identity, through building/constructing a common Kenyan language, culture and values and then ultimately a Kenyan nation.

It is thus imperative, that in constructing the Kenyan nation we embrace the principle behind the construction of a nation by using Hobbes political philosophy whereby individual's basic security needs play a significant role in the evolution of the State. Security becomes a factor because of the issue of scarcity of resources. To create a conducive atmosphere whereby the struggle for resources is conducted in an orderly manner, the issue of security comes to the fore. The struggle for resources has to be done in an orderly manner, and this necessitates the creation of the state. Individuals must participate in the creation of the State through a new constitutional dispensation by contractually giving up some of their freedoms. The individuals must see the need why they should entrust their security to the State and not the ethnic group. The State must therefore step in to play those roles currently being played by the ethnic group. To the individual, the State must be seen to provide some of the basic security needs like food, shelter and health. The State must, hence cease to be an alien entity

to the individual, but one that an individual finds solace in, thus creating a strong bond between the individual and the state, which at the moment is lacking in the Kenyan state.

For this to be able to succeed, the necessary institutional reforms need to be undertaken whose focus must be aimed at reducing the dominance of the ethnic ideology as the main organizational principle in politics, by addressing political and economic inequalities and imbalances in power. The key institutional reforms to be undertaken in the attempt to address this problem are devolution of power, power sharing arrangements coupled with electoral reforms and clear checks and balances of power. Administrative and Cultural reforms targeting Administrative Units, promotion of national values and language have also to be undertaken. These changes must also be accompanied by other democratic basic principles like accountability, transparency, respect of human rights and independence of the key institutions of government. There must also be clear separation of powers among the three arms of government; The Judiciary, Executive and the Legislature.

While the State shall respect, promote and protect the diversity of the languages of the people of Kenya, deliberate effort needs to be made to ensure that Kiswahili is promoted vigorously as the national language of the Republic of Kenya. It is however significant to note that the successive governments have made tremendous efforts in working towards this goal.

Effort also needs to be made to promote the positive cultural diversities of the nation, so that they are not looked upon as divisive factors. The government must also make a deliberate effort, through our educational system by ensuring that at the secondary and up to the University level, a clear mix of the various ethnic units that make up the Kenyan nation is achieved by coming up with a policy on the same.

5.1.2 Devolution

Democracy is about devolving power, controlling as well as limiting it. Democracy must also at a minimum mean a significant share of the many in political decisions. Democracy must be about dispensing power responsibly but not just having power, as it is power ultimately which is responsible for allocating resources. In a democracy also, popular sovereignty, where power is vested in all members of the society rather than in any part of them must be upheld. It is therefore imperative that a form of government where power is decentralized rather than centralized at the centre be adopted in the Kenyan situation. This is because the centralized form of government practiced in the country has neither delivered development nor promoted unity but fostered ethnic resentment through skewed allocation of resources. It is however imperative that the form of decentralization the country undertakes must be one which is not alien to the people, but one which suits its situation. It is thus crucial that the mode of decentralizing and how power is distributed in this particular structure must be very clear. In Devolving power also, care must be taken to ensure that a very huge bureaucracy is not created.

In the Devolved system envisaged, the government should work at two levels: national and District/constituency. The principal unit of devolution should be the district or constituency. The functions of the national government to include; National Defense and Security, Foreign Affairs, The Courts, Infrastructural Development (Energy and Road Network linking all the Districts and those leading out of the country, Immigration and Citizenship, Education, Finance, Environment, Natural Resources, Communication and use of International Waters

The functions of the district government to include; implementation of national policies, formulating district policies, Agriculture, Livestock, Health, Cultural and Transport activities in the district.

This will thus entail doing away with provincial administration so as to avoid parallel administration and strengthen current local governments by incorporating under them the current functions conducted by the provincial administration. Bureaucrats working for provincial Administration should be absorbed by the new administrative units and Conflict resolution in the district to be delegated to traditional courts.

There shall also be need for devolution at the national level horizontally. This will be through the creation of the following offices. President to be Head of State, Prime Minister to be Head of Government, a Deputy President and two Deputy Prime Ministers.

5.1.3 De- ethnicizing the Presidency

Because of the immense powers enjoyed by the presidency and the leverage the office has over the distribution of resources, the various ethnic groups have been struggling to have one of their own occupy the seat. This, from past experience gives them unfettered access to the national resources making the Presidency a source of competition by the various ethnic groups. This therefore calls for the need to de-ethnicize the Presidency by devolving some of its immense powers to other offices through *consociationalism*, whereby ethnic groups share power at the central level. This will give a sense of security to the members of the various ethnic groups and will help them to identify and become loyal to the state. Therefore, some of the powers of the President can be devolved to the Vice President, Prime Minister, Deputy Prime Minister and even cabinet ministers, so that power is dispersed, rather than being

centered in one person. In this case, a number of offices shall be involved in the distribution of national resources, but not the case as it is at the moment where all the powers are centered in the presidency.

5.1.4 Constitution of a Parliamentary System of Government

Considering that a decentralized system of government rather than a centralized one could be appropriate in the need to de-ethnicise the presidency and devolve power to other centers, then a parliamentary rather than a presidential system of government may need to be adopted. It is also important to shift power from the individual to the institution, more so in the Kenyan context where ethnicity is a strong factor. A shift should therefore be made in voting for the party rather than the individual and hence allow the party with the majority to appoint a President who should be Head of State and a Prime Minister to be Head of Government. In this case, focus will shift to the institution of parliament rather than the person. Distribution of cabinet posts should also be based on party strengths and effort made to ensure that all ethnic groups are represented.

5.1.5 Strengthening Institutions of Governance

The weak institutional framework in the country's institution of governance has been a major contributory factor to our society ills like ethnicity and corruption. It is therefore imperative that for these problems to be addressed, the country must commit itself to the strengthening of its key institutions of governance by democratizing them further. It is significant that the institutions reflect transparency in how power and resources of the state are accessed. The institutions must enhance values of the nation, promote democracy, strengthen national unity, facilitate economic growth and increase the accountability of government.

5.1.6 Parliament

Reforms need to be put in place to strengthen parliament by ensuring that it controls its own calendar besides vetting and approving key presidential appointments. Parliamentary democracy will also need to be strengthened through Parliamentary party democracy by making sure that MPs lose their parliamentary seats if they defect to another party.

5.1.7 Judiciary

The independence of the judiciary needs to be upheld by ensuring that it shall be subject only to the constitution and the law and shall not be subject to the control or directions of any other person or authority. There is therefore need to ensure that the Chief Justice and other judges are appointed by the President on the recommendations of the Judicial Service Commission and be approved by the National Assembly.

5.1.8 Political Parties

It is critical for political parties to have a national character, a democratically elected governing body besides upholding national unity. Political parties should also abide by the democratic principles of good governance and promote and practice democracy through regular, fair and free elections within the party. They must never be formed on ethnic, religious, racial, linguistic, gender or regional basis. It is also essential that the Registrar of political parties must be an independent body preferably under the electoral commission. Active political parties should be funded so as to make them independent of personal financiers.

5.1.9 The Electoral Commission

While the country has made a number of electoral reforms, it is clear judging from what transpired in the 2007 general elections, the Electoral Commission of Kenya needs to be revamped by reviewing its constitutional and legal framework to make it an independent body free from political or any other form of interference. Reforms put in place should ensure that the President should not be the one to appoint the commissioners solely, without any other mechanism to ensure their independence. It is necessary that they must also be vetted by parliament. Transparent boxes also need to be used besides ensuring that a more transparent method of relaying votes for tallying and their subsequent announcement be adopted.

5.1.10 Public Service, Police and Defence Forces

There is need for an efficient, balanced public service, free from political interference and patronage, for effective delivery of public service and for national unity. With a devolved government in place, provincial Administration will have to be done away with as its functions will be taken over by the District Council. As for the Police Force, there will be need for the Commissioner of Police to have tenure of office and his appointment by the President be approved by the National assembly. A clear delineation of duty between Police and Administration Police must be specified or they be merged. Other key appointments in the Civil/Public Service by the President must be approved by the National Assembly.

5.1.11 Civic Education

Considering that the Kenyan society is highly ethnicized and the ethnic group has become the organizational principle around which politics in our society revolves, there is urgent need

also to embark on civic education to enlighten the populace on the ramifications of ethnicity and the significance of embracing democratic values.

Ethnic group at most is a false consciousness and a construct of human imagination, as it is mostly used to suit one's interest in a political process. It can thus be used at the national level, region level and even clan level depending on how best it can serve the interest of the one using it. Considering that community values still play a significant role, it is imperative that civic education aimed at demystifying ethnicity and aimed at emphasizing values such as accountability, transparency and integrity be what people should embrace and not glorifying one's origin or language.

It is however significant to point out that in a society in which democratic values are not embraced and governance is poor, then ethnicity may not be easily eliminated because those who feel marginalized will easily rally around their respective ethnic groups for protection against the state and use it to stake a claim on national resources.

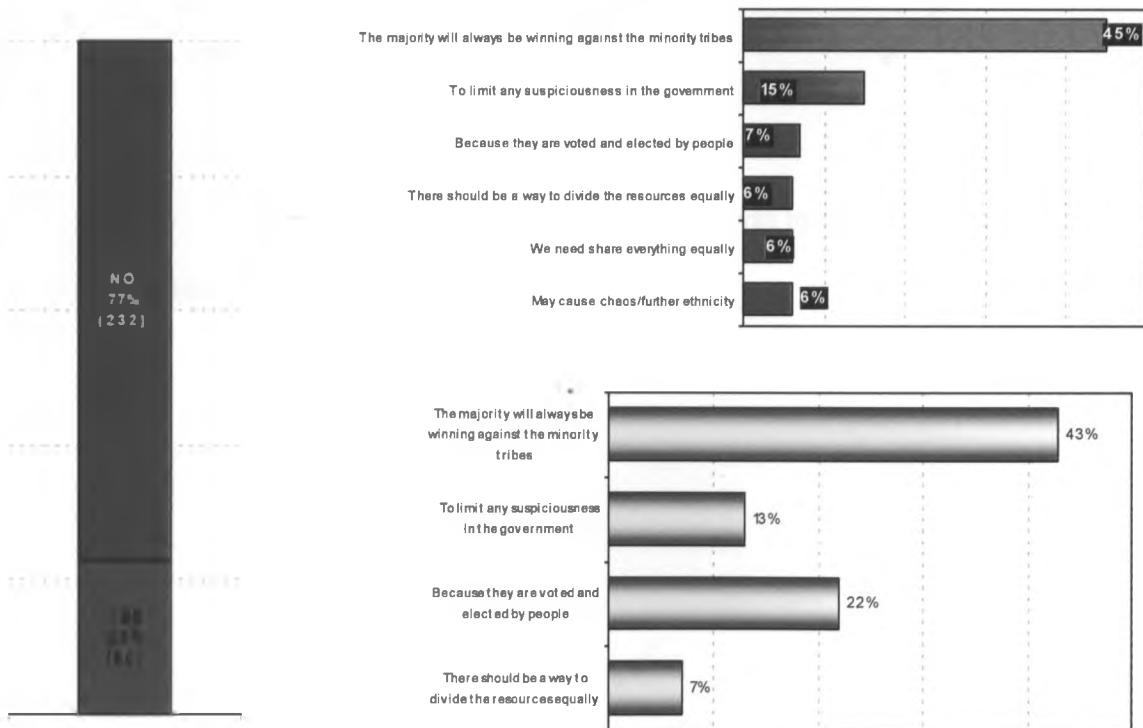
From the study undertaken, it has emerged that ethnicity in the current constitutional dispensation is a major mobilization and organizational principle around which the political system in the country is built, and hence at the centre of instrumentalisation of politics in Kenya. This has had a very negative impact on Kenya's transition to democracy largely because of the tension between ethnicity and the State. If the approach proposed is tested, it is very likely to go a long way in managing significantly the role of ethnicity in Kenya's transition to democracy, through ensuring equitable distribution of national resources, the key factor behind ethnicisation of politics in Kenya.

Any government created must embrace the principle of inclusivity to be determined solely by party strength and take into consideration ethnic balance. There may also be very strong need, along these lines to encourage cross ethnic party membership, discourage parties which are solely ethnic in nature and if possible work towards limiting the number of parties to a basic minimum of not more than three. Emphasis should also be put on their ideological leanings.

5.1.12 Suggested remedies to manage ethnicity

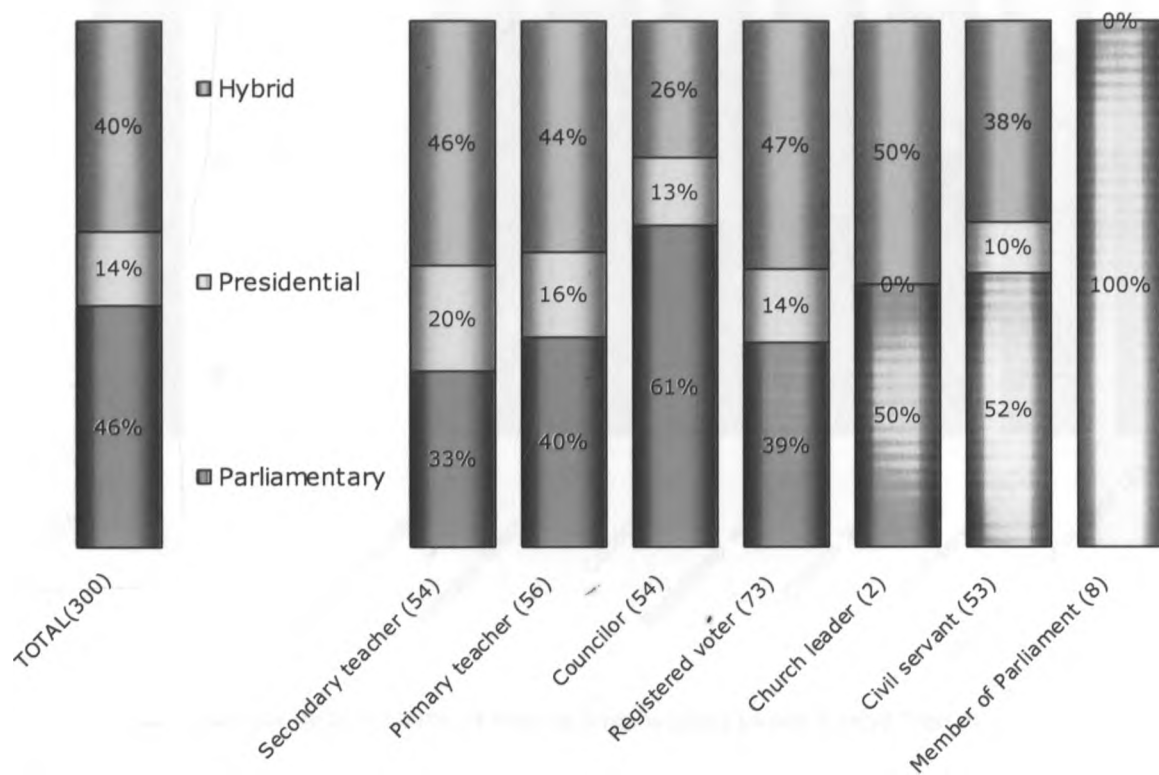
Considering the reality of how ethnicity is entrenched in the Kenyan society and the consequent voting behaviour, there was a 77% agreement that the “winner takes it all” system be abandoned. The system, respondents said, was inappropriate and unfair, as the bigger ethnic groups will always be winning against the minority ones. They suggested that an all-inclusive system taking care of minority interests be adopted instead

Figure 17: Vote for and against the winner takes it all system in elections



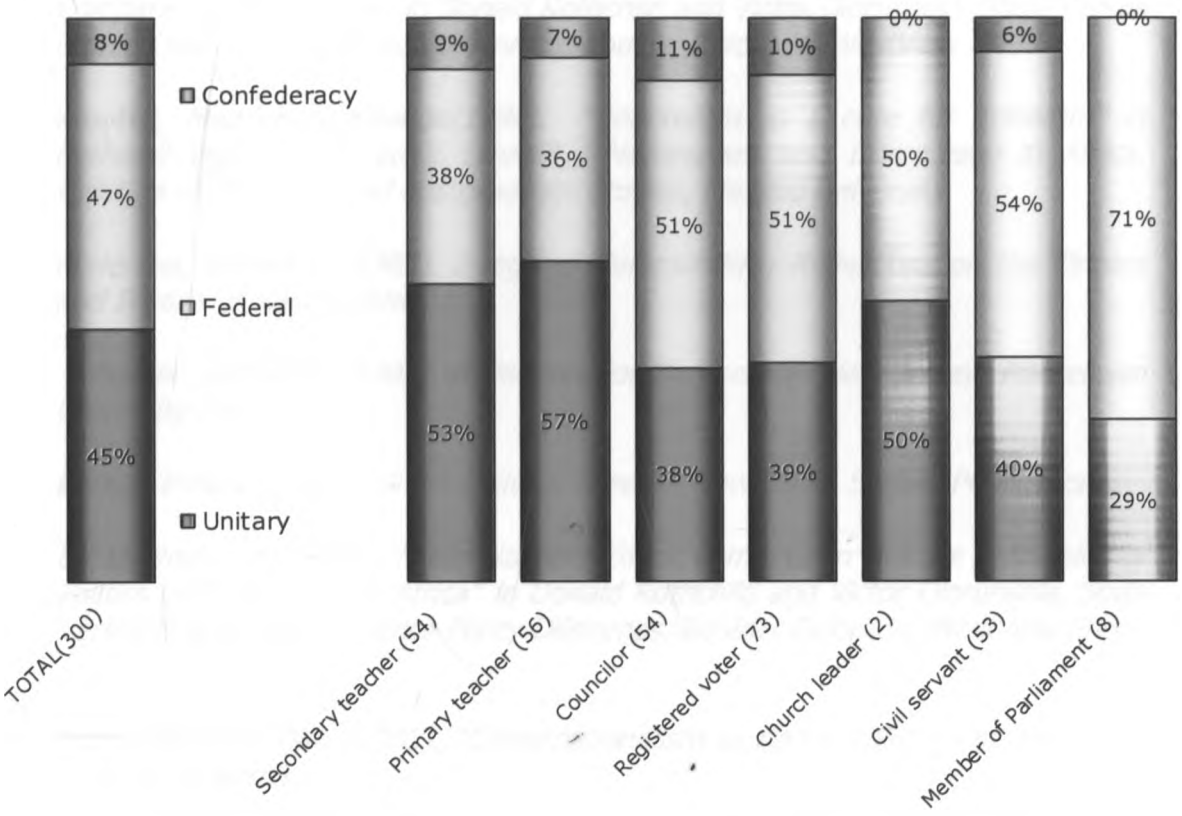
On average, a majority 46% of the study group recommended that Kenya adopt the parliamentary system of government while 40% wanted the hybrid type.

Figure 18: Percent opinion on most preferred system of Government



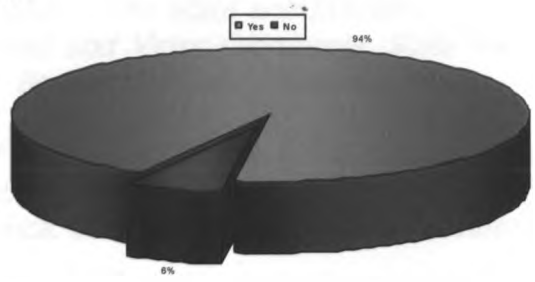
Concerning the organization or form of state, 47% opinion was in favour of federalism while the unitary system got 45% support.

Figure 19: Vote on how Kenya ought to be politically constituted



Following the survey results, 94% of respondents wished to see Kenya free of ethnicity. They said as Kenyans, they would wish to live forever in peace and harmony, and in an environment of good neighborliness. To fulfill the common dream of national development, the need for a comprehensive national social integration was called for. Its only in unity, that a common vision can be pursued successfully to take Kenyans the heights they aspire to go.

Figure 20: Vote to end ethnicity



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APPENDIX 1

KENYAN GENERAL ELECTION, 2002

Presidential election

Summary of the 27 December 2002 Kenyan presidential election results

Candidates – Parties	Votes	%
<u>Emilio Mwai Kibaki - National Rainbow Coalition</u>	3,647,658	61.3
<u>Uhuru Kenyatta - Kenya African National Union</u>	1,836,055	20.2
<u>Simeon Nyachae - Forum for the Restoration of Democracy-People</u>	345,161	5.9
<u>James Orengo - Social Democratic Party</u>	24,568	0.4
<u>David Ng'ethe - Chama Cha Uma</u>	10,030	0.1
Total (turnout 56.1 %)		

Source: Daily Nation

Provincial results

Province	Kibaki	%	Kenyatta	%	Nyachae	%	Oreng	%	Ng'ethe	%	Registered	Turnout
Central	701,916	68.9	308,012	30.2	4,441	0.4	1,443	0.1	2,053	0.2	1,563,084	66.1%
Coast	228,915	62.7	121,645	33.4	11,716	3.2	1,539	0.4	823	0.2	879,741	42.1%
Eastern	749,654	72.5	270,225	26.1	7,863	0.8	3,509	0.3	2,216	0.2	1,734,209	60.9%
Nairobi	279,705	76.4	76,001	20.8	8,775	2.4	891	0.2	301	0.1	884,135	42.0%
N/Eastern	34,916	28.1	83,358	67.1	5,660	4.6	297	0.2	73	0.1	216,336	57.8%
Nyanza	521,052	61.3	64,471	7.6	252,448	29.7	9,620	1.1	1,115	0.1	1,555,986	55.6%
R.Valley	624,501	43.2	769,242	53.3	45,145	3.1	3,826	0.3	1,624	0.1	2,415,555	60.8%
Western	506,999	76.3	143,101	21.5	9,073	1.4	3,443	0.5	1,825	0.3	1,202,104	57.1%

Source: Electoral Commission of Kenya

APPENDIX 2

KENYAN GENERAL ELECTION, 1997

RESULTS

Party	Candidate	Votes	%
KANU	<u>Daniel arap Moi</u>	2,500,856	40.60%
DP	<u>Mwai Kibaki</u>	1,911,742	31.00%
NDP	<u>Raila Odinga</u>	667,886	10.80%
FORD-K	<u>Kijana Wamalwa</u>	505,704	8.20%
SDP	<u>Charity Ngilu</u>	488,600	7.90%
Others	Others	84,644	1.40%
Total		6,159,432	

Turnout: 68.2% (Registered Voters: 9,030,167)

Provincial Results

Province	Moi	%	Kibaki	%	Raila	%	Wamalwa	%	Ngilu	%	Other	%	Registered Voters	Turnout
Central	56,367	5.6	891,484	89.	6,869	0.7	3,058	0.3	30,535	3.1	9,347	0.9	1,346,189	74.1
R/Valley	1,140,109	69.5	343,529	21.0	36,022	2.2	102,178	6.2	11,345	0.7	6,232	0.4	2,160,453	75.9
Western	314,669	44.9	9,755	1.4	13,458	1.9	338,120	48.2	3,429	0.5	21,496	3.1	1,028,732	68.1

Nyanza	215,923	23.6	138,202	15.1	519,180	56.8%	14,623	1.6	15,301	1.7	11,245	1.2	1,361,251	67.2
Eastern	370,954	35.6	296,335	28.5	7,787	0.7	7,017	0.7	349,754	33.6	8,916	0.9	1,433,737	72.6
Nairobi	75,272	20.6	160,124	43.9	59,415	16.3%	24,971	6.8	39,707	10.9	5,066	1.4	726,779	50.2
Coast	257,056	63.4	51,909	12.8	24,844	6.1	11,306	2.8	38,089	9.4	22,180	5.5	800,689	50.6
North Eastern	70,506	73.2	20,404	21.2	311	0.3%	4,431	4.6%	440	0.5%	162	0.2%	172,337	55.9%
Total	2,500,856	40.6%	1,911,742	31.0%	667,886	10.8%	505,704	8.2%	488,600	7.9%	84,644	1.4%	9,030,167	68.2%

Source: Electoral Commission of Kenya

APPENDIX 3

KENYAN GENERAL ELECTION, 1992

RESULTS

Party	Candidate	Votes	%
KANU	Daniel arap Moi	1,962,866	36.4 %
Ford-Asili	Kenneth Matiba	1,404,266	26.0 %
DP	Mwai Kibaki	1,050,617	19.5 %
Ford-Kenya	Jaramogi Oginga Odinga	944,197	17.5 %
KNC	George Anyona	15,393	0.3%
PICK	John Harun Mwau	6,449	0.1%
KSC	David Mukaru Ng'ang'a	14,253	0.3%
Total		5,398,037	
Turnout: 67.8% (Registered Voters: 7,956,354)			

Provincial Results

Province	Moi	%	Matiba	%	Kibaki	%	Odinga	%	Total
Nairobi	62,402	16.6%	165,533	44.1%	69,715	18.6%	75,898	20.2%	373,548
Central	21,882	2.1%	621,368	60.1%	372,937	36.1%	10,765	1.0%	1,026,952
Eastern	290,494	36.8%	80,515	10.2%	398,727	50.5%	13,064	1.7%	782,800
North Eastern	57,400	78.1%	7,460	10.1%	3,297	4.5%	5,237	7.1%	73,394
Coast	200,596	64.1%	35,598	11.4%	23,766	7.6%	50,516	16.1%	310,476
Rift Valley	994,844	67.8%	274,011	18.7%	111,098	7.6%	83,945	5.7%	1,463,898
Western	217,375	40.9%	192,859	36.3%	19,115	3.6%	94,851	17.9%	524,200
Nyanza	111,873	14.4%	26,922	3.3%	51,962	6.4%	609,921	74.7%	800,678
	1,956,866		1,404,266		1,050,617		944,197		5,398,037

Source: Multi-party Politics in Kenya ¹¹

Source: Throup, David: Charles Hornsby (1998). *Multi-Party Politics in Kenya: The Kenyatta & Moi States & the Triumph of the System in the 1992 Election*. New York: Long House Publishing Services, Cumbria, UK. ISBN 0-8214-1206-X, p. 435.

APPENDIX 4

KENYAN CONSTITUTIONAL REFERENDUM, 2005

Option	Number of votes	Percentage
Yes	2,578,831	41.88%
No	3,579,241	58.12%
Total	6,158,072	100.00%

Provincial Results

Province	Yes	%	No	%	Registered Voters	Turnout	%
Central	1,023,219	93.2%	74,394	6.8%	1,795,277	1,097,613	61.1%
Coast	64,432	19.3%	269,655	80.7%	967,518	334,087	34.5%
Eastern	485,282	49.5%	494,624	50.5%	1,977,480	979,906	49.6%
Nairobi	161,344	43.2%	212,070	56.8%	961,295	373,414	38.8%
North Eastern	12,401	24.1%	39,028	75.9%	237,321	51,429	21.7%

Nyanza	114,077	12.2%	822,188	87.8%	1,664,401	936,265	56.3 %
Rift Valley	395,943	24.5%	1,218,805	75.5%	2,668,981	1,614,748	60.5 %
Western	240,582	40.2%	358,343	59.8%	1,322,604	598,925	45.3 %
Total	2,532,918	41.7%	3,548,477	58.3%	11,594,877	6,081,395	52.4 %

Source: Electoral Commission of Kenya

APPENDIX 5: QUESTIONNAIRE

This study sets out to investigate the correlation between ethnicity and Kenya's transition to democracy. It is in partial fulfillment of the requirements for Masters of Arts Degree in Political Science, Department of Political Science and Public Administration, University of Nairobi. You have been purposefully and strategically selected as an opinion leader to participate in the research. Note that your responses will not be used for any other purpose apart from that stated.

(Where alternatives are given, tick or circle as appropriate)

1. Age
2. Gender Male Female
3. Education
 - Primary
 - Secondary
 - College
 - University
4. Occupation
5. The Kenyan population is comprised of numerous ethnic groups. Which of the existing ones do you belong to?.....
6. Are you aware of other ethnic groupings apart from the one you hail from? How do you relate with them?
.....
.....
.....

7. How would you rate the importance of your ethnic group in your daily political life in

Kenya

- Very important
- Important
- Averagely important
- Not important

8. Has there been any teal or perceived animosity between your ethnic group and others, or between some groups that you know of?

- Yes
- No

Explain

.....

.....

.....

.....

9. How would you describe the relationship between ethnic groups in Kenya

- Very good
- Good
- Fair
- Bad

10. In your opinion, what causes ethnicity in Kenya

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.....
10. What fuels ethnic animosity in Kenya?

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12. The voting patterns in the past elections in Kenya indicate the influence of ethnicity on people's choice of candidates and even political parties. Why is ethnicity such a big factor?

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13. What is the probability that a person from another ethnic group residing in your ethnic home turf can win either a civic or parliamentary seat?

- 100%
- More than 50%
- Over 30%
- Less than 10%
- 0%

14. Given the Veto vote to decide who becomes the president for this country if need be, who among the following would you appoint?

- Competent person from my ethnic group
- Any competent person
- I am non-committal.

15. In your opinion, what makes people push for one of their own to occupy the presidency?

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16. Do you think that ethnicity has been a stumbling block to the democratization of Kenya?

- Yes
- No.

If yes, as in 16 above, how?

.....

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17. Various socio-political problems in Kenya have been attributed to a number of causes. Do you think ethnicity is to blame for the following?

- Past ethnic clashes Yes No
- Misallocation and misappropriation of national resources Yes No

Leadership wrangles in Kenya's political history Yes No

Divisive politics and ethnically polarized political parties Yes No

Failure to honour the NARC MOU Yes No

2007 post-election violence Yes No

The stalled Constitutional Review process Yes No

18. In your opinion, is ethnicity a problem in Kenya?

Yes No

19. If yes in 18 above, how can the problem be solved or managed?

.....

.....

.....

.....

.....

20. How would you rate the role of ethnicity in political mobilization in Kenya?

- Very high
- High
- Fair
- Low

21. Is creating districts along ethnic lines promoting ethnic consciousness?

Yes No

22. Should political appointments to ministries and others public offices consider the ethnic configuration of the Kenyan society?

Yes No

23. Considering the ethnic divisions in the country, and the consequent voting patterns, do you think the winner takes it all system is appropriate for Kenya?

Yes No

24. Ethnicity being a major principle around which Kenya's politics revolve, do you think our institutional framework need to take cognizance of it?

Yes No

25. What system of government do you consider appropriate for Kenya?

- Parliamentary
- Presidential
- Hybrid

26. What structure of government would be most suitable for Kenya considering the prevalence of ethnicity?

- Unitary
- Federal
- Confederacy.

27. Why do you think ethnicity remains a potent force in Kenya's political processes?

.....
.....
.....

28. Would you wish for a Kenya completely free of ethnicity?

.....

THANK YOU.