

**ROLE OF EXTERNAL FORCES IN THE DEMOCRATIC CONSOLIDATION  
PROCESS IN KENYA: 1992-2005**

**BY**

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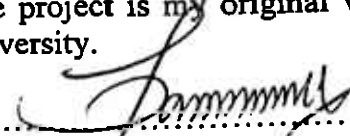


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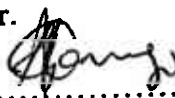
**DECLARATION**

The project is my original work and has not been submitted for a degree to any other university.

  
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Date

This project has been submitted for examination with my approval as a university supervisor.

  
.....  
Dr. Adams Oloo

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Date

## **DEDICATION**

This research project is dedicated to my beloved children Julian Awuor, Diana Seles, Brenda Netta and Ian Melvis and my wife Lydia.

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May you all be blessed.

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# CHAPTER 1

## 1.0 INTRODUCTION

Kenya returned to multipartyism in 1991 when section 2(a) of the constitution was amended to allow for multiparty politics. However, the struggle to institute political pluralism in Kenya did not occur singly and simultaneously. Several stages have marked the move towards democratic reform and these stages date back to mid 1980s when the democratization wave not only affected Kenya in particular but Africa and other Third World countries generally.

The democratic reforms brought major political changes in the country such as political and economic liberalization, multipartyism, competitive elections and improved accountability in both political and economic arenas, rule of law and observation of human rights. In other countries where democratization and democratic transition have taken place – although the two processes are hardly complete in themselves, organs of the state function independently and freedom of speech and wider participation do take place. Kenya since the multiparty elections of 1992 has followed along the path of consolidating democratic gains with a mixture of successes and failures.

Since the advent of multipartyism, institutions of checks and balances have been created as a way of ensuring that democratic achievements are consolidated, such institutions exist in the name of Kenya National Commission of Human Rights Commission, Electoral Commission of Kenya (ECK), Kenya Anti Corruption Commission (KACC), the Judiciary and various parliamentary watchdog committees. On the civil front a number of Non-Governmental Organizations – some affiliated to the churches, others to private groups, have been formed to offer backup or to check government activities on its citizens.

However, where these achievements have been outlined and highlighted, their causes remain understudied or assumed. For example, a complete picture has not been given to show how external forces have influenced such processes of democratic reforms. Either

empirical or theoretical analysis pointing to the role these forces have played is yet to be demonstrated.

This study therefore seeks to understand the role that the external forces have played towards democratic consolidation in Kenya from 1992-2005. The study also points out that consolidated democracy is not merely an outcome of the government's goodwill nor is it an exclusive effort of domestic forces. Although no analysis has been done to know the role external forces have played, the study focuses on their activities by attempting to answer questions fundamental to consolidation such as whether institutional reforms being undertaken have external undertones or not.

### **1.1 Problem Statement**

Since the advent of multipartyism in Kenya, a number of major changes have accompanied the political liberalization and transition that followed thereafter. Notable changes have since occurred in the political arena where the various arms of the government have been reformed.

The Kenyan Parliament for example operates under a multiparty democracy. Executive interference with parliament and the judiciary has considerably reduced. The parliamentary watchdog committees operate independently of interference from political quarters for the most part – although independence here is relative. Constitutional offices with the security of tenure such as the offices of the Chief Justice, Controller and Auditor General, Attorney General and Electoral Commission of Kenya have been for the wider part seen as cushioned against executive interference

Other independent institutions have also sprung up as a counterweight to perceived government excesses. Kenya Human rights Commission Deals with human rights issues. Transparency International (Kenya Chapter) deals with corruption and malpractice issues, and besides these, strong civil societies supported by the churches like Law Society of Kenya (LSK), National Council of Churches of Kenya (NCCCK), Citizens Coalition for Democracy (CCD) etc. have also considerably grown.

Democratic reform has also heralded changes in the body politics of Kenya whereby agitation for more political liberalization was achieved in 1997 with the adoption of IPPG (Inter Parties Parliamentary Group) recommendations. The spirit also led to expansion of the Electoral Commission of Kenya to include opposition representation besides initiating a reform process as was the case of the Bomas Constitutional Conference.<sup>1</sup> Since 1997 as a demonstration that democracy is getting routinized in Kenya,<sup>2</sup> successive elections have taken place within a 5 year period stipulated in the constitution. Elections of 1997 and 2002 took place within a scheduled period, thereby making indications that the government adheres to its constitution as the rule of law.

The elections were also conducted under the watchful eye of the election observers both from external agencies and local NGOs and pressure groups. Political Parties have since 1992 increased in number and are a bit autonomous. The freedom of association granted to political parties has been responsible for scaling up democratic achievement especially on the fronts such as freedom of speech and expression and individual rights. Since the beginning of political liberalization, the prospects of coups and underground movements have disappeared in Kenya and issues are articulated through Parliament and political parties. Multipartyism has generally brought a lot of changes in the democratization process in Kenya.

However, the analysis of the literature on the external achievements in Kenya leads to some loose ends that would make any analysts conclude that such achievements were either as a result of the good will of the government or mainly as a result of internal forces and actors. Some positive gains made in democratic considerations are therefore narrowly viewed as all internally or domestically initiated even as some could be due to external influences. While the internal account of the democratization process is well-documented external accounts of the same seems to have been neglected or at best only partially addressed. This study seeks to determine the role that external could be playing

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<sup>1</sup> Bomas talks collapsed in December 2002, then were revived in 2003 and concluded in 2004

<sup>2</sup> Linz Juan J. and Stepan Alfred. Problems of Democratic Transiting and Consolidation: Southern Europe, South America and Post Communist Europe. Baltimore and London Johns Hopkins University Press 1996.

in Kenya's efforts towards democratic consolidation. Our main research question is, what role and how have external forces contributed to the democratic consolidation process in Kenya? By successfully answering this question, the notion that the democratic consolidation forces were only an internal process driven by internal forces will be demystified. We shall also be able to account for the internal and external forces that are shaping the democratic consolidation process in Kenya.

## **1.2 Justification**

The democratization process and its impact worldwide has attracted international attention and at the same time generated international debate. A systemic process of the nature of democratization wave often generates divided opinions and various schools of thought that can only be harnessed by a certain systemic in-depth study. In most countries, democratization process is dismissed as a Western export, others say it is not new and was similar to life in the prehistoric societies<sup>3</sup> and as Hefner argued that some skeptics have dismissed diffusion of democratic ideas as Westernization pure and simple.<sup>4</sup> The general agreement in most circles is that democratization process is associated with Western countries and institutions.

Successive Kenyan regimes from the onset had been suspicious of multiparty politics. By deed and actions even after embracing multi-partyism, Kenya has shown little commitments towards meaningful democratic practices. Besides multiparty democracy came to Kenya after a great deal of pressure both internal and external. The Western world viewed the Kenyan government by the end of 1980's as a saboteur of democracy hence it became the target of Western pressure and influence as it (Kenya) continued to use various tactics to undermine democracy. The desire by Western governments and institutions to inculcate democracy in Kenya justifies the presence and continued role of external forces in the quest for democratic consolidation.

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<sup>3</sup> Weller Robert P. Democratic Civility: The History and Cross-Cultural Possibility of a Modern Political Idea. Edited by W. Hefner. New Brunswick, NJ. Transaction Press 1998 pp.229-47

<sup>4</sup> Hefner Robert W. Public Islam and the Problem of Democratization: Sociology of Religion 2001: 62:498.

### **1.2.1 Policy Justification**

The study of the role of external forces will help both the Kenya and the Western governments to review and re-evaluate their policies towards one another. It can also help in defining relationship between Kenya and the Western world. Besides the study can also help in building history of Kenya as a nation. The policy makers will also understand how certain comparative advantages (leverages) can be used to initiate change locally and globally.

### **1.2.2 Academic justification**

The study will avail data and facts to be used in studying democratic consolidation in Kenya. It will also enrich scanty literature on the role of external actors in democratic consolidation. This is due to the fact that existing literature on the subject is inadequate and limited; more so it is general and confined up to the transition stage. Little focus on external actors vis-à-vis domestic ones leads to existence of an opaque academic gap and thereby posing a continuity problem

## **1.3 Objectives**

### **General Objective**

The overall objective of the study is to examine the role and impact of external forces in consolidating democratic gains in Kenya in the period 1992-2005.

### **Specific Objectives**

- 1) Demonstrate the presence and influence of external forces in electoral process in Kenya.
- 2) Asses the external actors' role in political parties in Kenya.
- 3) Examine the impact of external actors on Kenya's human rights situations and civil empowerment.
- 4) Assess the extents to which external forces have determined constitutional reforms in Kenya.

#### **1.4 Literature Review**

The literature review of this study is centred on the various approaches both theoretical and conceptual, which various authors have used or adopted in discussing the role of external actors in promoting democracy worldwide. It should also be noted that in discussing the democratic promotion sometimes and in most instances, concepts such as political liberalization, democratic transition, democratization and consolidation are used interchangeably or generally taken as ways of promoting democracy with an eventual goal of consolidation. The assumption is taken because the processes mentioned above have no marked delineation neither can they be taken as complete at any stage – for example it is always hard to mark the end of democratization so that one can see the beginning of consolidation. Secondly there is no democracy that has been portrayed as fully consolidated in any part of the world. It is hence assumed that promotion of democracy is part and parcel of democratic consolidation.

#### **Democratic Consolidation as a Concept**

Like the concept of democracy, democratic consolidation is even more controversial with many competing views and assumptions. Democratic consolidation unlike democracy is a process that is normally engendered by combined functions of democratization and transitions. Although consolidation is perceived to be occurring after transition as maintained by Huntington, in most cases the two processes occur simultaneously or interchangeably. Huntington observes that,

“the euphoria that accompanied the “Third wave” transition to democracy has given way to more difficult realities in many countries... requiring effort to manage and consolidate democratic gains”<sup>5</sup>.

The process of democratization results into certain changes that are meant to sustain a democratic system such as democratic liberalization and democratic transitions. From a general perspective consolidating means creating, sustaining and preserving gains made by a democratic process. A consolidated democracy, though hard to find should have a record of successive elections, wider participation, acceptable constitutional order, free electoral environment, frameworks to guard individual rights and freedoms, etc.

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<sup>5</sup> Huntington Samuel P. The Third Wave. Democratization in the Twentieth Century. Norman/London. Oklahoma Univ. Press 1991

Various authors have written on how the external influence/actors/forces do promote democracy. The actors that have widely been associated with democratic promotion are USA, European community and Western donors, Britain, Bretton Woods, USSR in the late 1980s and the Catholic Churches<sup>6</sup>. Their ability to influence democratic outcome in other countries depends on how their foreign policies are designed and to some extent their motives and leverages.

According to Huntington, by 1980s most international actors had changed their foreign policies, like in the case of the Catholic Church, from being collaborator and legitimizer of authoritarian regimes to a promoter of democracy<sup>7</sup>. He argues that before the waves of democratization the Catholic Church was an obstacle to democracy. His argument is based on the fact that unlike Protestantism, the Catholic Church previously collaborated with regimes that were undemocratic.

However, certain theoretical generalizations have been made by authors to justify the need for promotion of democracy abroad by other countries and institutions. These theories rest basically on statism and modernization, which have dominated studies of democracy for years. Arguably, scholars agree that Third World countries have serious democratic problems although such countries like India, Mexico, South Africa and lately Korea, have embraced democratic strategies. Some questions are raised as to the attitude, practicality, seriousness and ability of the Third world countries to adopt democratic practices that can transform into a democratic consolidation.<sup>8</sup> Whitehead argued that, the third world governments, even if elected, never lasted for long before reverting to military regimes or that simple elections on their own were not enough to indicate the democratic credentials and that such elections were in themselves demonstration elections.<sup>9</sup>

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<sup>6</sup> O'Donnell G. Schmitter P. and Whitehead L. Transition From Authoritarian Rule: Latin America Baltimore, Johns Hopkins Univ. Press 1996 P.8

<sup>7</sup> Huntington Sanawel P. *opcit.* P.9

<sup>8</sup> Diamond Larry. Developing Democracy Towards Consolidation. Baltimore Johns Hopkins Univ. Press 1990

<sup>9</sup> Whitehead N. The Alternative to Liberal Democracy. Latin American Perspective in D Held ed. Prospects for Democracy. Cambridge Polity 1982 p.316



The statist and modernist writers point to state failure to live to its expectation as the rationale for need to promote democracy to third world countries. Modernization theorists like Przeworski (1995) argue that the failure or unsuccessful venture by the third world countries to embrace Western nations leave them vulnerable to authoritarianism and underdevelopment. In his analytical concept of "North-West Passage", he maintains that some association was perceived to exist between democracy and market-based affluence among the countries of the world<sup>10</sup>. The pro-modernization school cites grounds that impede democratization in the third world as a problem of legitimacy for new democratic institutions, no demonstrable effective governance, slow developing market economy and growth of illegal economic sector. They also say that institutional foundations of market are weak, and political influence and economic activity are only partially institutionalized within official state and market framework. According to O'Donnell (1997) such situations as the ones above result into pursuit of power and wealth through illegal and illicit channels and creation of new unaccountable institutions of their own.<sup>11</sup>

The modernization neo-liberal (capitalists) of Przeworski's view holds that active markets both sustain affluence and help build democracy by enhancing citizens' autonomy and security, while democracy guarantees basic rights and civil liberties. In a setting like this, civil society and its normative foundation gather strength and further aid democratization.<sup>12</sup> However, theorizing which authors on democratic promotion have generalized can hardly be said to be complete and true. What is clear is that some Western countries and agencies in the third Wave of democratization were determined to promote democracy. The reason for their democratic promotion and the motive depends on their foreign policies and various core secret interests only known to them. More so, modernization and statism theories have gone with the emergence of strong challenges from post modernist and dependence theories.

Widely available literature agrees that democratic promotion is a function of both internal and external forces. In the case of external forces, scholars and observers agree that

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<sup>10</sup> Przeworski Adam, Democracy and Market. Political and Economic Reforms in Eastern Europe and Latin America. New York Cambridge University Press 1995 p.3

<sup>11</sup> O'Donnell Guillermo. Illusions About Consolidation. *Journal of Democracy* April 1997 p.46

<sup>12</sup> Przeworski opcit p.3

indeed external actors can influence internal political events hence are a factor of democratic transition and consolidation.<sup>13</sup> However, most scholars counter this by asserting that external forces can only influence democracy in other countries in a limited way. They argue that while it is true they can and in some instances do influence democratic reforms, such influences are neither by nature limited and should not be overstated. These authors (Ottaway (1991), Whitehead and Lowenthal (1999) maintain a general view that democracy cannot be imposed from without since according to their observation, it springs from within. Ottaway pointed out that no amount of “engineering” from outside will bring democratic result in Africa because conditions within are still largely inhibitive.<sup>14</sup> She also sees democratization as purely a domestic battle to which outsiders can only make minimum contribution.<sup>15</sup>

The limited aspect of democratic promotion by external forces is further demonstrated in the analyses of other authors of democratization. Paul Drake (1991) in his case cites the failure by US to promote democracy in Latin America during Cold War era as a manifestation that, by then domestic forces in Latin America were not conducive for the political system (multipartyism) brought through external meddling, and concludes that democracy needed to grow out of internal conditions.<sup>16</sup> In the case of Europe, Adrian Price (1994) aptly agrees with Drake and asserted that at the end of the day, burden of democratic process is borne by Eastern Europeans themselves.<sup>17</sup> Lowenthal (1999) summarized the limitation of external forces in democratic promotion when he concluded:

“Democracy is not an export commodity, it cannot simply be shipped from one setting to another--- it is an internal process rooted in a country’s institution and values---”<sup>18</sup>

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<sup>13</sup> Huntington P. opcit p.87 and also see Dahl Robert A. Polyarchy. Participation and Opposition. New Haven Yale Un. Press 1971

<sup>14</sup> Ottaway Marina: African Democratization and Leninist Option *Journal of Modern African Studies* 35 No.1 March 1997 p.15.

<sup>15</sup> Ibid

<sup>16</sup> Paul Drake. From Good Men to Good Neighbours 1912. in Exporting Democracy. United States and Latin America eds. Abraham F. Lowenthal, Baltimore Johns Hopkins Univ. Press 1991 p.3

<sup>17</sup> Adrian G. Hade Price: Democratization in Eastern Europe. The External Dimension in Democratization in Eastern Europe eds. Geoffrey Pradham and Tatu Vahlamerna N. York, Routledge 1994 p.24

<sup>18</sup> Abraham F. Lowenthal. The United States and Latin America Democracy: Learning from History: in Exporting Democracy ed. Lowenthal 1999 p.402

Nyin'guro (1999) in his thesis also commented that external actors may not effectively influence the consolidation of democracy as much as they can influence its transition.<sup>19</sup> He also points out that external forces can be more important in influencing political liberalization where authoritarianism is a major target but cannot be strong during consolidation where moderate leadership is moving towards consolidation. Carothers (1994) also concluded along this line of Nyin'guro by arguing that what major powers and organizations do abroad is just to help countries initiate processes of democratization; in that the end point of consolidated democracy is usually far from being achieved.<sup>20</sup>

From the literature available, a generalization can be made that external forces have somehow a limited role to play in promoting democracy, and that political liberalization is more unenviable to external forces than consolidation. No matter how a foreign state or institution is determined to influence the other, the final outcome will be determined by opportunities presented by the domestic developments.

However, despite the contention that external forces have a limited role in democratic promotion, scholars such as Whitehead (1991), Huntington (1991), O'Donnell and Schmitter (1996), still uphold that external actors can influence democratic promotion in some ways. These include, pressure on undemocratic government to democratize themselves, support for fledging democracies that are attempting to consolidate, and maintaining a firm stand against undemocratic regimes that tend to threaten to overthrow established democracies. Democratic promotion in parts of the world falls under any of these categories. The first case and the third one were more applicable in the case of Latin America, Southern Europe, Southern Asia, West Africa and Eastern Europe. The Kenyan case is applicable in the second case where consolidation is intended to protect a fledging democracy, hence the pressure by Western nations and international organizations on Kenya to consolidate democracy that has been focused on constitutional reform, economic liberalization, political freedom, good governance, war on corruption and protection of human rights and freedoms.

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<sup>19</sup> Nyin'guro D. Phillip. United States Policy and The Transition to Democracy in Kenya 1990-1992 (Thesis) University of South Carolina (USA) 1999 p.50

<sup>20</sup> Thomas Carothers. The Democracy Nostrum. *World Policy Journal* XI No.3 (Fall 1994) P.51

The literature on external promotion seems also to anchor around the foreign policy of the actors. In some instances, the literature covering the periods before the democratization wave seem to omit democracy as policy issues in international relations except in USA. The empirical explanation of this is hard to give but theoretically; it can be generalized that prior to 1940s power relation was not much a threat as it was during the Cold War where ideological competition became the order of the day. After the Cold War democracy might have been promoted as a belief by the rest of the world that liberal democracy has triumphed over socialism.<sup>21</sup> However, as Huntington (1991) says, what was clear was that in 1980s foreign policies of the major actors changed and such changes aided democratic promotion.<sup>22</sup> Foreign policies can have some impact on democratization, where realist policy approaches are adopted; foreign actors can hasten or retard social and economic development thereby affecting democratic efforts.<sup>23</sup> Some democracies can overthrow others or countries not democratic, or rescue others threatened by non-democratic countries. For example, the Second World War allied countries, overthrew and occupied non-democratic Japan, Italy and Germany and at the same time Soviet intervention in satellite states of Germany, Czechoslovakia, Poland and Hungary, prevented the creation of democratic institutions in those countries.<sup>24</sup>

Another influence of foreign policy on democratic transition and consolidation concerns what Linz and Stepan call (1996), 'gate opening to democratic efforts.'<sup>25</sup> Formal or informal entities or empires largely responding to their own internal and geo-political needs may open previously closed gates to democratization efforts in regimes (e.g. most of the British Empire after World War II and Soviet block in Eastern Europe in 1989). Whether there will be a democratic transition or not and; whether it will lead to democratic consolidation or not is predominantly domestically determined.

In discussing democratic promotion in Latin America, Weigel (1990) adopted a liberal view that, the region being predominantly Catholic, embraced democracy more due to

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<sup>21</sup> Huntington opcit P86

<sup>22</sup> Ibid p.87

<sup>23</sup> Juan Linz and Stepan Alfred, Problem of Democratic Transition and Consolidation: Southern Europe, South America and Post Communist Europe. Baltimore & London Johns Hopkins Univ. Press 1996 p.73.

<sup>24</sup> Ibid

<sup>25</sup> Ibid

changed Catholic Church policies concerning liberal democracy.<sup>26</sup> He argues that the Vatican II Council of 1963 and its Declaration of Religions Freedom (*Dignitatis Humanae Personae*) transformed the Catholic Church from being a bulwark of the status quo – usually authoritarian to a force of change – usually democratic.<sup>27</sup> Wiegel’s remark is strongly supported by what Lipset (1979) had concluded earlier about the Catholic Church that by 1950s social scientists were “seeing Catholicism as an obstacle to democracy”.<sup>28</sup> Other changes on policies as in the case of Gorbachev’s *Perestroika* and *Glasnost*, EEC Enlargement Policy, and USA’s inclusion of promotion of democracy to other policy agenda had a marked drive towards democratization. However, these policies as scholars argue only projected regimes in power, but did not project institutions that could have been responsible for consolidation. They are first seen as instruments of dealing with authorities but not the institution and the citizens.

Closely linked with foreign policy is the concept of national interests. The literature on democratic promotion by external actors reveals a unique correlation between democratic promotion and national interests<sup>29</sup>. Some authors such as Whitehead have argued that promotion of democracy is not or may not be compatible by national interests<sup>30</sup>, others have pointed to the concept of democratic promotion as just an appendage to more important national interest ingredients (economic security, political power, etc.)<sup>31</sup> Pro-national interest groups maintain that foreign policy was designed with national interest at heart and there is no way democracy can be promoted together with national interest. Questions are often posed as to whether pursuit of national interest can be compatible or can either be pursued differently. Conceptually; countries promote democracies in others,

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<sup>26</sup> Wiegel George. *Catholicism and Democracy*. The Twentieth Century Revolution in the New Democracies. Global Change and US. Ed. Brad Roberts Cambridge MIT Press 1990 pp20-25.

<sup>27</sup> Ibid

<sup>28</sup> Lipset, Seong and Torres, *Social Requisites of Democracy*. *American Sociological Review* Vol.44 No.4 August 1979.P.25

<sup>29</sup> Kolodziej Edward 4. *The Pursuit of Order. Welfare and Legitimacy*. Explaining the end of the Cold War and the Soviet System. University of Illinois 1996 p.2

<sup>30</sup> Whitehead. In *International Aspects of Democratization*

<sup>31</sup> Morgenthau Hans. *Power Among Nations. The Struggle for Power and Peace* 5<sup>th</sup> ed. Calcutta Books Agency 1973 p.58

depending on how they perceive their national interest in those countries; such countries will intervene in others as they pursue their national interest<sup>32</sup>.

The literature also reveals mixed aspects of commitment by foreign powers in promoting democracy. The commitment varies from region to region or country to country, depending on the weight and depth of interests, for example the European Community (EEC) collectively applied pressure for Africa to democratize after the Cold War. However, as Olsen (1992) discovered, African countries were treated differently depending on the region and interest. France in 1996 failed to honour EEC suspension of aid to Niger after the military there disrupted the democratic process<sup>33</sup>. Western countries are however, unable to collectively push for total democratization of the Arab world in the Middle East.

Cases have also been noted where democratic movement, security and economic interest are fairly crucial but strong domestic forces are lacking, democracy promotion is not a goal as is the case with the Middle East and South Africa during apartheid. But where it is widespread and economic and security interest is minimal, promotion of democracy is pursued more vigorously. Carother (1994) notes that this is a “semi-realist strategy where democratic promotion alternatively emerges and submerges as per the policies of the Western powers.”<sup>34</sup> However, like in other discussions, pursuers of national interest and promoters of democracy have offered no detail on how consolidation can be instituted rather they assume that such policy goals are ends in themselves.

Another category of literature is that focusing on motives of promoting democracy by Western countries and international organizations. These motives vary as in the case of national interest and promotion of democracy, with country-to-country and institution-to-institution. However, they can be better understood generally when theoretical application is made for example, USA has had a theoretical rationale for promotion of

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<sup>32</sup> Alfred Torais. *The International Context of Democratic Transition Western European Politics VII* (1949) p.159

<sup>33</sup> Olsen Gorm Rye. *Europe and Promotion of Democracy in Post Cold War Africa. African Foreign Affairs* 92 No.388 (July).

<sup>34</sup> Carother Thomas. *Democracy Promotion under Clinton. Washington Quarterly* 18 No.4 1995

democracy especially after the Second World War. This theory borders on the assumption as expounded by Babst (1972) and Fukuyama (1989) that the spread of democracy in the world means the expansion of a zone of peace in the world. On the basis of past experience, an overwhelmingly democratic world is likely to be a world relatively free of international violence.<sup>35</sup> The view of the two has been supported by what Krauthammer<sup>36</sup> propagated in his study of the direction of democracy in the world. Huntington also pointed out this theoretical foundation that Americans have a special interest in the development of global environment is congenial to democracy.<sup>37</sup>

The general motive as most authors (Fukuyama(1959), Krauthammer(1930), Huntington(1991) and Babst(1972) seem to agree was the desire by the Western powers and institutions to promote capitalism. The fact holds true in the case of Southern Europe in 1970s, Eastern Europe, and in the former Soviet blocs in 1980s to early 1990s. The Western powers and institutions rigorously moved in to promote democracy in such areas to contain communism and speed up liberal democracy. Theoretically policy shifts whereby communism and its socialist tenets were declining, capitalism and liberal democracy was vigorously promoted. Western capitalists have always been keen to defeat communism and in political economic terms the collapse of communism with its command economy based on core periphery as dependence relations (linkages) marked the triumph of capitalism and free market economy.<sup>38</sup>

However, the promotion of democracy in Eastern Europe by the former Soviet regime was very confusing. The pressure from the Soviet for democratization in 1980s was only significant in Poland, Bulgaria and East Germany. Scholars seem not to agree on the Soviet role as they do in the case of Western nations and institutions. Others maintain that the impact on democratization in Eastern Europe and other former Soviet republics were

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<sup>35</sup> Dean V. Babst A Force for Peace. *Industrial Research* 14. (April 1972) pp. 205-235. Also see Quarterly 18 No. 4 1995.

<sup>36</sup> Charles Krauthammer. "Democracy Has Won" *Washington Post National Weekly Edition* April 3-9 1989 p.24. Also see Marc C Plattner Democracy Outwits the Pessimists" *Wall Street Journal* October 1988 p.20

<sup>37</sup> Huntington opcit p.30

<sup>38</sup> Francis Fukuyama. The End of History. *The National Interest* 16 Summer (1989) pp.3-18

as a result of the Soviet withdrawal than involvement.<sup>39</sup> Like the case of the Catholic where a visit by the Pope would determine a political outcome, in Eastern Europe and former Soviet republics, a withdrawal of involvement by the Soviet opened the floodgate for political reform. Huntington(1991) sees the withdrawal of the Soviet power as paving the way for the triumph of Western liberal democracy in the former heartland of communism and Marxist authoritarianism.

Scholars have also in their study of democratic promotion by external forces used religion as a case of analyzing democratic promotion exclusively. Some liberal scholars have asserted the role of religion as being core to democratic promotion. Huntington(1991), George Lodge(1970), Hugo Vilella(1979), Juan Linz and Gordon Bowen(1980) agree that religion is a factor in democratic promotion. They explain external promotion of democracy in Latin America, Asia, Southern and Eastern Europe and to a certain extent in Africa in terms of the development of religion. Their exclusion of Muslim world, China and Indonesia is a pointer that as religions, Islam and Confucianism may have incompatibilities with democracy. However, this area needs more research than generalization.

The liberal religious scholars argue that a strong correlation exists between Western Christianity and democracy. At the same time, they agree that modern democracy developed first and most vigorously in Christian countries and that democracy was especially scarce among countries that were predominantly Muslim, Buddhist and Confucian<sup>40</sup>. They point out a case of Korea where great Christian evangelical and Catholic expansions were major forces for bringing about transition to democracy in the 1980s. Lodge(1979), Vilella and Bowen(1979), like Linz(1980) have argued that the influence of the Catholic Church in promoting democracy in Latin America, South East Asia and Iberian Peninsula and Eastern Europe aptly co-opted anti authoritarian forces. They maintain that the grassroots masses were mobilized along new doctrines coming from the Vatican and Evangelists that basically supported opposition movements, which challenged authoritarian governments.<sup>41</sup>

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<sup>39</sup> Huntington opcit

<sup>40</sup> Krauthammer opcit.

<sup>41</sup> Juan Linz. Religion and Politics in Spain From Conflict to Consensus above Cleavage. *Social Compass* 27 No. 23 (1980) p.258



Arguments have been advanced that these two denominations (Protestant and Catholic) have democratic backgrounds especially the Protestants<sup>42</sup>. However, this assumption has always not been true, in most instances protestant evangelists become ambivalent to reform and instead concern themselves with self-preservation even in the Western world. The Catholic church has also been found to be harboring elements of Marxists who preached liberation theology, which did not lead towards democracy<sup>43</sup>. For Christianity although accepted by scholars as agent and means of democratic promotion, no demonstrated relation exists as to which is solely responsible for promotion of democracy, whether Western Christians, ideas, nations or institutions. More so where human rights abuses and authoritarianism existed, Christianity was not precluded, as both victims and culprits were Christians. Questions also still persist as to how Christianity single handedly or jointly with other forces will be responsible for democratic consolidation.

Literature on democratic promotion also points to a fact that personal influence by individuals can be responsible for democratic consolidation. A considerable literature has emerged that view the Pope as a major factor on democratization. The personal visits by the Papacy at the heights of the democratization wave also have an impact on democratic promotion as noted by Foy in 1987<sup>44</sup>. He argues that the purposes of the Pope's visit elsewhere was always said to be pastoral, but their effects were almost invariably political<sup>45</sup>. They were also made amid the papacy's denouncement of the violation of human rights and claims that the Church was the guardian of freedom – the human person's true dignity. The Pope's visits to countries in Latin America, Philippines, Korea, Poland and Eastern Europe and Africa in 1980s were themselves exportations of democratic message and spirit. Ash Garton(1989) adopted this line of argument when he remarked about the Pope's visit to Poland as a "great pilgrimage marking the beginning

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<sup>42</sup> They have Puritan origin and Ethnic hence were democratic Catholic for along time perceived to be undemocratic see Wiegel George opcit pp.20-25

<sup>43</sup> George G. Lodge – Engines of Change. United States and Revolution in Latin America. N. York Alfred A. Knopf 1970. Also see Higo G. Villela: Church and the Process of Demonstration in Latin America, *Social Science Compass* 26 No.2/3 1979 P. 264.

<sup>44</sup> Foy Felician. (Ed.) *Catholic Almanac, Indiana, Our Sunday Visitor Book* 1987 p.34

<sup>45</sup> Ibid p.34

of the end of communism in Eastern Europe”.<sup>46</sup> The Pope also imparted the brand of his authority and character to the priests and bishops who later struggled with authoritarianism like Cardinal Sin in Philippines, Glemy in Poland and Orbando in Brazil.

In the same vein the withdrawal of Gorbachev from propping up communist regimes in Eastern Europe led to eventual collapse of communism and ushering in of democracy. However, in the case of democratic promotion, a personal influence can also frustrate democratic promotion as witnessed in the stand of Castro in Cuba, Deng Xioping in China, Ayatollah Khomeini in Iran and several other dictators like Mobutu in Zaire, Botha in South Africa etc. Besides, a personal influence has little correlation with consolidating democracy and where institutions are lacking which are supportive or headed by such characters democracy can hardly be consolidated.

In analyzing democratic promotion in other countries, cause and effect approach have also been developed as a means by which democracy reaches other countries. The concept of “snow balling” or diffusion is sometimes known as demonstration effect. Scholars such as Ash(1990), Almond and Mund(1989) have used demonstration effect to explain democratization and transition in other countries of the world. Snow balling or domino effects are events that occur in another country in a given part of the world but because of widespread channels of communication (TV, Radio News papers, e-mails, etc.) create similar effect in other countries. The reasons as to the effect are varied. For example, countries and individuals under similar conditions and systems as the ones affected will immediately reflect on their circumstances and take similar cause of action like the one observed. Authoritarianism and one party-system normally have universal characteristics even if in different countries. The collapse of communism in Eastern Europe, the triumph of people’s power in Philippines and defeats of several former dictators in multi party elections in the third world heralded a world wide democratic revolution.<sup>47</sup>

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<sup>46</sup> Timothy Ash Garton: *Time*, December 4 1989 p.74

<sup>47</sup> Timothy G. Ashs. Eastern Europe. The Year of Truth. New York. Review Book Feb. 15 1990 p.17

However, even this approach has some shortcomings. It is only limited to the waves of democratization especially the third wave, and even here it was only due to what Linz and Stepan(1996) call "Zeitgeist". This is a German foreign policy concept of "the spirit of time".<sup>48</sup> It argues that events tend to occur during certain periods because the prevailing circumstances encourage such occurrences. For example after the end of the Cold War, the world was anti communist and one party dictatorship, which became widely discredited in favour of democracy and free markets. Snow balling only triggered changes in other countries with similar culture, linguistic affinity and to some extent authoritarian leadership. Even its timing when analyzed can be found to be discordant. In other countries it takes too long even years while in others it takes few months or even days. It can also not be controlled hence cannot lead to meaningful change. Countries, which experienced it, only ended with "demonstration election". Besides, it has never taken root in the Arab world. Above all it cannot and has never moved to the consolidation stage.

Some literature have also emerged that present democracy as a form of an inducement. Here the policies of Western donor institutions are responsible for this argument. By the 1980s and early 1990s, the World Bank, IMF and EEC (European Union) came up with a policy of "governance" in some cases presented as "good governance" or accountability. Authors of this view are Geusau(1980), Bangura(2004), Verney Gibbon and Mustapha(1993). Geusau and Verney argue that the resolution of Conference on Security and Co-operation in Europe (CSCE) by 1989 and 1990 detailed conditions such as respect to human rights and fundamental freedoms, rule of law, pluralism and free and fair elections. There was also ECC enlargement policy all setting conditions for the countries willing to join them. World Bank and IMF also set the conditions for accessing its donor fund as being good governance, respect to human rights and fundamental freedoms, democracy and pluralism.

Such policies have been formulated around a concern to universalize pluralists' politics and improve governance capabilities. USAID as well as IMF and World Bank made

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<sup>48</sup> Linz and Stepan opcit p.74.

“good governance” conditionality for aid<sup>49</sup>. World Bank in 1991 came up with a report; World Development Report of 1991 which attributed poor economic growth in most third world countries due to poor governance<sup>50</sup>, also in 1989 World Bank report, Sub-Saharan Africa: From Crisis to Sustainable Growth – both reports blamed the failed utilitarian role of states and recommended liberal policies for recovery based on improved governance.<sup>51</sup> US also came up with a policy of “Democratic Initiative”, “Favoured Countries” etc.

Whereas scholars have questioned the efficacy of the policies of donor institutions, certain perceived values have led to promotion of democracy. Verney and Geusau(1980) have presented some explanations that the membership in EEC was desirable and hence was essential step to economic growth and prosperity. It would also reinforce commitment to democracy and provide external anchor to retrogress into authoritarianism<sup>52</sup>. Being democratic can also make one’s membership prospect fairly high as in the case of Eastern and Southern Europe; in Spain and Portugal leaders in both countries always affirmed that their countries’ future rested unequivocally with Europe.<sup>53</sup> Kenya responded to donor demand when its aid package got frozen in 1991 by legalizing multi party.<sup>54</sup>

However, some authors question the use of aid to impose political policies. Carolyn Baylies argues that while aid conditionalities may assist the development of democratic movement in Africa, there is an irony in policies like structural adjustment they promote which can themselves undermine democratization.<sup>55</sup> The arenas proposed for reform like “the nature of political regime” are actually out of mandate of foreign forces. Still

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<sup>49</sup> Robinson Mark: Aid Democracy and Political Conditionality in Sub-Saharan Africa. *IDS Bulletin* 1993 pp.85-99

<sup>50</sup> Archer Robert. Market and Good Government in A. Clayton ed. Governance, Democracy and Conditionality. Oxford INTRAC 1994 p.7-34

<sup>51</sup> Francis M. Deng and William Zartman eds. Conflict Resolutions in Africa. Washington DC, The Booking Institution 1991.

<sup>52</sup> Geusau Frans A.M. Shaping the Enlarged Community: A Survey, in Form Nine to Twelve. Europe Destiny. Eds. J.S. Schneider. Al den Rijn, Noordhoff 1980 p.218.

<sup>53</sup> Havard J. Wiarda in The Democratic Transition and a New International Order ed. Robert P. Clerk and M. Haltzel. Cambridge Mass, Bellinger Publishing 1987 p.159

<sup>54</sup> Oyugi W.D. The Politics of Transition in Kenya 1992-2003. Democratic Consolidation or Deconsolidation in Oyugi W.D., Wanyande P. and Mbai Odhiambo C. The Politic of Transition in Kenya KANU to NARC. Nairobi Bill Foundation 2003 pp.345-375

<sup>55</sup> Carolyn Baylines. Political Conditionality and Democratization in the Politics of Transition in Africa eds. Giles Mohan and Tunde.

empirical evidence needs to be seen between good governance and economic growth. Also economic growth cannot necessarily lead to democratic consolidation neither can consolidation be induced.

The last area, which seems to present a diverse view, is whether there are universal instruments of democratic promotion by external forces in other countries. Countries like US have mostly used “eurocentric” and “Westernization” approaches more than liberal approaches they claim to represent. This raises a question of whether democracy is exclusively a Western policy of dominating the rest of the world. For example USA has used some approaches that are basically naive and may not augment one another necessarily. The following approaches have variously been used by USA: 1) Statement by presidents, secretaries of state and other officials through various media. 2) Economic pressure and sanctions. 3) Diplomatic actions by “freedom pusher” ambassadors and agents. 4) Material support for democratic forces 5) Military action and 6) Multilateral diplomacy.

Of the approaches listed above not more than two can lead to democratic consolidation (precisely Nos. 4 and 6) and the rest present a big dilemma in promotion of democracy. Joshua Muravchik(1991) states that “in the US there is a growing consensus that it should intervene abroad on behalf of democracy”<sup>56</sup> However, democracy promoted in a political intervention characterized by sanctions, rhetorics and military action will take time to take root leave alone consolidate. Evidence is abound in countries where mixed promotion has taken place like intervention in Haiti, invasion in Iraq, Afghanistan, Cuba (in Cuban case, a permanent US sanction has had no impact) that lack of universal approach can confuse democratization. Scholars such as Robert W. Hefner(2001), while questioning democratic ideas maintained that some skeptics have dismissed the diffusion of democratic ideas as “Westernization” and as “spiritual pollution.”<sup>57</sup>

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<sup>56</sup> Joshua Muravchik. Exporting Democracy. Fulfilling America’s Destiny. Washington DC. The AEI Press 1991. p.13

<sup>57</sup> Robert W. Hefner. Public Islam and the Problem of Democratization. Sociology of Religion 2001, 62:4 P. 491-514

Lack of a harmonized approach can somehow be attributed to a slow pace of the move to democratic consolidation. However, with all the different views and lenses used by scholars to write about democratization, a general consensus emerges that democracy is a worldwide policy concern and with the changing world the need for democracy is growing more and more. Issues such as terrorism, Islamic fundamentalism, economic crises, poverty, environmental degradation, threat of nuclear proliferation, clash of civilizations and globalization make the need for democracy to be more urgent in order to stop war and promote international security and new world order. Kolodziej (1996) was right when he concluded:

“Whatever the lags, in political developments characterizing people in a region or the dubious popular credentials of a specific regime, the democratization of the world society appears irresistible.”<sup>58</sup>

Using Kolodziej’s argument as well as those of Fukuyama(1989) and Joseph Nye(1992), there exists strong justification to promote democratic consolidation in the world so that newly emerging and antecedent global problems can be tackled in a peaceful liberal world; hence democratic consolidation remains a top global agenda.<sup>59</sup> They theoretically see the world as moving from realist, dependency and liberalism to neo-liberalism and complex interdependence order.

## **1.5 Theoretical Framework**

It is evident from the literature review that several authors have focused on the use of broad theories such as realism, idealism and to some extent liberal institutionism and internationalism to analyse and explain democratic consolidation. However, there is still some need for a theory that can explain the interactive relations between civil society and the state (domestic actors) influenced by international community (external actors) that revolve around a central authority (state/government). It has also been noted in the literature that the relationship between economic and political impacts on democracy needs to be theoretically or conceptually explained even if empirical evidence may be lacking.

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<sup>58</sup> Kolodziej opcit p.2

<sup>59</sup> Joseph Nye. in What new World Order? *Foreign Affairs*: Spring 1992 p.75

The establishment of stable and sustainable democracy according to Bangura(2004), requires substantial changes in form of accumulation such as an acceptable level of welfare that will allow majority of people to have confidence in the capacity of democratic institutions to manage economic social and political conflicts.<sup>60</sup> The general understanding here is that the state holds the key to democratization since it capsulates the liberal ideals, which the society needs for its equal development and existence. For democracy to take place a state has to be conditioned to liberalize its socio-political environment; hence the concept of political liberalization as a theory.

### 1.5.1 Political Liberalization Theory

As any other theory, political liberalization theory has debatable origin and efficacy. However, it is found to be appropriate to explain democratic consolidation. This theory falls under the wider neo-liberalism theory. Some writers have classified it as a neo-utilitarian theory since the focus is on the state and its constituent actors.<sup>61</sup> Scholars such as O'Donnell and Schmitter(1996), define political liberalization as the process of disassembling of authoritarian<sup>62</sup> regimes. Other authors like Heyden Chazan Bratton and van de Walle, see it as a process of disaggregation and subsequent reconstruction<sup>63</sup> Holm and Molutsi, sums it up through developmentalist school approach as building of an authority structure with the capacity and will to give direction to society<sup>64</sup>. Huntington maintains that liberalization is the partial opening of an authoritarian regime and then the consolidation of the democratic system<sup>65</sup>. Political liberalization is characterized by activities such as involvement of civil society, legitimizing and routinizing regimes<sup>66</sup> and encouraging economic openness to private participation (economic liberalization). As a whole political liberalization is the retreat of the state, opening up new spaces for

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<sup>60</sup> Yusuf Bangura . Authoritarian Rule and Democracy in Africa – Theoretical Discourse in The Politics of Transition in Africa eds. Giles Mohan and Tunde Z. Williams 2004 ROAPE Ltd. Sheffield UK.

<sup>61</sup> Evans Peter, The State as Problem and Solution. In Stephan Haggard and Robert Kaufman (eds) The Politics of Economic Adjustment. N.J. Princeton University Press 1992. PP.139-81

<sup>62</sup> O'Donnell and Schmitter. Transition from Authoritarian Rule Southern Europe. Baltimore Johns Hopkins Univ. Press 1986 p.6

<sup>63</sup> Bratton M. and van de Walle, N., (1997) Democratic Experiments in Africa. Regime Transitions in Comparative Perspective. Cambridge: Cambridge University Press.

<sup>64</sup> John D. Holm & Patrick P. Muliti. Developing Democracy when Civil Society is Weak. The Case of Botswana. *African Affairs* 89 Jul 1990 p.325

<sup>65</sup> Huntington opcit

<sup>66</sup> See Robert Dahl and his Concept of Poliarchy New Haven Yale University Press 1971.

political participation, the strengthening of civil society and construction of more productive relationships between the public and private sectors.

By early 1990s a new approach based on neo-utilitarianism emerged that limited African countries economic problems to statism; arguments were that ineffectiveness of the state is the root cause of economic underdevelopment in Africa.<sup>67</sup> The need was therefore to link economic reforms in Africa to political liberalization. Promoters of economic linkage to democracy viewed both forms of societies (political and civil) as an intertwined element of the struggle against authoritarian one party regime. According to Kanyinga, this new thinking reinforced the already widespread 'understanding' that a strong and free civil society would guarantee "good governance" and ensure that evolving leadership was responsive and accountable to the society,<sup>68</sup> civil society organizations that existed in the Western tradition (autonomous society) and the wave of change leading to political transition and consolidation especially in Africa. A consolidated democracy is viewed by the West as viable for economic growth.<sup>69</sup>

However, the theory of political liberation is not without some shortcomings as common with any other theories. It equated multiparty politics with democracy, it judges consolidation of democracy on the nature of political competition, political parties and other civil society viewed as strong enough to condition and wrest power from state elites. A variety of discordance exists in these perceptions. Multiparty politics in Kenya and Africa has not and may not fully evolve to consolidated democracy. As Onyeoziri (1990) maintains, democracy has never been handed down from above. It has always been fought for from below --- against the resistance of established elite and dominant class interest.<sup>70</sup> In most cases multi party pressure only yielded electoral democracy but not a consolidated democracy. Political competitions in Africa and Kenya are never fair, they are flawed, manipulated and have no supporting structures. They also end with the same elite in power as winners.

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<sup>67</sup> *World Bank Development Report 1991* ("Big State")

<sup>68</sup> Kanyinga. *Limitation of Political Liberalization. Parties and Electoral Politics in Kenya. 1992-2002* in Luddeki C. (ed.) *Electoral Politics in Kenya*, Nairobi Claripress 2002.

<sup>69</sup> Lancaster Carol. *Democracy in Africa. Foreign Policy* 85, Winter 91-72 1991 p.157

<sup>70</sup> Onyeoziri Fred. *Towards a Theory of Democratic Mobilization. The Comparative and Theoretical Perspective*. NPSA Paper 15<sup>th</sup> Annual Conference Paper Ibadan 1988 p.6. Issa Shivji: *In the Battle of Democracy*. CODESRIA Bulletin No.4 1990 p.9



However, democracy is generally accepted as good, liberal and has some tendency towards equality. Such democracy in this case should only be sustainable as Nyong'o argues, if it is home grown or if it is the product of domestic social struggle, which then leads to democratic consolidation.<sup>71</sup>

### 1.5.2 Theoretical Significance

In principle political liberalization (neo-liberalism) theory represents the liberal democratic view of the people, which demands equality, justice, peace, human rights and individuals' free will, both socially and economically. The theory also advocates effective self-management that needs to exist without or with little central authority wielding central power contrary to what exists in a non-democratic state where the authority has been reluctant to endow civil society with some power. Neo-utilitarian pluralists (neo-liberalist) argue along the above line by maintaining that a common interest can override individualistic or national interests and terms founded on common interests may be self-enforcing.<sup>72</sup>

Neo-liberalism seeks to empower civil society, which is known to generate horizontal authority that demands mutual participation by citizens in state managed affairs. James Muldoon argues, that civil society is a self-appointed "watch dog" of state activities on its citizen.<sup>73</sup> The theory therefore explains a requisite condition of co-existence that is required in a democratic state where state and civil society co-exist to promote and preserve the interest of the citizen. In arguing for the case of consolidation process, the theory of political liberalization helps the understanding that a consolidated democracy is that one of co-existence after civil society shall have achieved its share of a grip on governance previously held by the state and ruling elites. Finally the theory offers a lens for viewing the role of external actors in a democratic environment. In both liberalized politics and economy external actors are expected to play roles – mostly promotional and fair competitive ones - alongside autonomous private institutions and individuals. It

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<sup>71</sup> Nyong'o Anyan'g Peter, *Democratization Process in Africa*. CODESRIA *Bulletin* No.2 1991 p.4

<sup>72</sup> Vogler John. *The Global Commons* 2<sup>nd</sup> ed. Chorchester. John Willey and Sons 2000 p.185

<sup>73</sup> Muldoon James P. *Challenges of Multi lateral Diplomacy*. Seminar Paper to United Nations Association, USA New York 1999

serves well the overall goal of democracy to promote liberal institutions capable of existing in liberal and globalized world where state and public institutions are being relegated to peripheral realms.

## **1.6 Hypotheses**

### **Hypotheses**

- i) The realization of democratic consolidation is higher when external forces are continuously driving the process.
- ii) The extent of democratic consolidation process depends on the combination of policies of external forces and internal forces towards the institutions of governance.
- iii) Participation of external forces in the political processes will determine the democratic consolidation process.

### **Independent Variables**

The functions of external forces in democratic process (roles) serve as independent variables that will determine whether democratic consolidation is taking place. The functions will be seen in electoral participation, constitution making, political debate, economic assistance and civil society empowerment.

### **Operationalizing terms/concepts**

**External forces:** These are actors, or agents or agencies that emanate out of a given state realm. They may be systemic or akin to certain continents. For this study they include Western nations, United Nations Organization, European Union, World Bank, International Monetary Fund, Catholic Church, etc. They are viewed as agents of change in other countries.

**Democratic consolidation:** Safeguarding a state or society from reversing to dictatorship or authoritarian rule. It also means pushing ahead with democratic reforms or just building on structures that promote democracy like a constitutional legitimate electoral system, wide and free political participation, independent institutions of governance, etc.

## **1.7 Methodology**

### **1.7.1 Source of Data**

The data used was both primary and secondary extracted from written records such as books, journals, newspapers, magazines, theses and reports. Primary data was collected from field research through interviews using structured and key informant questionnaires. Interviews were conducted with leaders and authorities in the institutions that were visited in order to get more information.

### **1.7.2 Methods of Data Collection**

Data was extracted from printed and written materials. Collection of information entailed visiting libraries, internet websites and archives. Physical visits were undertaken in order to be in touch with institutions, which were earmarked to give information relevant to the study. Institutions identified were NGOs dealing with governance, foreign embassies, World Bank offices and human rights bodies.

### **1.7.3 Limitation**

The study focuses on external forces (actors) and their activities in democratic consolidation. It is centered around the second component of Laurence Whiteheads' projection of the international promotion of democracy which states that "other countries intervene in others to support fledging democracies that are attempting to consolidate"<sup>74</sup>. It is an appropriate component since Kenya is a fledging democracy. The repeal of section 2a and subsequent multi party elections did not completely free the political environment in Kenya. The country still faced several legal and administration problems that hindered the consolidation. The period 1992 to 2005 was chosen both for substance and data. This period marked the time when compiled external and domestic pressure on Kenya to reform was highest. It also witnessed subsequent elections and political activities in multi party environment. The domestic actors were equally active and vocal for reform and it was a time that external actors were likely to influence events in the

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<sup>74</sup> Whitehead L. The Alternative to Liberal Democracy. 1982 opcit p.316

country. Besides, various articles on democratic reform from electronic and print media were widely available.

#### **1.7.4 Scope of the Study**

The study is crystallized from 1992 – 2005 to fit within a thirteen year period. This is the period whereby democratic transition had taken place in most African countries. In Kenya it was the time when the young multiparty government was seriously grappling with democratization and on some occasions lost or regained consolidation focus. During this period fundamental changes driven by both domestic and external forces also took place leading to the constitutional amendment in 1997 to level the playfield. The study has been designed to capture the very trying time of democratic history in Kenya. The duration also allows for accurate accounts of the events by capturing other exigencies that ran parallel to democratic consolidation like economic liberalization and globalization.

#### **1.7.5 Research Problems**

During the research period, the problem of availability and reliability of data was faced. There was an enormous amount of data that was difficult to handle and at the same time posing reliability problem. There were also other problems relating to time, resources and attitudes. However, these problems were resolved by various methods. For data availability and reliability, a multi facet approach was used that involved discussions and consultation of both primary and secondary data. Respondents were selected through a purposive sampling that targeted established institutions and personalities in order to save both time and resources. Consulting varied official documents further reduced the bias.

## **CHAPTER 2**

### **2.0 EXTERNAL ACTORS AND KENYA: A BACKGROUND**

#### **2.1 Introduction**

This chapter examines the relations, contacts and influence, which external actors have had with Kenya beginning from the pre-independence period. These involvements are assessed using mostly ideological lenses since their overall impacts depend on what system of governance they left to Kenya. The first section of the chapter will examine external influence in Kenya from the end of the 19<sup>th</sup> century to the colonial period; the second and the third parts will address Eastern-Socialist countries' influence in Kenya before and after independence. The fourth, fifth sixth and seventh sections respectively cover the Western countries' involvement in Kenya at various stages. The chapter presents an overall argument that external influence can alter or strengthen political reform and stability or that on the contrary, lack of external influence can weaken the political position of reform activists /advocates.

#### **2.2 European Foothold in East Africa and Advent of Colonialism**

The earliest foreign contact with what is now known as Kenya today dates back to early Arab trade with the East Coast in 12<sup>th</sup> century and before<sup>1</sup>. This thriving trade also extended as far as China, India, Pakistan and Sri Lanka (these areas commonly known as the Orient). However, it was the coming of the Europeans in East Africa in the later parts of the 19<sup>th</sup> century that led to the creation of the Kenyan territory.

The partition of Africa under the Berlin Conference 1885 – 1886, put the modern day Kenya and Uganda under the British Protectorate ruled by the Imperial British East

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<sup>1</sup> Some historical records have suggested that Egyptians, Phoenicians, Greeks, Romans Persians and others might have visited East African coast countries before the birth of Christ. Also see B.A. Ogot. A Survey of East African Coast. Nairobi/London. Longman 1974, p 102

Africa Company (IBEACO) under the supervision of the British Foreign Office<sup>2</sup>, until 1905 when East African protectorate governorship was transferred to the colonial office and the area which later become Kenya under the Stewardship of governor Sir Edward Northey<sup>3</sup>. Under the Protectorate the famous Kenya Uganda Railway was constructed from Mombassa in 1895 and reached Fort Florence (Kisumu) 1901. In 1906 a new constitution was introduced in the protectorate under which the commissioner become the governor and in the same year executive and legislative councils (LEGCO) were introduced but only with European representation<sup>4</sup>.

European settlers began arriving in Kenya in the early 1900s and this had an impact on the African socio-economic life. African land was alienated by the white settlers who viewed fertile highland in Kenya as belonging to the white farmers hence called the "White Highlands". Africans were dislodged from their land to become squatters serving only as white laborers. Segregation also became rampant in towns, in transport systems and in working places<sup>5</sup>. Africans were subjected to the indignity of *Kipande* system in order to prevent African laborers from deserting white farms.

Economically, the African economy was interrupted by the imperial capital economic system based on cash economy and this greatly marginalized Africans and was a first step of creating a dependent economy. Socially the Africans were forced to start resorting to labour movements as a way of reversing their unbalanced master-servant relations. Immediately after Kenya became a colony, labour related movements began to appear. Politically, early resistance to the alienation of the African land and colonial rule altogether saw Africans advocate for ending the white domination under well-known resistances such as the Nandi resistance and the Mau Mau movement. These movements were accompanied by the formation of political associations such as the Young Kikuyu Central Association, (YKCA) later to become the Kikuyu Central Association, the Kenya land freedom Alliance and the Young Kavirondo Tax Payers Association. They served as means of trying to gain control by Africans over their land and freedom.

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<sup>2</sup> Bailey Jim Kenya. The National Epic. Nairobi Ken way Publication 1993 p 15.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid p 13.

<sup>5</sup> See Kaggia Bildad. Roots of freedom 1921-1963 Nrb. East African Publishing House. 1975.

During this colonial era there was also intense activity of missionaries whose works as most freedom fighters such as Odinga, Kaggai and Mboya agreed, were to pacify Africans to be loyal subjects of the colonial government. Odinga(1968) remarked, “the colonial Administration and the missionary were different representatives of the same white authority”<sup>6</sup>. The Missionaries opened various church centres, which also acted as points of educating Africans mostly on Christianity and apprenticeship. During the Second World War Kenya’s unique role emerged when Africans were compulsorily recruited to the Kings African Rifles (KAR) to fight for Britain against Germany, Italy and Japan in the war. The war adventure took the African fighters to India, Ethiopia, Madagascar, Burma and Palestine. With the end of the war, the former soldiers got bold and started mobilizing Africans for resistance against the British rule.

Second World War veterans, decided to break the influence of settlers in Kenya who were retarding Kenya’s progress towards self rule and were a stumbling block to the rise of African nationalism. In 1952 African nationalists mounted the first armed rebellion under “Mau Mau” movement, which forced the colonial government to act very first to contain the movement within two years by declaring a state of emergency and arresting the supposed leaders such as Jomo Kenyatta, followed by banning Kenya African Union (KAU) and other nation wide political organizations<sup>7</sup>.

However the British government moved towards granting Kenya’s eventual independence<sup>8</sup>. A series of elections were held in 1957 and 1958 aimed at having more Africans in LEGCO in order to include more Africans elite in preparation towards self rule. They adopted a parliamentary system of Government with majority party or coalition of parties required to form a provisional government. The politics however were concentrated at the district level until 1961 when the emergency was lifted. KADU and KANU parties were formed in 1960. The first national election was held in 1961 and

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<sup>6</sup> Odinga Odinga. Not yet Uhuru, London Hienamann 1968. p 75

<sup>7</sup> Tom Mboya. Freedom and After. London, Andre Deutsch 1963. Also see Wasserman Gany Politics of Decolonization. Kenya European and Land issue 1960 – 65. Cambridge Univ Press 1976.

<sup>8</sup> Gordon David. Decolonization and the state in Kenya. Boulder Co. West view press 1986 also see Gertzel Cherry. The politics of Independent Kenya 1963-1968. Nairobi E.A. Publishing Hse 1970.

KANU won with 67 percent of the votes cast against KADU's 33 percent. KANU then demanded Kenyatta's release and in August 1961 he was released and assumed KANU's presidency.

After a series of constitutional negotiations between the two parties in Lancaster, a new constitution was agreed on and elections under this new constitution took place in May 1963 to pave way for Kenya's Independence. In this election KANU won 54 percent of the votes with 70 seats while KADU got 26% of the votes with 32 seats and the remainder was shared among minor parties and independent candidates. KANU formed the first elected African government with Jomo Kenyatta as the Prime Minister on 1<sup>st</sup> June 1963 and full independence followed on 12<sup>th</sup> December 1963. In 1964 KADU crossed the floor to join KANU and Kenyatta became the president of the Republic of Kenya<sup>9</sup> thereby completing the process of creating Kenya as an independent nation.

### 2.3 The Colonial Kenya With The Socialist East

As early as 1920, Africa was viewed by Vladimir Lenin of USSR as capable socially and politically of arriving at the Soviet system and achieving communism without passing through the stages of capitalism<sup>10</sup>. Africa therefore in the eye of the Soviets could be used to demystify capitalism. The Soviet's close tie with anti colonial movements in Africa was seen in the light of attempting to combat the colonizers so as to widen the anti imperialist front. In such a solidarity venture, the Soviets approached the Kikuyu Central Association in 1920s and 1930s for mutual assistance although the leadership of the movement was not in the hand of the working class but of the progressive national bourgeoisie<sup>11</sup>. Jomo Kenyatta visited Moscow in 1929, 1932 and 1934 ostensibly to solicit collaboration with the Red International Labour Union (RILU) and other socialist labour organizations<sup>12</sup>.

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<sup>9</sup> Ogot B.A. and W.R. Ochieng' eds. *Decolonization and independence in Kenya*. Athens. Ohio Univ Press 1995, and Mboya Tom. *The challenge of Nationhood*, London, Heinemann 1970.

<sup>10</sup> Lenin V.L. *Vol 31. Imperialism. The highest stage of capitalism* 13<sup>th</sup> Ed. Moscow progress press 1966P. 130.

<sup>11</sup> *General History of Africa Vol. VIII. African since 1935*. California Heinemann 1993.

<sup>12</sup> Brown J. M. *Kenyatta*, London Allen and Lenwin Ltd. 1972 P. 268.



Towards independence and immediately after Kenyan nationalist leaders especially Odinga and Kaggia maintained a closer tie with the Soviet Union. For this group socialist orientation was a better policy that could make Kenya adopt an alternative approach to capitalist Development<sup>13</sup>. China was also exerting a strong influence in Kenya and Africa as a whole in order to gain diplomatic clout. It gave support to the Mau Mau movement to oppose British Colonialism because the Chinese regarded it as a force against imperialism<sup>14</sup>.

The support for liberation movements was a policy adopted during the International Trade Conference held in Beijing in 1950s, which resolved to "assist the African countries struggling for independence"<sup>15</sup>.

Further, the Bandung Conference of 1955 created a Third International Force between capitalism and socialist world system which made China view itself as a prime mover of this group having differed with the Soviets in terms of socialist policy brand and with US over the independence of Taiwan. The Chinese policy towards Africa in 1960s was fashioned along the (NAM) Non Aligned Movement policy that required third world countries to be neutral in Cold War, East-West rivalries.

#### **2.4 Kenya and the Socialist Countries after Independence**

The immediate period after Kenya attained its independence, it had a cordial relation with the socialist world<sup>16</sup>. This was due to the fact that Kenya had just emerged from a struggle with the British government, which represented Western interests in Kenya. However during the later half of the 1960s Kenya became one of the pro Western allies. Arguably this was the period when Kenyatta was attempting to consolidate his regime and was at odds with progressive KANU party leaders headed by Odinga<sup>17</sup>. The influence of Kenyatta and Mboya especially after the publication of Sessional Paper No. 10 of 1965 (African Socialism and its Application to Development) sessional paper No

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<sup>13</sup> . Ibid.

<sup>14</sup> Perking Review 15 August 1960 P. 16

<sup>15</sup> China News Agency No. 447 ated by B. Larkin China and Africa 1947 – 1970 Berkeley 1971

<sup>16</sup> Odinga Odinga Opcet P. 75.

<sup>17</sup> Ibid.

10 1963. African socialism and its application to development. GOK 1963, generated an anti communist hysteria in Kenya where the progressive KANU officials were branded as "Communist Agents" and were expelled from the party in 1965. Kenyatta while defending his pro Western stand reaffirmed "Kenya will not go communist"<sup>19</sup>.

However 1974 – 1975 period Kenya received US \$ 48 Million from the Soviet Union. This aid was partly intended to put an end to anti communist phobia during the 1960s. It can also be explained by the mere fact that in 1970s Kenyatta had effectively neutralized the influence of socialist leaning people in KANU and Odinga and his cronies' were in detention. Earlier before 1970, the anti communist feeling made a large part of aid granted to Kenya by the socialist countries remain un used with the<sup>20</sup> Soviet military aid to Kenya rejected as diplomatic relations with China and Czechoslovakia severed in 1966 and 1968 respectively.

Kenya's view of the Soviet image in the late 1960s contrasted sharply with the previous one before independence when it regarded the Soviet Union as the guardian of African Independence. Odinga in 1960 was quoted as saying;

" the USSR uses its prestige to help oppressed nations that want to free themselves from all forms of neocolonialism --- is always with us in times of struggle we will never forget this"<sup>21</sup>.

Russian economic aid to African countries was guided by a flexible aid policy as expounded by their head of delegation to an Afro Asian Conference in Cairo 1958 that;

"State what you need and we shall help you - -in the form of loans, technical aid do not need profits -- we do not ask you to participate in blocs --- we are ready to help you as brother helps a brother"<sup>22</sup>.

However the choice of recipients and the amount of aid was governed by certain consideration such as; strategic importance to the receiving country, its potential for reducing the influence of United States and China, its support for Marxist – Leninist

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<sup>19</sup> East African Standard Nairobi 1 March 1965 P.5.

<sup>20</sup> Steven C. Soviet Union and Black Africa. London, MacMillan 1976 P. 2 (Quoting Tom Mboya, the former Minister for Economic Planning.

<sup>21</sup> Pravda Newspaper 16 October 1960 P.3 and Radio Moscow 16 Oct 1960.

<sup>22</sup> Arzumanyan A. A. Head of Soviet Delegation to the Afro – Asian people's Solidanty Conference Cairo Egypt 1958.

Ideology and its value as a source of raw material and a commercial outlet<sup>23</sup>. Economic aid to Africa from the Soviet Union had the following features; low interest rates than those charged by Western donors ranging from 2.5 to 3 percent yearly with a grace period of usually one year and average repayment period of 12 years and it was provided in the form of loans. Projects financed by these loans also become property of the recipients countries upon completion<sup>24</sup>.

The Soviet involvement in Kenya can be summed up as having been motivated by ideology aimed at containing international imperialism,<sup>25</sup> strategy of checking the influence of US and China, to gaining raw materials in Africa and promoting trade. According to Thiam and Mulira Western economic and political influence dating back from colonial period, had continued to make itself felt through substantial Western investment and Kenyans with radical views had always been viewed as communists and therefore dangerous to civil peace and national development Western Influence continued and with Soviet increased presence in Somalia and Ethiopia Kenya opened more to the West as the year 1980 approached. In 1980 Kenya in surprise solidarity with the West boycotted Moscow Olympics to protest the Soviet invasion of Afghanistan even as this contrasted Kenya's position as a member of the Non Aligned Movement.

China's presence in Kenya after independence also was on the increase as it was before independence. In early 1962 and 1963, Chinese Prime Minister Zhou Lai toured Africa and visited Kenya too. During one of such tours he made a famous remark that "Africa is ripe for revolution"<sup>26</sup> and later condemned Western nations' tacit support for Ian Smith who made a unilateral declaration for the independence of Rhodesia. However relations between Kenya and China never developed to the level of the one of Tanzania and Kenya got far less from China than other Africa countries did. Between 1978 and 1980 Chinese financial aid to Kenya was received in the following areas; loans US \$ 16.8 million,

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<sup>23</sup> Dean P.D. and Vasquez J.A. From Politics to Issue Politics. Biopolarity and Multipolarity in the light of the New Paradigm Western Political Quarterly 29, 1 March 1976 pp. 7 – 28.

<sup>24</sup> Ethiopian Herald Addi Ababa April 1997

<sup>25</sup> Byakor P. eds. The Priorities of Soviet Foreign Policy Today: Moscow Progress Press 1981. See also UNESCO Vol. VIII p.810.

<sup>26</sup> UNESCO volume VIII opcet P. 810

donation of US \$ 3.1 million and a grant of US \$ 40 million for the construction of a modern stadium<sup>27</sup> (Moi International Sports Centre – Kasarani).

Like the Soviets, ideological leanings and national interests guided China's foreign policy. China believed that the African emancipation struggle represented an important stage in evolutionary struggle of proletariat against colonialism; it also wanted to be present in Africa where USSR and USA had been competing for supremacy. The Chinese government also felt compelled to help Africa out of colonialism, which at one time China itself experienced (it had semi colonial experience) under Western, Japanese and Soviet reigns<sup>28</sup>. For sometime in the 1960s Kenya's diplomatic relation with China like in the case of the Soviet was bad and Kenya eventually severed in 1966. The reason for this bordered on Kenya's anti socialist mood of mid 1960s, which also saw its link with Czechoslovakia, severed 1968. Kenyan government by then had major opposition from progressive individuals believed by the Kenyatta regime as pushing Kenya towards a socialist form of government. However after weakening a pro socialist group in government, the Kenyatta regime became friendly to the Eastern bloc although little trade and military exchange took place.

Thus Kenya has had some experience with socialist countries equally for a long period as with the Capitalist West. However the interactions were based on ideological extension, trade and economic promotion and strategic reasons. Throughout the Cold War period ideological containment defined relations between African countries with the East or West. Other considerations like strategic positions, source of raw material etc were weighed on the basis of how they can help either bloc or contain the other.

India also has had along history of ties with Kenya both diplomatic, economic and political. Strong Indian presence in Kenya begun in earnest during Arab rule of the East Coast and intensified with the decision by the Imperial British East Africa Company (IBEACO) to construct a railway line from Mombassa to Uganda. Because of India's abundant and skilled labour, the company (IBEACO) imported Indian labourers (Coolies)

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<sup>27</sup> Kenya Standard 17<sup>th</sup> Sep 1980.

<sup>28</sup> Yu G.T. China's African Policy; A study of Tanzania N. York Praeger 1975.

in 1895. When the railway got completed, these labourers settled in towns along the railway line and become traders. The current large number of Indian population in Kenya is from the above background although direct migration from India to Kenya has also taken place.

India's strong influence in Africa, however, can be attributed to individuals like Mahatma Gandhi and later to Jawaharlal Nehru. Gandhi who in his early years lived in South Africa bequeathed the ideology of Gandhism's non-violence<sup>29</sup> as an approach to political struggle for independence among the Third World Nations. Through the efforts of Gandhi and Nehru, India gave massive moral support to Kenya and other Africa countries in the field of international diplomacy<sup>30</sup>. After its independence, India became the leader of a large group of non-aligned lesser powers at the UN, which demanded the end of colonialism throughout the world. India under Nehru also helped hammer out the new multi racial common wealth of Nations which together with the Non – Aligned movement helped to define relationships between Third World Countries and the West during the Cold War.

Relations with Kenya diplomatically started in 1947 when Nehru appointed A.B. Pant as Indian High Commissioner in Nairobi. The commission promoted Africa – Asian solidarity by soliciting funds and scholarships in India while at the same time it could supply legal advice, weapons and munitions<sup>31</sup>. However in the course of the 1960s India's influence in the third world began to decline fairly rapidly. Among the reasons for decline were the increasing self-confidence of African states as their number in the UN expanded, its long border problem with China undermined it, the détente between the United States and the Soviet Union following the Cuban Missile Crises in 1962 brought international peace. However India's power has been boosted by the fact that it is among the fast industrializing nations, it is also the world's largest democracy hence is still a major actor in the politics of the Third World<sup>32</sup>. It has held a special interest in Kenya

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<sup>29</sup> Mazrui Ali A & Tidy M. Nationalism and New States in Africa. Nairobi London Ibadan . Hienamann 1978. P. 356.

<sup>30</sup> I bid P. 356

<sup>31</sup> Ibid P. 357

<sup>32</sup> Makhan Singh. History of Kenya's Trade Union Movement to 1952. East African Publishing House Nairobi 1969.

because of a fairly large number of the Indian population living in Kenya crucial to capital remittance home.

## **2.5 Western Influence in Kenya in the pre-Independence Period**

Western influence in Kenya before independence was mainly from Britain and the United States. However, there were instances where the philanthropists (missionaries) played identical roles to Western powers. Whereas Britain was the colonial ruler of Kenya, United States maintained a guarded interaction with Kenyan emerging leaders beginning the 1950s. Before the 1950s the US had little interest in Kenya as most of its commercial dealings were with the island of Zanzibar<sup>33</sup> although it occasionally used Mombasa as a port of call while patrolling the Red Sea and the Indian Ocean.

The US attention to Kenya had to change remarkably in 1950s mainly due to activities of the Mau Mau uprising that was gaining worldwide media coverage. In the US media, the Black American press highlighted the activities of Mau Mau contrary to the government's view that it was a "wicked movement" leading Kenya to "darkness"<sup>34</sup>. The official view was also that the leaders of the Mau Mau were extremists who were likely to embrace Marxism. This view made the government to reach out to trade union leaders in Kenya who were viewed as moderates by engaging them in talks with the permission and knowledge of the British authority. The move was undertaken under the pretext that such African nationalists could be groomed to become leaders in post colonial Kenya. At the same time the British authority had to be sought in order not to offend or undermine the colonial government's efforts. According to Peter Shraeder, the US government's policy position was that Africa was a "special European responsibility"<sup>35</sup> not to be undermined.

During this formative period, the US had its diplomatic agents and NGOs working through colonial authority in Kenya whose policies were tailored alongside the ones of

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<sup>33</sup> Okoth P. Godfrey USA's Foreign Policy towards Kenya 1952 – 69 Issues Application and Implications. Nairobi Gideon S. were press 1992

<sup>34</sup> . I bid.

<sup>35</sup> Shraeder Peter J. US foreign Policy Toward Africa. Incrementalism Crisis and Change New York Cambridge Univ Press 1994 P. 5.

metropole in the United Kingdom. This should sound highly contradicting because working under these policies; the US justified and promoted colonialism in Africa, although it has projected its image as being anti-colonialist<sup>36</sup>

A report by the US State Department in 1955, asserted that US policy was to work with British authority in Africa and it urged the British to “eliminate the root cause of Mau Mau malady” and “treat the root of its illness”<sup>37</sup>. This policy was also focused towards supporting and encouraging constructive nationalism and reform movements in colonial Africa before they could become influential and attractive thereby opening the floodgate to communism<sup>38</sup>. The only viable way US would follow, was to endear itself to the trade union movement in Kenya led by a young intelligent and vigorous Tom Mboya who the Americans were convinced would become a leader in post colonial Kenya<sup>39</sup>. Mboya’s Union movement called Kenya Federation of Labour got a lot of moral and material support from the US government, and several American labour movements. The first US private non-governmental organization; the American Path-finder fund immediately started family planning work in Kenya in 1950s.<sup>40</sup>

Mboya’s close US connection grew very fast with time and in 1957; he teamed up with US government and other private foundations to organize a famous student “airlifts” aimed at having many Kenyans sponsored to study in US Universities under academic exchange programme. This bold move according to the organizers would influence the future leadership in independent Kenya. The scholarship, would also mould Africans to the standards the US believed would make them become leaders in the next 10 to 20 years<sup>41</sup>.

As Kenya was moving towards independence its relations with the US increased and the latter reciprocated with economic aid. The period 1956–1965 Kenya received US\$ 34

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<sup>36</sup> Okoth Opiet.

<sup>37</sup> Us Department of State Instruction from Department of State. Washington D.C. No CA 7584 May 4 1995.

<sup>38</sup> I bid 77

<sup>39</sup> Goldworthy David. Tom Mboya. The Man Kenya Wanted to Forget. London Heinemann 1982.

<sup>40</sup> Miles Norman N. Kenya. The Quest for Prosperity, Builder Co, West view press 1984 P. 135.

<sup>41</sup> Les Department of State. Foreign Relations 1955 – 1957 Vol XVII P. 185.

million mostly to be used in agricultural sector research, secondary education expansion, Africanization of the civil service and food relief under the Food for Peace Programme.<sup>42</sup> It was increasingly becoming evident that the British were preparing to hand over in Kenya as worldwide de-colonization crusade was picking steam in UN circles where Britain and France were under increasing pressure to disengage from Africa. American assistance in form of financial technical and cultural cooperation increased. When Kenya became independent in 1963, US firms, organizations and citizens made emphatic presence in Kenya. Nairobi became a regional base or headquarters of American multinational firms.

## **2.6 Kenya - US Relations in the post-Independence and the Cold War Periods**

US assistance and cooperation with Kenya experienced an immediate rise in 1963, partly because the earlier contacts were effective, Kenya also needed US funds and lastly US wanted to rally Kenya behind it urgently. US released funds that constructed Royal Technical College (later named University of Nairobi), Kenya Institute of Administration (KIA), Kenya Labour Centre, Egerton Agricultural College etc. The US also initiated diplomatic link with Kenya immediately at the consulate level. The diplomacy and courtship focused on US interest regarding Kenya's geo strategic position in the Horn of Africa and its adjacent position to the Indian Ocean. This proximity according to Widner would make Kenya, "a possible launching site for a deployment force in the event of an incursion into the Persian Gulf by the Soviet Union or others"<sup>43</sup>. The US also coveted the deep Mombassa harbour that would help re-supply and refueling in any general war. True to their intention the US persuaded Kenya into signing the 1980 "Access Agreement" which allowed the US military port-of-call rights in Mombassa and permission to use Mombassa as a base for US military maneuvers in the region.

Events like the Revolution in Zanzibar in 1964 and Tanzania's adoption of a socialist policy in 1967 convinced US that it had to have a committed ally in the region to roll back any communist threat. The growing influence of Marxist – Leninist regimes in the Horn like Ethiopia and Somalia made the solid relations between Kenya and US more of

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<sup>42</sup> US Department of Commerce Statistical Abstract of US 1992. Washington DC GPO 1993 PP. 792 – 793.

<sup>43</sup> Widner Jenifer – Kenya's Slow Progress towards Multiparty Politics P. 217.



a reality. Okoth summed that the US relations with Kenya 1964 – 1989 were not guided by economic relations, but by geo-strategic and ideological ones<sup>44</sup>. According to Okoth, a comparative analysis done between Kenya and other African countries like South Africa, Angola, Nigeria and Liberia in the period 1964 – 89 reveal that US trade with those countries was higher than with Kenya up to 1985 when the trade with Kenya increased marginally to overtake Ethiopia and Angola. However this decline in the case of Angola and Ethiopia can be attributed to civil wars, unstable regimes and the shifting of US attention to Eastern Europe.

Smith Hemstone also pointed out in 1992 that, US private investment in Kenya was worth a mere US \$ 200 million compared to the US \$ 1 billion for the British<sup>45</sup>. Ideological consideration by the US saw it support and prop up the Kenyatta regime in the mid 1960s to defeat the “communist subversives” who wanted to take over the government. The capitalist West considerably funded KANU in the general elections of 1963 and 1967<sup>46</sup>. By 1960 Kenya even overlooked the NAM policies, to openly side with the West because the leadership, bureaucracy and elites in the Kenyatta regime felt that economic cooperation with the West benefited them more<sup>47</sup>. Kenya sided with the West in the Congo crisis of 1960s and allowed Pan American airline to land in its airport yet limiting the ones from the Eastern bloc contrary to what NAM stipulated.

Economically, Kenya took the Western path in 1965 when it proclaimed Sessional Paper No. 10 1965<sup>48</sup> which was more rhetoric in African socialism but more of championing Western domestic and foreign policies. The paper encouraged private investment and flatly rejected Marxism. Independent development policies which Kenya adopted, were the ones advised by the World Bank and IMF but built upon the policies and institutions left by the British. Khapoya maintain that by 1971 the expatriates from the West accounted for 83% and the ones from the East only 17%<sup>49</sup>.

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<sup>44</sup> Okoth opcit.

<sup>45</sup> Smith Heinstone

<sup>46</sup> Okoth Opcit.

<sup>47</sup> Ahwood William. *The Reds and the Blacks. A personal Adventure*, New York. Harper and Row 1968P. 157.

<sup>48</sup> Sessional paper No. 10.of 1963 Tended to discredit capitalism but facility it expound capitalist policies.

<sup>49</sup> Khapoya

Under military pact such as the one of 1980, Kenya also was to benefit by getting US \$ 250,000 annually to maintain the Moi Airport Mombasa. Between 1976 – 1983 Kenya received US \$ 5.8 million under the International Military Education and Training Programme (IMET) and military Assistance Programme (MAP) Between 1980 and 1990 Kenya received around US \$ 350 million in US military assistance and US \$ 150 million of foreign military sales cash and arms transfer<sup>50</sup>. Kenya was by the end of the 1980s the leading recipient of US security assistance in Africa<sup>51</sup>.

Not to be overlooked was the private US investment in Kenya. Many US multinational companies have been gradually arriving in Kenya since 1979. The investment area of these companies has been industrial production, food canning, hotel management, banking, insurance and transportation. Major US multinational companies in Kenya are; Firestone, Colgate, Palmolive, Del Monte, Union Carbide, General Motors, IBM, Coca cola etc. Nelson argues that the existing atmosphere in Kenya such as relative stability has ensured growth of US investment in the country<sup>52</sup>.

Structural Adjustment Programme (SAP) of 1980 created an economic crisis in Kenya and other African countries and hence once more the US stood as a good partner by being Kenyan guarantor for the loans secured through the World Bank and IMF. Kenya secured its first loan in 1980 and extended another in 1985. The US easily guaranteed Kenya due to its clout and influence in the donor circles since it has cross membership in the donor clubs, consortiums and is itself a shareholder with such institutions<sup>53</sup>.

Surprisingly, despite the US's claim of being emanating from the "Puritan ethic and background"<sup>54</sup> where democracy is thought to be heavily embedded, its relations with Kenya in the formative years up to late 1986 was not done on the basis of democratic promotion. Interestingly up to 1980 when some opposition to Moi autocracy was

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<sup>50</sup> . Ibid

<sup>51</sup> US State Department of Commerce statistical Abstract 1991 p. 31

<sup>52</sup> Nelson P. 228.

<sup>53</sup> US is a member of Paris club, IMF and WB, G7 OECD.

<sup>54</sup> Larson L. David. Objectivity, Propaganda and Puritan Ethic Princeton N. York Nustrand Co Inc. 1996 P.1

emerging, the US State Department still regarded Kenya's Human Right records as among the best in Africa<sup>55</sup>. Even as it was evident that Kenyans wanted democratic reforms, the US Assistant Secretary for African Affairs Chester Crocker in 1987 urged the US congress to approve the 1988 aid package to Kenya. He argued that Kenya deserved aid because it was an open political system with demonstrable ability to conduct dialogue and debate in issues of national importance in a fair and responsive manner<sup>56</sup>. The view of the US Department of State saw Kenya in the light of being an economic success and a politically stable country in the region. However as Hemstone (1997) later came to demonstrate such views in the US were distorted and blind to a noble necessity – democracy in Kenya.

## **2.7 Western Involvement with Kenya in the Post Cold War Era**

With the demise of the Soviet Union and the threat of communism, the Cold War era ended in late 1980s and this paved the way for a new world order dominated by the West and free market capitalism. However Kenyan funding and diplomatic partners even in the Cold War period still remained the Western countries<sup>57</sup>. The Kenya Economic Survey of 1990 gave Kenya's export to the West in 1989 for example as totaling Kenya pounds 447.4 million compared to the one of the Eastern European Kenya pounds 22.57 million<sup>58</sup>. In the same period Kenya's import from the Western countries including the US comprised 80% of Kenya's total world import. In terms of foreign investment, Britain, Japan, Germany, Italy, France and the US had the largest share of private capital in Kenya since independence<sup>59</sup>.

In diplomacy, Kenya also had more diplomatic posts in the West than the East during 1963 – 1978. During the same period, Kenya broke no diplomatic link with the West, nor rejected military or economic aid yet it broke diplomatic links with China 1966 and Czechoslovakia 1968 respectively and rejected economic and military aid from the Soviet

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<sup>55</sup> US State Department Statement by the Deputy Secretary of State for African Affairs in American Foreign Policy Current Document 1977 – 1980 Doc 666 P. 1237.

<sup>56</sup> Ibid

<sup>57</sup> US Department of State American Foreign Policy Current Document 1981 P. 19.

<sup>58</sup> Republic of Kenya Economic Survey of 1990. Nairobi, Government Printing Press 1991.

<sup>59</sup> Ibid.

Union. Even immediately after independence, Kenya allowed the last governor Malcolm McDonald to be the first British High Commissioner in Kenya and appointed Brigadier John Handy as the commander of the Kenya Army. In 1965, Kenya also rejected the OAU resolution by member countries to sever diplomatic ties with Britain over the latter's reluctance to denounce Ian Smith's unilateral declaration of Independence in Rhodesia<sup>61</sup>.

Because of its geo-strategic importance, Kenya benefited immensely from British and the US's military aid. In the 1979 – 83, period Britain supplied Kenya with more military hardware worth US \$ 130 million while the US's supply was worth US \$ 60 million<sup>62</sup>. The Access Facility Treaty of 1980 between Kenya and US, representing the West, allowed the usage of strategic infrastructure over the Indian Ocean, over flights and landing rights in Kenyan airfields (Embakasi and Nanyuki) was marked, according to Volman, a power projection operations in the Persian Gulf<sup>63</sup>. It should also be remembered that in the same period (1980) Kenya, following president Moi's second visit to the US, announced that it would boycott the 1980 Moscow Olympic in solidarity with the West, which opposed the Soviet invasion of Afghanistan in 1979. In the same year Kenya got a big supply of maize cereal from US to combat famine that ravaged the whole country.

However what defined the democratic history of Kenya was to be found in the period dating to mid 1980 when the International Financial Institutions (IFIs) mostly World Bank and IMF instituted a new economic policy meant to spur economic growth among the third world countries. Structural adjustment programmes were policies a kin to Western free market economy hence, they advocated for state withdrawal from parastatals and other key sectors of the economy through a process of economic liberalization and privatization. The policy option of SAP, however by 1989 were not achieving their goals, a fact which the World Bank later attributed to the state's inefficiency and inability to offer good leadership that could have led to sustainable

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<sup>61</sup> Ibid.

<sup>62</sup> US Department of Defense. World Military Expenditure and ARMS Transfer Washington DC. 1997 P. 137.

economic growth<sup>64</sup>. In view of this, the Western donor institutions commonly adopted a policy of political conditionality, which states that countries, which meet certain criteria, were the ones to access the donor funds. The criteria were collectively known as “good governance”.

The Banks understanding of good governance is thus epitomized by predictable, open and enlightened policy making, a bureaucracy acting in furtherance of the public good, the rule of law, transparent process and a strong civil society participation in public affairs<sup>65</sup>. The position of the World Bank was later adopted and modified by Western governments and aid agencies like United States Agency for International Development (USAID), Organization for Economic Cooperation and Development (OECD), European Union (EU) etc. They added the aspects of political pluralism, human rights and finally combining democracy with good governance. The relations between Kenya and Western donor agencies in the late 1980s to early 1990s were defined in conditional terms based on demands of good governance that would promote democracy.

The donor’s suspension of bilateral aid to Kenya in 1991 was done with a view that the Moi regime had failed to meet good governance condition by failing to legalize multiparty politics in Kenya<sup>66</sup>. The instance by Western donors and government in good governance conditionality was however seen as contradiction since no proper link has been established between economics, and politics. It was also understood as a way of opening up the Third World, which was viewed to be headed towards nationalism that in a way similar to socialism threatened the IFIs’ “global market project”<sup>67</sup>. The collapse of socialism left third world countries as the alternative potential threat to Western capitalism.

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<sup>64</sup> World Bank Report Sub- Sahara Africa from Crisis To Sustainable Growth 1989. Government the World Bank experience World Bank 1993.

<sup>65</sup> Robinson Mark Aid Diplomacy and Political Conditionality In Sub-Saharan Africa in Sorensen, Political conditionality IDS Bulletin 1993 PP 85 – 99.

<sup>66</sup> Ibid.

<sup>67</sup> Gibbon Peter. The world and New Politics of AID Political Conditionality London Frank Cass 1993 PP. 55 – 62.

The European Union, despite many years of cordial relation with African countries, also adopted the “good governance” concept and conditioned its aid to Kenya. It had also marked influence in Paris Donors Club Consultative meeting, which suspended aid to Kenya in 1991. However a number of undertakings have taken place between Kenya and Western donor countries, especially in the electoral processes. Although external actors have had interest in Kenyan election since 1963<sup>68</sup>, multi-party elections of 1992, 1997 and 2002 were noteworthy since they attracted the external actors collective interest. In 1992, the Commonwealth Observer Group (COG), the International Human Rights Law Group and International Republican Institute (IRI) were accredited to observe the first multiparty elections. In 1997 a more formidable donor group called Donors for Democracy and Development Group (DDDGD) that was composed of 24 Western donor countries was formed and accredited to observe the 1997 elections<sup>69</sup>. The DDDGD as the group was known was to coordinate election-monitoring activities, collect and analyze election materials and generally report on all aspects of the electoral process and outcome. Although their reports are often disputed, they point to the extents which donors have involved themselves in the Kenya electoral process.

On the side of empowerment and education, Western institutions such as International Republican Institute, Heinnzl Boll foundation, National Democratic Institute, and Konrad Adenauer Foundation have teamed up with local NGO’s and political parties. Western embassies have also initiated various programmes to educate people and parties on issues pertaining to democracy and the role of civil society. The Nordic countries relations with Kenya had been cordial for most parts of 1980 until in early 1991 when they insisted on Kenya improving on its human rights records. Kenya’s powerful delegation headed by the late Robert Ouko the then Minister for Foreign Affairs and International Cooperation visited the Nordic countries and explained the Kenyan case. However, the murder of Ouko in the same year and continued presence of Kenyan exiles in Scandinavia made them (Nordic countries) more critical<sup>70</sup>. Programmes funded by NORAD such as RDF

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<sup>68</sup> Gold worthy D. Opcit 219.

<sup>69</sup> Katumanga M. Internationalization of Democracy. External Actors in Kenyan Elections in Electoral politic in Kenya ed Ludki Chweya Opcit P. 173.

<sup>70</sup> Bangura Yusuf Authoritarian Rule and Democracy in Africa Uppsala.

(Rural Development Fund) and several water and sanitation projects were halted in 1991 when Kenya cut its diplomatic link with Norway.

## 2.8 Western Conflict of Interest in Kenya.

As expected the Western governments and financial institutions, known as crusaders of democracy, good government transparency and accountability could have called for such desirable changes in Kenya the end of Cold War. However this was not to be. Several reasons have been seen advanced but all agree that the need was to pave way for free capital market economy to flourish. Gibbon (1993) says that after the collapse of socialism, the Third World nationalism remained as a big threat to the Western free market advocates hence such countries had to be democratized urgently<sup>71</sup>. Some argue that the Western countries wanted to “shrink third world states” in order to open the whole world for globalism.

However the truth of the matter was that a part from the fear of communist infiltration that made the West to support authoritarian regimes in Africa, there was the conflicting self-interest attached with economic ties. Britain for example had vast economic interest in Kenya. The top banks in Kenya such as Standard Chartered and Barclays are British together with other big multinationals such as Lonhro, Unilever, Leyland, Land Rover etc. There were other Agricultural and Manufacturing interests. The British government has been doing big business with the Kenyan government in form of military supply and training. According to Katumanga (2002) Britain is a leading investor in Kenya and trading partner. She accounts for 20% of Kenya’s export market while Kenya constitutes her largest market in Africa<sup>72</sup>. Her investment in Kenya stood at US \$ 1 billion in 1993.

France was also reluctant to support democratic reform struggle in Kenya because of its close ties with the ruling elite. Over the years French companies undertook huge projects like Turkwel Hydroelectric power generation plant and Eldoret International Airport. It is note worthy that these projects remain controversial today in Kenya’s corruption

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<sup>71</sup> Gibbon J. opcit P. 36 , Ibid

<sup>72</sup> Republic of Kenya Bureau of Statistics 1994 – 95

history. Western donor institutions also remained more generous to Kenya for a long time. IMF and World Bank with the guarantee of Western nations gave Kenya a lot of financial aid. By 1994/1995 financial year the Kenyan government received a total of US\$ 7.576 million in aid. This accounted for about 41.3% of total government expenditure<sup>73</sup>. Germany and Scandinavian nations also have economic interest in Kenya but interestingly, have been the ones more critical of the Kenyan democratic process. Whereas Scandinavian countries insisted on human rights records, Germans engage both the government and opposition in talks to cultivate an atmosphere of dialogue<sup>74</sup>. The German Ambassador for example was more instrumental in organizing Inter Parties Parliamentary Group (IPPG) in 1997 that aimed at leveling the political playing field in Kenya.

With the above scenario, it would be inconceivable to anticipate the Western countries and donors to back genuine democratic changes in Kenya if such changes would lead to the demise of their economic, geo-strategic and ideological interests. The contradictory role of the Western powers and institutions towards democratization in Kenya however came to an abrupt end when the democratization wave gained momentum in late the 1980s. To this end it is important therefore to pose a question; why did these agencies change their policies towards Kenya?

As regards policy change, the Western countries and donors after the end of Cold War, embarked on a common policy direction towards then non-democratic states. These changes were partly due to the fall of communism in Eastern Europe and the quest for democracy by the former Soviet Satellite States. It can also be attributed to the fact that former hard-line pro-communist countries like China were slowly adjusting to the capitalist market economy and that the Western countries and institutions must have been convinced that liberal democracy was widely becoming desired by the people of other nations<sup>75</sup>. For example in Kenya, the US intervened directly when the US ambassador Smith Hemstone in May 1990 warned;

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<sup>73</sup> Ibid

<sup>74</sup> Katumanga opcit. P. 180

<sup>75</sup> Charlick R. The Concept of Governance and its Implication for AIDS Development Assistance Programme in Africa Washington DC Associates in Rural Development 1992 P 2.



“There is a strong tide flowing in our congress, which controls the purse strings to concentrate our economic assistance on those of the World’s Nations that nourish democratic institutions, defend human rights and practice multiparty policies”<sup>76</sup>. Although the Kenya government never took this statement seriously, the US policy on democratic reform grew quickly with several calls by US officials concerned with African matters. In April 1990 US Assistant Secretary for African Affairs maintained that democratization would join economic reform and human rights as a condition for the US assistance<sup>77</sup>. Two months later the British government also gave their political conditionality by stating that the British would favour countries tending towards plurality, public accountability respect for rule of law human rights and market principles<sup>78</sup>. France also followed suit what the US and Britain directed but added universal suffrage, press freedom and judiciary independence<sup>79</sup>. The World Bank also tailored its aid condition along political accountability, press freedom and pluralism in order to achieve economic development<sup>80</sup>. By 1989 the European Union USAID and Transparency International also directed their policies towards the promotion of pluralism and accountability. The Nordic countries (Norway, Sweden) on their part broke their diplomatic ties with Kenya on the basis of the latter’s failure to address human rights.

The change of policy proved effective. According to Diamond, the action of donors that was quickly reinforced by diplomatic pressure reforms agitation in Kenya heightened leading to Moi summoning parliament on 11<sup>th</sup> December 1991 to repeal section 2 (a) of the Kenya constitution that effectively legalized multi-partism and opposition politics in Kenya<sup>81</sup>. This could be true because in January 1992 president Moi conceded that the change to multipartyism was a result of Western pressure<sup>82</sup>. It seems economic pressure was more effective in terms of policy changes when we consider that it was the withholding of aid amounting to US \$ 350 million that led Moi to relent. It can also be

<sup>76</sup> Ake C. “Rethinking Africa Democracy” Journal of Democracy No. 1 (Winter 1991) P. 39 (Quoted US Ambassador to Kenya Smith Hemistone.

<sup>77</sup> Ibid P. 39

<sup>78</sup> Good Government and the Aid Programme Address of Mrs Lynda Chalker to ODI / Catham House (1991) Also quoted in Ake P. 39.

<sup>79</sup> Pearl T. Robinson. The National Conference Phenomenon in Francophone Africa 1993 p. 11.

<sup>80</sup> World Bank. World Development Report 1992 Washington DC World Bank 1992.

<sup>81</sup> Diamond Larry. Rethinking Civil Society. Towards Democratic Consolidation Journal of Democracy 5 No. 3 (July) 1994.

<sup>82</sup> Muigai G. Kenya’s Opposition and the Crisis of Governance. Issue Journal of Opinion of the US African Studies Association 21 No. 1 / 7 / 1993 P 29.

concluded that the delay of multi-party politics coming to Africa was a combination of external ambivalence and ruling elite's cunningness more than domestic actors' weakness.

The analysis drawn from this chapter point to the fact that Kenya since the colonial period has had influences from various countries of the world. At the initial stages of independence the relation was based on trade and bilateral cooperation. However, during the Cold War, the relations were based on ideologies, geo-strategic importance and economic potentials. The end of the Cold War saw drastic reduction of Eastern bloc influence in Kenya as the West led by the United States dominated world politics. Taking advantage of their dominance, the Western countries by the late 1980s adopted a common policy approach aimed at promoting democracy in Kenya through multipartyism. When Kenya adopted multipartyism in 1991 due to Western pressure, a conclusion can be drawn that the delay of multi party democracy coming to Kenya and the rest of Africa was more of a function of external actors' ambivalence than weaknesses of domestic forces.

## CHAPTER 3

### 3.0 THE DEMOCRATIZATION PROCESS IN KENYA: 1989-2001

#### 3.1 Introduction

The chapter explores the nature of governance in Kenya since independence. It will also assess the subsequent democratic reforms achieved during the transition period in the democratization process. The Review is necessary in order to present the political environment and governance in the country since independence. At the same time the nature of the two (environment & governance) justify the basis for political agitations that was witnessed in Kenya in the recent times and the needs to consolidate democracy.

#### 3.2 Post-Independence and Democratic Governance 1963-69

Kenya won its independence in 1963 from British Colonial rule and became a republic with Western system of democracy modeled along the Westminster Parliamentary system.<sup>1</sup> The new republic had a multiparty democracy with two major political parties namely KANU (Kenya Africa National Union) and KADU (Kenya Africa Democratic Union): A provision also existed for independent candidates who were not aligned to the major two parties. There also existed bicameral parliaments consisting of the Upper House and Lower House (House of Representatives). In the provinces the regions, (*Majimbos*) existed. The *Majimbos* were semi autonomous regional governments controlled by regional assemblies.

The independence election of 1963 and the by elections of 1966 were both conducted under a constitution which allowed for multiparty democracy. Despite the fact that KADU crossed the floor to merge with KANU in 1964, Kenya still operated as a multiparty democracy or more accurately a de factor one-party state. But there followed a series constitutional amendments, which abolished regional legislatures and *majimboism*. Kenya was also changed from a parliamentary system into a republic with president as both the head of state and government. KANU became a sole political party although it remained a loose

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<sup>1</sup> Bárkan D. Joel. The Rise and Fall of a Governance Realm in Kenya in Governance and Politics in Africa ed. Goran Heyden and M. Bratton. Boulders & London, Lynne Rienner Publishers 1992 p.167-190.

coalition of local and regional clientelist organizations that were mono-ethnic in character.<sup>2</sup>

However, in 1966 due to wrangles in KANU and government, an opposition party by the name KPU (Kenya People's Union) emerged to challenge KANU's strangle hold on power. The KPU leaders were in fact rebel members of the House of Representatives and Senate and were led by Jaramogi Oginga Odinga by then, Kenya's Vice-president. They defected from the ruling party and a by-election was called in 1966 to fill the post of 29 members of parliament who defected. The election was conducted after frequent harassment of the KPU members and with much government manipulation, only 9 members of the original 29 returned to parliament. In 1969 KPU was banned.

The years 1963-1969 can be said to be the first phase of Kenya's democratic rule where governance was conducted under a multiparty system with various democratic ingredients like a bicameral parliament and regional legislatures. However, during this period one aspect dominated the minds of ruling elites - a massing power by the executive - in order to exert personal authority. Odhiambo-Mbai notes that the emergence of autocracy or personal rule can be traced to mid 1960s.<sup>3</sup> More so KPU arose due to ideological differences whereby KPU maintained that Kenyatta and KANU had forsaken the objectives of independence concerning equitable distribution of Kenya's limited farmland.<sup>4</sup> KANU also accused KPU of being very much socialist oriented. By banning KPU in 1969 Kenya began to slide into real authoritarianism and democracy was greatly threatened.

### **3.3 Rise of Authoritarianism in Kenya**

Destruction of democracy gained at independence began in the mid 1960s, which is seen as the root of personal rule. During the said period, the first independent government caused the dissolution of the only existing opposition political party (KADU) and later systematically began to amend the original constitution that had carried the promise of the establishment of

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<sup>2</sup> Ibid 171

<sup>3</sup> Odhiambo-Mbai: The Rise and Fall of the Autocratic State in Kenya in The Politics of Transition in Kenya from KANU to NARC ed. Oyugi W.O., Wanyande P. and C. Odhiambo-Mbai. Nairobi Heinrich Boll Foundation 2003.

<sup>4</sup> Oginga Odinga: Not Yet Uhuru, London Heinemann 1968. p.51

a liberal democratic state in the country.<sup>5</sup> The amendment of the constitution was punctuated by the banning of KPU in 1969. By the early 1970s the ruling elite had managed to firmly establish an autocratic state in Kenya.<sup>6</sup>

The government decision to turn the country into a one-party system had negative impact on the state of governance in Kenya. It had a double effect of killing or suppressing competition between parties and institutionalizing competition based on narrow ambition of individuals in the party while seeking attention of the executive, instead of engaging in politics of policies and ideals. It also allowed the executive to snatch the steering of democracy in Kenya from legal institutions like parliament and competing parties that represented the interests of the citizens. Appointments made by executives after muzzling the legislature were based on ethnic consideration, loyalty and premeditated overtures instead of competence, diligence and affirmative considerations. The political actions that followed after 1969 cast a long shadow on democracy. Tom Mboya by then an ardent supporter of the government was assassinated in the same year, Oginga Odinga of KPU was put into detention and in 1975 a populist politician J.M. Kariuki was also murdered.<sup>7</sup> In all the instances the executive authority was said to be the major culprit of these heinous acts.

Kenyatta and Moi regimes up to 1980s relied on certain institutions of the government such as the provincial administration, the police and the judiciary which were used to protect the authoritarian policies which these leaders wanted. Odhiambo-Mbai (2003) remarked the following while analyzing the scenario:

"Throughout the 1970s and 1980s personal rule by Jomo Kenyatta and his successor Daniel arap Moi prompted repression, abuse of human rights, ethnicity, nepotism patronage and widespread corruption".<sup>8</sup>

He further argued that the actions of the leaders led to the beginning of the consistent decline of the economy from 1973 and the general deterioration in the efficient delivery of

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<sup>5</sup> Odhiambo-Mbai opcit p.51

<sup>6</sup> Ibid

<sup>7</sup> Goldworthy David. Tom Mboya. The Man Kenya Wanted to Forget. African Publishing Co. N. York and Heinemann. Londn and Nairobi 1982

<sup>8</sup> Odhiambo-Mbai opcit p.151 also see Barkan J.D. The Rise and Fall of Governance Realm in Kenya in Governance and Politics in Africa ed. Heyden Goran and Bratton opcit pp.165-172

public services in the country that have persisted to date.<sup>9</sup> The reign of Kenyatta was democratic in so many ways compared to Moi's. He tolerated some high level of professionalism even if the appointed servants were from his favoured ethnic leaning. Civil service under Kenyatta was stable and the occupants could hold onto those posts for long with minimal official interference. The Judiciary, civil service and even parliament functioned under some autonomy. The press had freedom of reporting intensively on the issues involving parliament and other government agencies. Electoral procedures and party politics were also not very highly manipulated by the authorities. The associational life thrived under the Kenyatta regime although they were used in a way, which had no connection to democracy. They were used to promote mostly ethnic interests. Consequently there were GEMA (for Gikuyu, Embu and Meru), Luo Union (for Luos), Abaluyia (for Luyia) and Akamba Union (for Kambas). There were other professional associations like Law Society of Kenya, Kenya Manufacturers Association (KMA), Trade Unions like COTU and activity related groupings such as Maendeleo ya Wanawake, National Christian Council of Kenya and Kenya Farmers Association. According to Barkan, these organizations broadened the base of the Kenyatta regime as well as serving as counterweights to the state and fostered a process of bargaining and mutual accommodation between the regime and civil society.<sup>10</sup> They also formed essential elements of a thriving democracy. However, Kenyatta's regime displayed authoritarianism by how he held onto instruments of governance like the military and provincial administration.

Both Kenyatta and Moi regimes used provincial administration and security agencies to their full advantage and to stifle democracy. The Provincial Administration was placed under the Office of the President and lumped with Internal Security. The executive was to be the immediate supervisor of the minister concerned. The holders of the Ministry used to be high confidants of the executive boss and operated secretively. Provincial Administration was administered by Provincial and District Commissioners, District Officers and Chiefs. They controlled regular Police, Administration Police and in security operation areas like Northern Kenya, they even commanded and coordinated the army and GSU (General Service Unit) forces. The rules and orders used were inherited from colonial government which used them to

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<sup>9</sup> Ibid p.51

<sup>10</sup> Barkan Joel D. and Fran Holmquist. Present State Relations and the Social Base of Self-Help in Kenya. *World Politics* 41 No.2 (January) 1989 pp.359-380.

control rebellions. The Chiefs Act and Public Order Prevention Act,<sup>11</sup> were both used by the government through provincial administration to deny citizens licenses for public gathering, rights to demonstrate and organize forums to inform people of political developments. The provincial administrators were also election nomination supervisors, political party mobilizers and election returning officers. Indeed apart from being used as a security instrument, it also served as a means of propaganda and political expediency<sup>12</sup>.

In the Moi era from 1978 abuse of governance was high. According to Barkan, Kenyatta contributed to the establishment of a governance realm by maintaining a high degree of professionalism and autonomy in the civil service and judiciary<sup>13</sup>. He argues that although Kenyatta's regime was an authoritarian one, especially during his latter years, and while he ruthlessly repressed any direct challenge,<sup>14</sup> it was not a system marked by the excesses of personal rule found elsewhere in Africa and later in Kenya itself. The presidency did not very much monopolize all sources of authority nor build a cult of personality around it. While Kenyatta's Kenya was not democratic, it was nonetheless a relatively open and resilient system with multiple secondary centres of power and a measure of real competition - and hence accountability at the local and regional levels.

From the first year of his coming to power in 1978, Moi presidency embarked on creating a power base revolving around him. The associational organizations like GEMA, Luo Union and Civil Servants Workers Association were prescribed - a move meant to weaken such institutions and paved way for manipulation and sycophancy. A slogan of "Nyayoism"<sup>15</sup> emerged ostensibly to rally people towards a unity path that his predecessor, Kenyatta, charted out. This slogan raised people's expectations beyond what Moi could deliver. In essence it was a populist approach by Moi to raise his popularity and was a harbinger of personal rule. Using the slogan while supposedly cracking down on corrupt associates of the old regime, he actually was ridding the government of former Kenyatta allies.

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<sup>11</sup> Chapters 198 and 56 of the Constitution of the Republic of Kenya.

<sup>12</sup> Nying'uro Phillip O. A Thesis Paper, The Role of United States of America in Kenya's Democratic Transition. 1990-92 University of South Carolina, 1999.

<sup>13</sup> Barkan, Rise and Fall of Governance Realm in Kenya opcit pp. 165-172

<sup>14</sup> Seen when T.J. Mboya, and J.M. Kariuki were assassinated and detention of Odinga and banning KPU.

<sup>15</sup> A *Swahili* word that means following the footsteps of someone

The Moi regime also displayed total contradictions to policy articulations he proclaimed and doubts began to emerge concerning the validity and rationality of Nyayo policies. The restructuring of education system accompanied by the introduction of the Milk Programme to schools and endless "harambees" geared towards schools; health centres and churches were not well-founded policies. While they sounded genuine and appropriate at initiation stages, they were not based on sound policy deliberations instead they were presidential directives that were lacking technical backings and consultations. They also were to be implemented by civil servants without questions and enough resources to do so. It also emerged that these new abrupt policies were heavily geared towards areas that Moi as a former KADU leader enjoyed core support and led to severe strain on resource distribution and caused policy disruptions.<sup>16</sup>

Nyayoism also destroyed institutions of governance such as local authorities and the civil society. Instead the provincial administration equipped with the Chief's and Public Order Acts was also given express authority to control all the activities in the regions. Chiefs and other administrators monitored political and social activities in areas they served. They collected party contributions, signed forms for identity cards and application forms for CBO formations and licenses, political meetings and all other forms of public gatherings. Apart from these administrators being unqualified, their top bosses, like District Commissioners and Provincial Commissioners were nepotically appointed. The existence of provincial administration meant muzzling political opposition and interfering with NGO activities<sup>17</sup>, since it was also responsible for coordination of NGO activities in respective areas all aimed to preserve the status quo of the regime.

In 1982 Kenya became a *de jure* one party state after the constitution was abruptly amended in order to block pluralist move by certain opposition politicians to form an opposition political party.<sup>18</sup> The reaction was varied and there was an attempted coup in the same year that further occasioned political changes in the country. The semi press that had

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<sup>16</sup> Barkan Joei D and Michael Chege: Decentralizing the State: District Focus and the Politics of Reallocation in Kenya. *Journal of Modern African studies* 27 No.2 1989 pp.431-453.

<sup>17</sup> Oyugi W.O. Role of NGO in Development and Governance. Seminar Paper Africa in the New Millennium 8<sup>th</sup> - 12<sup>th</sup> Dec 2002 Kampala Uganda.

<sup>18</sup> Gitonga Africa K. The Meaning and Foundation of Democracy. in Democratic Theory and Practice ed. W.O Oyugi, E.S. Atieno Ochiambo, Michael Chege and A. Gitonga. Portsmouth. N.H. Heinemann 1988



operated throughout the Kenyatta reign became under intense pressure and began to practice self censorship.<sup>19</sup> The general elections of 1983 conducted under a single party system produced MPs whose loyalty to the executive was excessive. Any questioning of a government policy would earn an MP a "disloyal tag" and could also earn expulsion from parliament and the party (KANU). Moi viewed KANU as a mechanism to control leaders with independent followings.<sup>20</sup> Consequently the KANU Disciplinary Committee was activated in order to contain party rebellion.

In parliament no meaningful discussion took place as loyalty to the presidency dominated the minds of the MPs. Besides, the electoral process, which led to parliament, was heavily interfered with or undermined by the government. The executive had much interest in the outcome of the election such that in the same constituencies, some people would be prevailed upon to stand down for others like in Kajiado North Constituency when Mr. Philip Odupoy, was pressurized to step down for Prof George Saitoti in 1983. Where that was not done, KANU as a party together with the Special Branch would proclaim certain candidates ineligible or the President would publicly endorse the candidate he favoured. In 1986 controversial electoral changes were announced by the President, where the use of ballot was discarded and replaced by the queue voting system.

The queue voting system led to what Amutabi and Were call a "practical democracy".<sup>21</sup> In 1988 the system was used, but the result was disastrous since it was conducted under fear, intimidation and outright rigging where the winners at nomination stages could become losers and winners. It was the most acrimonious election in the Kenya electoral history. Other electoral alterations were seen in the political creation of constituencies always when a general election was approaching-to accommodate favored individuals. Also in an attempt to amass more political support-the President often created "political districts" based along sub-ethnic clans or tribes with a claim that no group should be dominated or marginalized.<sup>22</sup> By use of

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<sup>19</sup> Nelson Harold D. "Kenya" A Country Study: Washington DC Government Printing Office.

<sup>20</sup> Barkan J.D. Rise and Fall of Governance Realm in Kenya opcit

<sup>21</sup> Were Edmund and Amutabi Maurice. Nationalism and Democracy in Africa. Eldoret, Moi University Press 2000 p.54.

<sup>22</sup> Moi, Daniel arap, Speech delivered at Kenya Institute of Administration Nairobi March 6 1985

KANU and provincial administration machineries, established leaders were undermined throughout Moi regime and the legislature never became credible.

Other institutions of governance dismantled also included the Judiciary and Treasury. The Moi regime also over a period of time removed the tenure of the Attorney General, the Controller and Auditor General and the Chief Justice. In 1988 with the removal of the security of tenures the executive had a leeway of interfering at will in the institutions. Compromised offices of the Attorney General and Chief Justice meant that grand official corruptions were not tried and instead trumped up charges were preferred upon the perceived dissidents. The Moi era had a high turn over of Attorney Generals and Chief Justices because their tenure was not respected. Political trials of opposition leaders and other progressive individuals were a common feature of Kenya up to early 1991 when multiparty advocates managed to force the government to open democratic space. It was also a great abuse of governance and individual fundamental freedoms.<sup>23</sup>

The Kenyan Government during the Moi era also moved in to regulate the activities of Non-Governmental Organizations. Before 1990 the activities regarding the NGO'S area of operations and permits were handled by the provincial administration.

These organizations constituted independent sources of authority<sup>24</sup> and their operations were dispersed across rural Kenya. This made the government to view them with a lot of suspicion because obviously they would seek to empower the rural and urban poor and create a potential source of opposition to the regime. In 1990 the government responded by passing an Act in Parliament called Non-Governmental Organization Coordination Act, which required that all NGOs registered with the government to continue with their operations<sup>25</sup> - the unregistered ones would be considered illegal. The Act also established a Coordination Board that set guidelines for the operations of NGOs and coordinate their activities. The Chairman of the Board was appointed by the President and could cancel, refuse to register or renew the licenses of NGOs whose activities were deemed not to be in the national

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<sup>23</sup> Anyan'g Nyong'o P. ed. Popular Struggles for Democracy in Africa. London, Zed Press, 1987.

<sup>24</sup> Republic of Kenya. The Non Governmental Organization Bill of 1990. Nairobi, Government Printer.

<sup>25</sup> Ibid 1990

interest. The Act gave the government unlimited powers to constrain and destroy NGOs which sidestepped its interest.<sup>26</sup>

Authoritarianism during Nyayo era was also widely seen in human rights abuses, lack of public accountability and transparency. Detentions without trial or after hurried trials dominated by a public prosecutor (at some stage called Deputy Public Prosecutor) were directed towards government critics sometimes tagged as dissidents or saboteurs. Prison cells where detainees stayed were squalid, dark and overcrowded as seen in the infamous Nyayo torture chambers in Nyayo House basement and Nyati House. In most instances people detained under such conditions ended up with strange diseases; they could be maimed or simply died due to torture, lack of treatment or food.

Whereas in a democracy public accountability transparency and legitimacy are hailed, Kenya during authoritarian era exhibited little or lack of such virtues. The people could not exercise their rights to question certain actions seen to be unjust and against popularly held values and norms.<sup>27</sup> The leaders associated with ruling elites could engage in corruption, tribalism and nepotism and still claim to be responsible government servants. On legitimacy most things lacked credibility and recognition. Elections had flawed outcomes due to rigging and interferences, court decisions were made as per political expedience and people bought themselves into leadership positions. Interestingly, with numerous elections that took place in Kenya successively between 1969 and 1988 no presidential contests were allowed.<sup>28</sup>

The Kenyatta and Moi rules in Kenya were marked by what Oyugi calls deconsolidation of democracy.<sup>29</sup> Jackson and Rosberg concluded that: "Throughout the Kenyatta and the Moi regimes in Kenya, the state was characterized by steady and systematic consolidation of personal rule."<sup>30</sup>

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<sup>26</sup> Oyugi W.O. *Role of NGOs on Development and Governance* opcit.

<sup>27</sup> Amutabi and Were – opcit p.55., also see Anyan'g Nyon'go P. Nationalist Coalitions and Rise of the Presidential Authoritarianism 1963-1978. *African Affairs* No.351 (April 1989) pp.229-251

<sup>28</sup> Oyugi Walter O. Politics of Transition in Kenya: 1992-2003 Democratic Consolidation of Deconsolidation in The Politics of Transition in Kenya from KANU to NARC. Eds. Oyugi Walter O., P. Wanyande, C. Odhiambo-Mbai, Henrich Boll Foundation Nairobi 2003

<sup>29</sup> Ibid pp.345-375

<sup>30</sup> Jackson R. and Rosber C.G. Personal Rule in Black Africa. Berkeley, University of California Press 1982.

The two authors maintain that the governance under the two regimes had centralized and personalized institutions where political participation in governance process was restricted to a select few. Masses were given little options but denied a chance to participate in elections that could produce contrary outcomes; instead they were expected to participate where the outcome would favour the status quo or continuation of regimes in power. The period 1966-1980 will be remembered in Kenya history as the one where authoritarianism thrived at the expense of democracy and thereby destroying the relationship between state and civil society – political control in Kenya was thus based on a hollow democracy until democratization wave set in by mid 1980s.

### **3.4 Democratic Agitations amid Authoritarianism**

Transition marks the interface from authoritarianism to a fledging democracy. In Kenya the two processes occurred during the democratization wave, which was high as from mid-1980s.<sup>31</sup>

Reform campaigners who challenged the state questioned the legitimacy of unpopular authoritarian government; they were led by urban middle class people who were influenced by changes taking place worldwide towards democracy. More so the reformists were boosted or lent support by Western donor countries and institutions, and international NGOs including Church based religious groups. Indeed democratization agitation in Kenya was both domestically and externally influenced.

Although some writers like Paul Drake(1991), Ottaway (1997) and Whitehead have argued that struggles for democracy are more domestically initiated than external,<sup>32</sup> the latter has greater influence in speeding up moves towards attaining full democracy. This is true due to the fact that in Kenya, the domestic forces were weak, divided and cowed by authoritarianism of the Moi regime. Democratic transition in Kenya can be traced accurately in the period 1990-

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<sup>31</sup> Huntington Samwel P. The Third Wave: Democratization in the late Twentieth Century. Norman, Univ. of Oklahoma Press 1991 pp.85-90.

<sup>32</sup> The writers believe that democracy cannot be imposed from outside see Paul Drake. From Good men to Good Neighbours 1912-1982 in Exporting Democracy, the United States of America ed. Abraham F. Lowenthal. Baltimore John Hopkins University Press 1993.

1992 – a fairly shorter period but more packed with political sequences that led to the multiparty politics in Kenya. However, the history of democratic agitation in general and multiparty in particular can be traced back to the 1980s. For example, after the infamous *Mlolongo* (queue) voting rule in 1988 the religious leaders mounted fierce criticism of the Moi regime. Earlier, when *mlolongo* system was proposed, religious clergymen like Henry Okullu of Maseno South Diocese, David Gitari of Mount Kenya and Alexander Muge of Eldoret Diocese argued that the intended electoral changes would not sustain democracy in Kenya.<sup>33</sup>

Political activities that kept the spirit of multiparty democracy going originated in 1982 when an erstwhile opposition leader Jaramogi Oginga Odinga teamed with George Anyona to plan for the formation of an opposition party. In response to this the government through the then Constitutional Affairs Minister, Charles Njonjo brought a bill in Parliament which was seconded by then the Vice-president Mwai Kibaki to make Kenya a *de jure* one party state. The bill was passed and became law, but its enactment generated a lot of political reactions. In August 1982, dissident junior officers of the Kenya Air Force staged an abortive military coup, which altered the political mood of the country. In the aftermath of the coup several officers of the forces were arrested and court marshalled. Other civilian critics of the government like Raila Odinga (then lecturer, University of Nairobi) and several others including students were detained. However, the coup made the professionals and intellectuals to champion the demand for democracy, the lecturers and students became crusaders of democracy and this made some to be arrested, detained and tried using very repressive legislation.<sup>34</sup> Even under the difficult political conditions clouded with repression and ruthlessness, the period saw the emergence and growth of certain underground movements like *Mwakenya*, the *December 12 movement*, and later on *Fera*; all using clandestine means like distributing anti government leaflets to demand for democracy.<sup>35</sup>

The crackdown that followed, often led to several advocates of such movements to flee the country. Some notable individuals like K. Oigi wa Wamwere fled to Norway and others to

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<sup>33</sup> Okullu's Turn to Face Politicians comments in the *Weekly Review* Sept. 26 1986

<sup>34</sup> Widner Jenifer. *Kenya's Slow Progress Towards Multi-party Politics*. *Current History* 91, May 1992 pp.214-218

<sup>35</sup> *Africa Confidential* – Facing *Mwakenya* 28 No. 3 January 1987

some Scandinavian countries and embarked on anti-Moi regime from abroad. By the end of 1987 anti-Moi campaigners in Kenya seemed to have been silenced as some were scattered abroad although the protestant churches at home formed another front to fight for democracy alongside a few reform crusaders. The year 1988 provided an opportunity for government critics to demand for full democracy. The elections of 1988 conducted under *Mlolongo* system was flawed, rigged and manipulated. This vindicated the religious leaders who had been skeptical about the system as it was being introduced. The year 1989 saw a strong resurgence of multiparty calls. This time round, the Moi regime was unlucky because the resurgence of democratic voice coincided with a systemic revolution whereby Eastern and Central Europe were witnessing the collapse of communist one-party systems (dictatorship) and their (systems) replacement with multiparty systems.<sup>36</sup> Africa too was engulfed in the wind of change and already multiparty crusaders were overcoming authoritarian regimes in Zaire, Zambia, Benin, Gabon and Togo.

Meanwhile in Kenya, there were growing repression and harassment of multiparty advocates as the beneficiaries of the incumbent employed all tactics propaganda and bribery to maintain a single party system. KANU became more repressive by using methods such as expulsion from the party, barring candidates from contesting, and at times used court cases such as election petition, bankruptcy, etc. to contain its critics. By 1990, people disenfranchised under underhand KANU methods; championed dissenting views and criticism of the government by calling for multiparty. Earlier Kenneth Matiba and Charles Rubia who criticized KANU policies frequently came into bad books with the government. They were later expelled and barred from contesting elective posts, but they used such alienations to be government critics and multiparty crusaders.

The euphoria for multipartyism engulfed the country and it became a national debate.<sup>37</sup> The government as usual responded by arresting and detaining Matiba, Rubia and Raila whom the authorities called; "traitors, saboteurs, tribalists and agents of foreign powers or

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<sup>36</sup> Gunther R.P. Nikiforas and Hans J.P. (eds). The Politics of Democratic Consolidation. Southern Europe in Comparative Perspective. Baltimore & London, Johns Hopkins Univ. Press, 1995.

<sup>37</sup> Grignon Francois. Understanding Multiartyisim in Kenva 1990-1992 Years. Working Paper No.19 French Institute Research in Africa. Nairobi, 1994.

simply anarchists out to fan ethnic violence in the country."<sup>38</sup> Repression that took place towards the end of 1990 seemed to have further silenced the democratic voices. It is argued that civil society, clergy and intelligentsia were once again scattered and cowed into silence.<sup>39</sup>

Domestic events were further complicated with the murder of Robert Ouko, the Minister for Foreign Affairs, in the same year. The advocates of multiparty capitalized on the death which was blamed on the government to call for multiparty democracy. The Moi regime became vulnerable as it grappled with a commission to absolve the government.<sup>40</sup> The church also increased criticism of Moi as newspaper editions and headlines focused on government's authoritarianism while glorifying multiparty crusades. The government was boxed into the corner by events in the political arena and was forced to fight its way back using a retreat tactic. In order to steal thunder from multiparty activists and steer-off multi-partyism altogether, the government initiated certain minimal changes, which included scrapping *mlolongo* system and reinstating secret ballot system and the 70% electoral rule, the famous expulsion from KANU was also abolished and reduced to suspension. KANU also called for a conference in November (same year) to seek views of Kenyans on multiparty politics and other problems associated with running of the party, and on electoral issues.

### **3.5 The International Community and Reforms**

Even as the international community believed that Moi was embracing multiparty democracy, towards the end of 1991, his regime was not relenting. It still held the nation that "the majority of Kenyans did not favour multi-partyism; hence Kenya was not ripe for multiparty politics."<sup>41</sup> The donors were amazed because in other African countries, the system is being adopted and the reform pressure led authoritarian leaders, such as Mobutu of Zaire, Kaunda of Zambia,

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<sup>38</sup> Ogot B.A. Transition From Single Party to Multi-Party Political System 1989-1993 in Decolonization and Independence in Kenya eds. B.A. Ogot and W.R. Ochieng. London, James Curry 1995 pp.239-261.

<sup>39</sup> Khadiagala G., Kenya, Intractable Authoritarianism. *SAIS Review Summerfall* p.54.

<sup>40</sup> *Weekly Review* Oct.5<sup>th</sup> 1990. Judicial Commission of Inquiry on Ouko Murder, was formed to investigate circumstances that led to Ouko's death. It was headed by Justice Evans Gicheru assisted by Judges Richard Otieno Kwach and Akilani Akiwumi.

<sup>41</sup> Anyan'g Nyong'o P. Accountability and Civil Society in Conflict in the Horn. Prospect for Peace Recovery and Development in Ethiopia, Somalia and the Sudan. eds C. Cliffe, D. Martin, A. Ahmed and J.M. Arkis. The Hague 1992 p.218.

Kerekou of Benin and Boigny of Cote d'Ivoire, succumb and legalize the multiparty democracy.<sup>42</sup>

Moi's stranglehold on power continued and was still being supported by ruthless authoritarian response to domestic agitation.<sup>43</sup> These approaches managed to scare and inhibit political activities of critics thereby easing pressure on his regime and sending operations underground.<sup>43</sup> Domestic opposition also continued to be weak and unfocused. The international community, which would have filled the vacuum, was still ambivalent and divorced even as the Kenyan government was being accused of misusing donor aid.<sup>44</sup> Norway, Sweden and Denmark stepped up their accusation on Kenya of corruption and mismanagement while the US Congress questioned Kenya's human rights records,<sup>45</sup> but still international intervention was not forthcoming. In October 1990 Kenya broke diplomatic relations with Norway after expelling the Norwegian ambassador to Kenya, accusing the latter of supporting Kenyan dissident Koigi wa Wamwere by then exiled in Norway. Norway retaliated by withholding and freezing its aid to Kenya leading to the grounding of the Rural Development Fund (RDF) projects funded by NORAD (Norwegian Development Agency). But at the same time, the international community went ahead to court Kenya with further aid pledges as seen in the case of Paris Donor Club Conference which took place in November 1990 where Kenya was promised further aid; the same was done by the World Bank.<sup>46</sup> Western countries viewed Kenya in other lenses not necessarily in democratic ones.

However, things changed greatly as 1991 unfolded. The international crisis in the Middle East reduced but left the West concerned that promotion of democracy can contain conflicts and wars, hence attention was turned to former undemocratic nations. Kenyan reform advocates adopted a bold and confrontational posture and got ready support from foreign missions. Demand to free political detainees gained currency and early in the year, Matiba, Rubia and Odinga were released.

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<sup>42</sup> In 1991 some countries mentioned above were holding their first multi-party elections

<sup>43</sup> Nyin'guro Phillip O. The External Sources of Kenya's Democratization Process. *Journal of Political Science* 25(1995) pp.5-35

<sup>43</sup> Widner opcit - pp 214-218

<sup>44</sup> Kuria G.K. "Confronting Dictatorship in Kenya". *Journal of Democracy* 2 No.4 (Fall 1991) pp.115-126

<sup>45</sup> Hemstone Smith. *Rogue Ambassador: An African Memoir*. Sewanee Univ. of the South Press 1997

<sup>46</sup> Grignon opcit, also see Diamond Lary. *Promoting Democracy in Africa*. p.201.



As pressure was building on reform, Jaramogi Oginga Odinga formed yet another political party called National Development Party of Kenya (NDPK) and sought its immediate registration. After staging a sit-in for some time in the Registrar of Societies' offices, the party did not get registration.<sup>47</sup> However, more and more people joined the fray to demand multipartyism, and in August 1991 a big group of multiparty activists teamed up and formed a pressure group to fight for the restoration of multipartyism in Kenya. The pressure group was called Forum for Restoration of Democracy in Kenya (FORD). It got full support from across the country and also among the religious groups. The government maintained in reaction

a stubborn position and continued to deny the group licenses for meetings and harassed its activists and sympathizers, including civil servants and NGOs.

Government's authoritarian approaches further continued when FORD announced that it would hold a public meeting at Kamkunji Grounds on 16<sup>th</sup> of November with or without government permit. On the night of 15<sup>th</sup> November, the leading activists were tracked down, arrested and arraigned in court the next day in their respective home districts as violence reigned at the Kamkunji Grounds. The donors who had earlier threatened to withhold aid to Kenya, upon witnessing the government's anti-democratic posture, fulfilled their threat and withheld US\$350 Million<sup>48</sup> due for Kenya and gave out aid conditionalities. The conditionalities were: "early implementation of political reform, including greater pluralism, the importance of rule of law, respect for human rights and basic freedoms of expression and assembly and firm action to deal with issues of corruption."<sup>49</sup>

It seemed that the international pressure and donor action broke Moi's spirit of recalcitrance and he had to start beating retreat and yielding to change. By the end of November 1991 he announced that Kenya would resort to multipartyism. As usual the manipulated Parliament on 10<sup>th</sup> December 1991 repealed Section 2(a) of the Constitution of

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<sup>47</sup> Still Section 2(a) barred registration of other parties.

<sup>48</sup> Grignon opcit, also see Barkan Joel D. Kenya: Lessons from a Flawed Election. *Journal of Democracy* 4 No. 3 July 1993.

<sup>49</sup> Kiliku Report on Ethnic Clashes in Kenya 1992. See also Amisi B.K. *Conflict in the Rift Valley and Western Kenya* Seminar Paper USAID Conference on the Conflict Resolution in the Great Horn of Africa June 1997.

Kenya, thereby legalizing opposition politics in Kenya. Wildner(1992) on analyzing democratization in Kenya appreciated external role by maintaining:

"despite growing popular support for political reform in Kenya, domestic opposition could not by itself secure regime change. Ultimately it was international pressure that forced the government's domestic decision to legalize opposition."<sup>50</sup>

### 3.6 Government Discredits Multipartyism

Kenya was a multiparty state by 11<sup>th</sup> December 1991, but not in its own design. Despite the re-introduction of multipartyism and the subsequent expansion of political space, Moi continued to govern Kenya like a *de facto* autocrat. According to Odhiambo-Mbai(2003), Kenya acquired "the curious identity of an autocratic multiparty state"<sup>51</sup> The KANU regime embarked on democratic "roll back" tactics. It should be noted that this was to be expected since Moi never accepted multipartyism with a full heart - he was actually forced to reluctantly concede the reality of multiparty democracy. Moi and KANU displayed stubborn resistance to accept the legitimate existence of opposition parties. Ruling elites kept on referring to multipartyism as a foreign imposition and opposition parties as agents of tribal conflict."<sup>52</sup> The government also got involved in some underhand tactics to discredit the multiparty system. The opposition parties were denied permits to hold rallies across the country and KANU party functionaries embarked on "zoning" of certain parts of the country, for example Rift Valley Province, the home of the President, was declared a "closed" area from opposition party politicians and was declared a KANU zone. Besides, there were security districts like Northern Kenya and other areas of the Coast. In such areas vote rigging and opposition intimidation became rampant. In opposition strongholds security was used as an excuse to give leverage to the provincial administration to dictate the pace.

Worse still, Moi yielded to multipartyism without changing electoral laws and the constitution to allow free and fair election; hence he reigned under the old arrangement. The only television station KBC was used as a KANU propaganda machine and opposition was denied the airwave. Still government critics were detained, harassed and charged using draconian laws. In the run up to the election, the government through security forces, provincial administration and party functionaries fanned the famous ethnic clashes in

<sup>50</sup> Widner J. Op cit

<sup>52</sup> Odhiambo-Mbai op cit p.51

<sup>53</sup> Oyugi W.O. ed. Ethnic Relations and Democratization Process in Kenya 1990-97. Ethnicity and Democratization in Africa. Dakar CODESRIA Book Series.

order to destabilize the voting pattern, create insecurity and widely to display to the world that multiparty politics is a recipe for chaos in a country like Kenya.<sup>54</sup> The general elections in 1992 were conducted under an "unleveled playing field". The opposition, which earlier presented a threat to KANU, also became divided and disintegrated into factions thereby playing into the hands of Moi who used intimidation, arm twisting and bribery to split the opposition further. In view of opposition politics and multipartyism, Sandbrook remarked that:

"Although multiparty elections in Africa institute a change in the form of government - from authoritarian to democratic, they cannot guarantee a transformation of the political regime<sup>55</sup>."

Weak opposition allowed external actors to drive Moi along the reform path as they engaged him in open contest to allow free and fair elections in 1992. In the final analysis the opposition party FORD, despite its strong support at initial stages, lost the 1992 elections to KANU due to internal division, Moi's anti-multiparty attitude and the reformists' failures to demand constitutional changes that would have provided genuine environment for free and fair elections and structural reform.<sup>56</sup>

### 3.7 Democratization in the Multi-Party Era

Kenya held its first multi-party elections in December 1992 but the events that preceded the elections suggested that the people were heading for an election, which was not democratic. Prior to the elections, the opposition activists sought unsuccessfully to meet with the KANU government to agree on the way forward on issues bordering on free and fair elections but were flatly rebuffed<sup>57</sup>. The government and ruling party KANU made sure the electoral playing field was not leveled. This meant that the 1992 general elections would be held under the procedures and mechanisms that had been in operation in the one party system. The outcome would have two implications firstly; KANU would be favoured by the results and secondly that the outcome of the elections would be undemocratic.

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<sup>55</sup> Sandbrook R. Transition Without Consolidation Democratization in Sixth African Cases. *Third World Quarterly* Vol.17 No. 1 pp.69-87

<sup>56</sup> Oyugi O. Walter In the Politics of Transition in Kenya From KANU to NARC Op.cit.

<sup>57</sup> Ibid

Indeed KANU won the elections under controversial circumstances but came out beaming with confidence and arrogance, disregarding a fact that Kenya was a multiparty state. The 1992-to-1997 period saw KANU reverting to earlier practices like denial of permits for opposition rallies, zoning off the perceived KANU strongholds and partisan issuance of national identification cards continued<sup>58</sup>. In areas with perceived opposition strength, the KANU government sought to alter the balance by instigating ethnic clashes (as in the Rift valley and neighboring provinces in 1992, Likoni and Molo in 1997), which had the impact of displacing people thereby disenfranchising<sup>59</sup> voters. However in response to these undemocratic practices by the government, the opposition and civil society organizations teamed up to demand the removal of obstacles to free political participation through a newly formed forum called National Convention Assembly (NCA). The NCA had its implementation organs called National Convention Executive Council (NCEC) which by 1996 had managed to gather popular support for constitutional reform although like in the case of political parties, it became plagued by leadership wrangles between NGO political activists and politicians. The discontent in NCEC opened an avenue for Moi to infiltrate it and scuttle its unified approach to reforms even as the clergy tried to unite politicians in it with the government.

Taking the advantage of diplomatic maneuvers spearheaded by the German Embassy Moi and KANU supported the idea of Inter-Parties Parliamentary Group (IPPG) in 1997<sup>60</sup>. The IPPG reform initiative had the impact of further disintegrating the opposition, because some party leaders felt they were being marginalized by NCEC whose leaders were from the NGO sector and were non elected. Most of such political leaders according to Mutunga quit the movement.<sup>61</sup> However, the NCEC, the government and some political parties went ahead to hold the first IPPG Conference in The Safari Park Hotel. The Safari Park conference came up with minimum reforms to address areas that hindered political fairness and freedom especially in the opposition such as; legalizing section 2 (a) in the constitution, increasing the membership of Electoral Commission

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<sup>58</sup> NEMU Report 1993 (a) Multiparty General Elections in Kenya 29<sup>th</sup> December Nairobi: NEMU 1993.

<sup>59</sup> Ibid. Also see Africa watch Report 1993 and that of UNDP 1993.

<sup>60</sup> Katumanga M. Internalization of Democracy. Electoral politics in Kenya. Op.cit P. 180

<sup>61</sup> Mutunga. W., Constitution making from the middle: Civil Society and Transition Politics in Kenya. 1992-1997. Nairobi SAREAT/MWENCO. 1999

from 11 to 21, sharing of 12 posts of nominated Members of Parliament between political parties, reviewing the Public Order Act Cap 56, scrapping of detention without trial, amending the Chief Authority Act and the Kenya Broadcasting Corporation Act.

Mutunga maintains that the behaviour of KANU towards the opposition did not even change after the IPPG package had been put in place<sup>62</sup>. KANU and the regime disregarded the opposition's right to free political participation to portray the general altitude by President (Moi) who throughout 1992 – 2002 refused to accept the legitimate existence of opposition parties. Moi and his regime's elites often referred to multiparty and opposition politicians as agents of western imposition which might destroy African cohesion and eventually lead to ethnicity and chaos<sup>63</sup>. The regime also subjected politicians and communities in the Rift Valley province that supposedly supported opposition for example, to consistent harassment, tirades and intimidations whenever elections were due. In the same light, the ethnic clashes in Likoni constituency at the Coast in 1997 which targeted the upcountry people at the Coast (Luhyas, Luos, Kambas and Kikuyus) perceived to be opposition supporters was viewed as a culmination of the government's efforts to kill off the opposition<sup>64</sup>.

The areas addressed by IPPG like fair reporting by the only state broadcasting media KBC were ignored at will and KANU activities became the center of focus by both media channels. This was contrary to a clause in the IPPG, which stated "there should be a fair balance in all aspects in allocation of broadcasting hours as between different political view points"<sup>65</sup>. Interestingly KBC radio and television both in 1997 and 2002 acted as the ruling party mouthpiece in political matters going to the extent of denying the opposition even a chance to air paid advertisements, while highlighting events meant to portray the opposition as disorganized and selfish<sup>66</sup>.

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<sup>62</sup> Ibid

<sup>63</sup> Oyugi W. O., Ethnicity and the General Process. The 1992 General Elections in Kenya. In *African Journal of Political Science NEW SERIES* Vol 2 No. 1 June 1997 p. 491-69.

<sup>64</sup> Article of IPPG (1997) Regarding Kenya Broadcasting Cion Act

<sup>65</sup> Kiliku K. Report of Parliamentary Select Committee on Ethnic Clashes in the Rift Valley Nairobi Government Printer 1992.

<sup>66</sup> Oyugi W. O. The Politics of Transition in Kenya 1992-2003. Op cit P. 360

However, if the government was more cunning and anti-democratic, the opposition by its behaviour and disorganization would further make democratization a big dilemma. KANU's stranglehold in power 1992 – 1997 was indeed due to fierce division between the political parties. In 1992 for example, the formidable FORD experienced division due to factional wrangles between leaders and in most cases pushed by the invisible hand of the government<sup>67</sup>. Wrangles further saw Ford-K split in 1997 with Raila Odinga who locked himself in leadership row with Kijana Wamalwa over the leadership of the party, forming the National Development Party and Ngilu who was a DP member quitting to reinvigorate the Social Development Party originally formed by Johnstone Makau but abandoned when the latter defected to KANU. The Division among the politicians offered the ruling party a fertile poaching ground where opposition MPs would be induced with money, cabinet posts and threat by taxation or financial blackmails to join KANU and in effect reduce the opposition numbers in parliament .

The behaviour of party leaders both in government and opposition also violated democratic practices. Leaders have the tendency of dominating parties and fearing any opportunity for fair political competition. This means that the running of political parties bordered on personal dictatorship, rigging of elections and nomination in order to purge or keep out their rivals. Nominations towards general elections are conducted without adherence to the party rules hence the beginning of political wrangling. In both 1997 and 2002 most political parties used the practice of direct nomination in certain constituencies to lock others out of competition and this resulted into the complaint that democracy was at a great risk of being killed<sup>68</sup>.

### **A Case for an Elusive Democracy under Multipartyism**

A review of the history of multi party politics from 1991 to 2001 revealed that the KANU regime acted with a lot of dishonesty to forestall democratic consolidation. The regime took advantage of the existing situation such as the division among the political parties

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<sup>67</sup> Daily Nation May 1992 One of the FORD luminaries Martin Shikuku secretly went to state House to meet Moi where it is believed a plan to divide FORD was hatched.

<sup>68</sup> Daily Nation, December 11, 1997 p. 3. In 2002 people contesting direct nominations and the ones aspiring for it thronged parties offices in most parties of the country as returning officers. agents or coordinators unilaterally ignored party rules.

and civil society to forego the necessary legal frameworks that could have consolidated multipartyism. The government after the advent of multipartyism embarked on a liberal registration of political parties with the main aim of watering down the opposition unity.<sup>69</sup> This had another adverse impact in that it encouraged the emergence of “briefcase” political parties, which mainly acted as political brokers run by a few individuals not necessarily pursuing political ideals.<sup>70</sup> Besides, the government also never enacted a rule to institutionalize the political parties such as: the ones on funding, procedure of running parties and stipulation of clear guidelines on membership. This omission; left both party officials and members with the option of hopping from one party to another.

Constitutional amendments were also not enacted to legalize multi party politics until the IPPG recommendation in 1997. Even as the 2002 elections approached, the electoral loss pertaining to conducting free and fair elections were not fully in place. The ECK was not mandated with powers to deal with electoral malpractices such as use of state resources, political violence and intimidation, and election rigging. The results of the first two multi party era elections (1992 and 1997) for example were adjudged both by international community observers and the opposition to be having some shortcomings but the ECK could do nothing about them<sup>71</sup>.

Judging Kenya by the criteria of democratic consolidation as prescribed by Linz and Stepan(1996): that a consolidated democracy has routinized institutions accepted behaviorally attitudinally and constitutionally<sup>72</sup>, it is evident that after more than a decade of multi party politics, the country was far from being a consolidated democracy. It still lacks institutions that guide democratic reforms that can be acceptable as free and fair, and which can be resorted to; to resolve both legal and political disputes.

In the final analysis, Kenya has only experienced a minimalist form of democracy based on elections and party politics. However, a consolidated democracy embraces much more

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<sup>69</sup> Oyugi W. O. The Politics of Transition in Kenya 1992-2003. Op.cit P. 361

<sup>70</sup> Ibid

<sup>71</sup> Economic Review. Feb. 23-March 2, 1998.

<sup>72</sup> Linz Juan J. and Stepan: Alfred. Problems of Democratic Transiting and Consolidation: 1996. Opct. P. 6.

than this. The constitutional aspect remains largely unchanged, human rights; individual rights and freedoms are also not fully addressed and the civil society in Kenya is still not fully empowered. This requires a further concerted effort on consolidation so that the positive structures achieved can be put on focus for total attainment of a democratic nation. The next chapter (4) will try to explore the aspects in the roles of external forces in democratic consolidation in Kenya.



## **CHAPTER 4**

### **4.0 DATA PRESENTATION AND ANALYSIS**

#### **4.1. Introduction**

This Chapter presents the data analysis, interpretation, and discussion of the research findings. The Chapter examines, categorizes, and avails the evidence to address the initial objectives of the study. The study sought to establish the role of external forces in democratic consolidation in Kenya. Consolidated democracy is characterized by successive free and fair elections; complete adherence or recognition of the constitutional order; wider participation by the civil society and the citizens; observance of the human rights and freedom; liberalization of both economic and political order; and non-interference in the state institutions and other constitutional offices. The chapter forms a basis from which policy recommendations and conclusions are developed. The chapter is organized by elaborating the role of external forces in Kenyan electoral processes; human rights and freedom campaign; civil society participation, citizen empowerment and education; democratic promotion in political parties; and constitutional reforms processes.

#### **4.2 External forces and Kenyan electoral processes**

The role of the external forces in Kenya will be analyzed on the broad context based on the expectation that the external forces in the Kenyan electoral process during multi party elections have a great role in enhancing democratic practices. The analysis would therefore focus on answering questions such as 1) What were the role(s) played by external forces?; 2) Did their presence ensure free and fair elections?; and 3) What was their impact in the organization of the electoral process in terms of conduct and voting during elections?. The external forces had limited role in the multi party elections that have so far taken place in Kenya. The role is mainly restricted to two areas namely; funding of the activities contingent with the elections and observations of the voting.

Table 4.1 shows how foreign government have funded general elections in Kenya since 1992.

**Table 4.1 Foreign Governments investment in Kenyan election in 1992, 1997, and 2002.**

YEAR	BRITAIN	U.S.A	GERMANY	KENYA GOVERNMENT.
1992	353,40000	726,000,000	58,000,000	1,791,569,580
1997	720,000,000	811,270,000	142,000,000	3,712,006,800
2002	990,000,000	820,000,000	2,601,940	4,659,309,000
TOTAL	2,063,400,000	2,357,270,000	202,601,940	10,162,885,380

*Source:* German Embassy financial report 2005

The table shows that generally, both foreign donors and Kenyan Government have steadily funded election process in the country. All funding in every sector has shown marked increase. However in 1992, Germany gave the least funding among the western countries whereas U.S.A invested heavily in the same election. In 1997 all countries increased there funding with U.S.A still leading but in the same year Britain and Germany doubling their funding. In 2002 Germany funding reduced markedly as the British one increased by about 37% and U.S.A funding increased marginally by 5%. A relatively steady funding of elections by U.S.A confirms that its major role as a champion of democracy whereas low funding of the elections by Britain in 1992 justified the mixed role Britain played in the formative stages of democratization process in Kenya Dwindling support of elections by Germany in 1992 and 2002 points that it could have focused more on civil society and civic education than direct funding. It could also have been that German funding was channeled through the European Union agencies. In the case of Kenya the steady increase over the successive elections shows the importance the country was attaching on democratic elections. However the percentage totals for the three elections from the foreign government amounted to over 35% again Kenya Government's contribution of 67%. This is a significant share and regardless of which form it took, it had capacity to influence a lot the electoral process over the periods.

#### **4.2.1 Role in the 1992 multi-party election**

The 1992 elections drew a lot of interest from the international community since it was the first one in the Kenya after the amendment of section 2 (a) to allow for multi-partism. It was also crucial since its legitimacy was to vindicate the external promoters of democracy whose contention was that multi-partism can lead to democratic practices. In order to ensure a smooth and fair electoral process, various organizations undertook to fund and observe the elections. Notable foreign assistance came from the British and the US governments. The British provided the election equipment and materials to the tune of UK£770,000. The materials provided included ballot boxes and office equipment such as training manuals for election observer. The US government provided 11,000 bottles of indelible ink for observers. Another US agency – United States Agency for International Development (USAID) – funded the International Foundation for Electoral Systems (IFES) to independently evaluate the government's budget requirements for successful transition to multi-partism.<sup>1</sup>

Another independent group called the International Human Rights Laws Group (IHRLG) also sent experts to examine the preparations made by the Electoral Commission (EC), then mandated to do so. As the elections approached, Commonwealth Observer Group (COG) that comprised of 28 members and was headed by Justice Telford Gorgers of Trinidad and Tobago arrived in the country. Other entities that assessed the preparations and the general electoral environment included the US Embassy, Sweden and Denmark in conjunction with the Ford Foundation collaborated with the domestic monitors under the National Election Monitoring Unit (NEMU) to prepare for election monitoring. NEMU and other local Non-Governmental Organizations (NGOs) namely FIDA, Kituo Cha Sheria (KCS) Young Welfare Christian Association (YWCA) were funded by the western Agencies and government to a tune of Kshs.35 million (USD 700,000). Throups and Hornsby (1998) concluded that a total of Kshs. 80 million was spent in monitoring voter education and other related activities.<sup>2</sup>

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<sup>1</sup> Throups D. and Hornsby C. Multi Party Politics in Kenya. Nairobi East African Educational Printers 1998 P. 36-38.

<sup>2</sup> Ibid p.283

The level of involvement by the West in funding and monitoring of the first multiparty elections in Kenya was an indicator of their level of determination to ensure that the government played fair and international standards were adhered to. The donors took the responsibility of auditing and monitoring the origin, movement, and handling of the ballot boxes – a fact that saw the printing of ballot papers in London (UK) to reduce the chances of tampering. The observers also put the EC on its toes regarding its handling of the process. The IHRMG for example criticized the EC for acting with extreme secretiveness and its ill preparedness status for elections.<sup>3</sup>

COG also later noted election malpractices such as poor and unpreparedness of the EC, irregularity in the voter register, unfair process of nomination of election candidates, violence in the North Rift, and other administrative bottlenecks that adversely affected opposition candidates.<sup>4</sup> Both IHRMG and COG castigated the government for unilaterally constituting the EC without consulting with the opposition. However, against all these odds the foreign observers in an open contrast to the position of the local observers had the courage to declare that “the results of the elections reflected the general will of the Kenyan people and asked the opposition to accept the people’s verdict”<sup>5</sup>

#### **4.2.2 Role in the 1997 General Elections**

The 1997 elections were held amid an assurance from the Donor Group of a determined effort to monitor closely any further electoral malpractices that might create a negative attitude towards the western donors.<sup>6</sup> They hence formed a joint consultative group called Donors for Democracy and Development Group (DDDG) in March 1997 which comprised of USA, USAID, German, the Netherlands, Swedish, Canadian and Finnish embassies in Nairobi. The group was later joined by the British embassy and other pro-democracy agencies such as the Ford Foundation, Friedrich Ebert and Friedrich Neumann Foundations. Their objective was to work closely with the office of the Attorney General and the ECK to coordinate the domestic and international monitoring exercises. It aimed

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<sup>3</sup> Daily Nation; October 23, 1997

<sup>4</sup> Daily Nation 2<sup>nd</sup> January 1993 .p.2 and Economic Review. February 23- March 2, 1998

<sup>5</sup> The opposition criticized the donor states for their negative role in 1992 which is perceived as ‘flawed’ (NEMU Report, 1993)

<sup>6</sup> Hemstone Smith, Rogue Ambassador an African Memoir, Sewanee Univ. South press 1997.

to present more observers spread in as many constituencies as possible and in this respect teamed up with the domestic observer groups to cover all constituencies in the country. It also had the mandate to coordinate supply of materials for elections, transport, and funding observers. At the end of the elections it would give final report to determine whether the elections were free and fair hence had a central role in ensuring legitimacy.<sup>7</sup>

It should also be noted that as a result of the external pressure which created the IPPG Accord in 1997, the elections were conducted under a reformed environment. The Accord led to the restructuring of the electoral rules and reconstituting of the Electoral commission (EC) in Nov 1997. The EC was renamed to Electoral Commission of Kenya (ECK). Electoral rules were also formulated which included fair broadcasting of both opposition and the ruling party activities and freedom of movement for opposition politicians and activists.<sup>8</sup> The 1997 election was therefore coordinated by ECK which was mandated to act as a neutral arbiter, promote free and fair elections, register voters, maintain and revise the voters register, direct and supervise the entire elections, review boundaries, and determination of eligibility of all candidates nominated to contest. The creation of the independent ECK was seen as a better step towards democratic consolidation. In that regard, most opposition political parties had the confidence to participate in the electoral exercise. The view that the Commission was all inclusive<sup>9</sup> reduced suspicion and acrimonies seen in the 1992 conduct of the elections. In 1992 for example, both the COG and the IHRLG criticized the secretiveness with which EC conducted election preparations but in 1997 the observer report did not see the ECK as secretive, but explained its problem as generally administration (Daily Nation Dec 11, 1997 p3). However the roles of observers were critical in the determining legitimacy of the 1992 elections.<sup>10</sup>

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<sup>7</sup> Provided for several Constitutional Amendments to ensure that the 1997 elections were done under a democratic environment.

<sup>8</sup> IPPG Accord 1997 Provision outlawed some oppressive acts like chiefs and Public order: ACB

<sup>9</sup> Constitution of Kenya Amendment Act 7 of November 1997 provided for opposition to recommend their Nominees to be appointed as members of ECK.

<sup>10</sup> Economic Review February 23 – March 2, 1998

#### **4.2.3. External Forces in the 2002 elections**

Following an invitation from the Kenyan Government, European Union Election Observation Mission (EU EOM) emerged in November 2002 to observe the 2002 general elections. The EU EOM team was to work with the observer teams from the faith-based organizations such as the National Council of Churches of Kenya (NCCK), the Catholic Justice and Peace Commission (CJPC), and the Supreme Council of Kenya Muslims (SUPKEM). The EU EOM was led by Chief Observer from Sweden, member of the European Parliament and vice-chairman of its committee for development and cooperation. During the 2002 general elections, for instance, the EU EOM dispatched over 160 observers throughout Kenya to observe the whole electoral process and in particular polling and counting. Amongst these observers was a delegation of three members of the European Parliament. A delegation of five members of the ACP-EU joint Parliamentary Assembly, jointly led by a member of the European Parliament, and a member of the parliament of Uganda, were also present as observers.

As expected the verdict of the observers was that the elections were free and fair and was a reflection of the will of the majority voters in Kenya. They also praised the general peace that prevailed during the election although some unfairness was noted like media bias, harassment of opposition, and manipulation of the voter register. For example, the voter register in some constituencies in Nairobi especially Langata and Kasarani had a problem where the names of some voters were missing.

Although the external involvement in encouraging democratization of electoral process has been lauded, doubts are often cast as to whether ECK as currently constituted is able to oversee a democratic election.

Table 4.2 overleaf elaborates how election bodies have been able to induce voters' turnout since 1961.

**Table 4.2: Voter Turn out of Registered Voters by Province – Selected General Elections 1961 – 1997.**

Multiparty Era.			Single Party Era.			
Region	1997	1992	% Turn out	1983	1979	1961
NAIROBI	52	60		30	59	92
CENTRAL	73	83		40	77	95
N. EASTERN	60	50		38	56	–
COAST	34	48		40	77	77
NYANZA	68	65		43	59	83
R. VALLEY	81	70		53	73	88
WESTERN	68	63		48	70	85
EASTERN	72	64		50	69	86
NATIONAL	69	66		48	68	85

*Source:* Institute for Education in Democracy 1997 PP. 189 – 195. Multiparty Elections In Africa (Michael Conen and Karuti Kanyinga in Michael Owen and Lisa Laakso. James Currey Ltd Oxford 2002)

Almost 70% of registered electorates voted in as shown in table 4.2 voted in the 1997 Parliamentary Elections. Overall turnout runs slightly higher than for the 1992, which in turn was less than that of 1979 one-party elections. However the multiparty elections turnout has been far higher than the low point electoral participation during the one-party elections in 1983. Although the two multiparty elections of the 1990's have fallen way below the 1996 voter participation, it would be mistaken to resume that voter apathy has been a general feature of multiparty politics in Kenya. It has been the regional variation in turnout, rather than its overall change, which was most significant for 1997. Constituencies of the most politically contested regions of the Rift Valley, Western, and Eastern Province that had the increased turnout. Nairobi and Central Provinces associated with the leadership of opposition presidential candidates had higher turnout in 1992 than in 1997. Rift valley recorded highest turn out in 1997 perhaps due to Moi last gasp attempt to retain his presidency.

From the above presented scenario one can assume that E.C.K. and other previous electorate bodies have not been able to effectively mobilize voters to turnout and vote.

It has failed in dealing with a perennial low voter turn out, voter bribery, intimidation and manipulation by the executive. ECK lacks legal mandate to punish and disqualify elections offenders and at the same time has yet to cater for the Kenyan citizen abroad to vote. It also relies on provincial administration and police for provision of the security and licensing of political meetings. Its reliance on the Department of Registration of Persons (DRP)<sup>11</sup> to issue ID cards before acquiring voter's card undermines democracy and causes disenfranchisement. Lack of sufficient funds to carry out its activities at the appropriate moment also lowers its capacity to run a fully democratic electoral process.

As to whether the external forces can ensure democratization of the electoral process, a mixed view has emerged. Others argue that they are a step towards the democratizing process but other scholars such as Katumanga (1997) and Oyugi (2003) maintained that despite the heavy presence of observers in 1992 elections, KANU behaved with impunity and failed to meet with the opposition on how to review the constitution to make the elections fair. They also concur that the number of observers normally was small and rarely cover a third of the constituencies (COG had 38 in 1992 DDDG had slightly more in 1997 and EU OM had 166 in 2002). IN 1997 Kanu ignored the IPPG principle and instead went ahead to manipulate the state media. Katumanga maintains that the observers were pre-occupied with their own interest instead of genuine interests in the reforms in Kenya.<sup>12</sup> Oyugi cited the incident where the British ambassador modified the DDDG final report on the outcome of the 1997 elections<sup>13</sup> as the foreign observers in this respect, seemed set to sanitize fraud instead of legitimacy of elections.

However efforts by the external observers present an important forward step in the process for the development of democracy in Kenya. The people have generally, been able to cast their votes relatively freely for the candidate of their choice. Their presence and pressure is a major step towards reforms (IPPG's recommendation of voter counting

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<sup>11</sup> USAID "Democracy and Governance: Transparent and Competitive Elections"

<sup>12</sup> Katumanga M. Internalization of Democracy. External Actors in Kenyan Electoral Politics in Electoral Politics in Kenya. Ed. Lukendi C. Nairobi Claripress 2002 pp. 177-183.

<sup>13</sup> Oyugi W.O Politics of Transition in Kenya: 1992 – 2003. Democratic Consolidation or Deconsolidation in Politics of Transition in Kenya from KANU to NARC Eds.Oyugi W.O, P.Wanyande and C. Odhiambo – Mbai Henrich Boll Foundation Nairobi 2003.



at the policing stations). Their presence reduces electoral violence, fraud, and shoddy conduct of election process by ECK. In general they help lend legitimacy to Kenya choice of regimes and their leaders.

### 4.3 External Forces and Political Parties

Parties form the basis of grassroots mobilization; group interest articulation, ideological identity avenues and the foundation of an associational life on a country hence should be positively assisted by the external agencies. <sup>14</sup>The influence should aim to democratize party structures, training the leaders and members, civic education to the members and transparent funding to stop the party elites from embezzling the funds.

Table 4.3 details how political parties have been registered in Kenya since the advent of multipartyism

**Table 4.3: Progression of Registered Political Party in Kenya from 1992.**

1992	1997	2002	Current
15	45	75	103

*Source:* Electoral Commission of Kenya, Records 2006

It is evident from table 4.3 that political liberation has taken place in Kenya since 1991 - 1992 period. A steady increased in the registration of Political parties has been witnessed. A general trend where each elections year has more than 50% of the registered number in every previous elections points to the fact that increasing number of Kenyans are resorting to electoral process as a way of acquiring power, what is not however clear is the efficiency of these parties. Most Parties end up with no members in the Parliament or in local Authorities. The liberal registration of parties is also suspect since some of the newly registered ones are a multiplication of certain disintegrating Parties. In 1992 for example original Ford Party disintegrated into Ford Kenya, Ford Asili and Ford People and by 2005 KANU was split to give another party-New KANU. Further attempts are being made to register Splinter Orange Democratic Movement Party and New Ford Kenya. More so a new trend of Coalition making has also led to mushrooming of political parties as a bargaing tool in power game horse trading and stake raising other than capturing power. Most instance of increase can also be attributed to personal greed of

<sup>14</sup> Adams Oloo: The Role of Political Parties in the Constution Making in Finance News Magazine August - Sept.2005 PP32.

certain individuals and the attempts by the executives to weaken potential challengers. What is certain is that liberal registration and mushrooming of political parties can hardly depict a corresponding democratic growth and consolidation other than just showing a euphoria to indicate with political parties mostly for individual gains.

Political parties are used by members to mobilize political opinion and resources, they also bring people with similar views or interest together an issue of economic political social and regional matters. They are aptly summed up by Weingast (1997) as principal avenues of aggregariuos interest that runs horizontal to the society and vertically to capture political power if efficiently well managed. <sup>15</sup>

The Major external agencies that have been crucial in promoting democracy to political parties in Kenya have their roots in UK (Labour party mostly), USA from Democrats Republicans, Foundations and the US Chamber of congress, Germany (From Liberal Democrat and Green parties) and several other western embassies having special attachment with certain political parties.

Although the British parties like their government employed a quiet diplomacy<sup>16</sup> in dealing with both the ruling party KANU and opposition mostly FORD the frequent visit by Labour party members to dialogue with the opposition from 1992 were notable. The name of David Steel and his meetings with the opposition MPs in Kenya was common.

However as the 1992 elections approached the western government played mixed roles in party politics in Kenya. Whereas the US and German diplomats in Nairobi went as far as standing by the Opposition leaders urging them to unite in order to hand KANU a defeat, Britain was rallying other donor countries to support Moi and KANU citing regional stability as its main reason. <sup>17</sup>

In terms of policy influence, the western donor institutions had also a certain degree of political orientation. Most leaders both in KANU and opposition accepted the donor

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<sup>15</sup> Weingast B.R. The Political Foundation of Democracy and the Rule of Law. American Political Science Review 91 no 2 (June 1997) PP. 245 -265.

<sup>16</sup> A Conservative British Policy Approach to political unfolding in the Kenya especially in 1980's and early 1990's.

<sup>17</sup> Katumanga M. Internalization of Democracy in Electoral Politics of Kenya 2002 Bpcit P. 180

policy of structural Adjustment programs (SAP) and good governance, accountability and transparency <sup>18</sup> demands which often featured as campaign catch words in the 1992 elections. These donor conditional ties, proved successful as they created a reform rhetoric in order for both sides (government & opposition) to attract support and credibility from Donors.

However the agencies which dealt with parties directly and in some how a structural and open manner were to be the ones from the US and Germany. The US related Agencies were USAID which dealt with parties through International Foundation for Electoral Systems (IFES).” since 1992. The other US Agencies that participated with political parties are National Democratic Institute (NDI) and the International Republic Institute (IRI), which are themselves creations of both Democratic and Republican parties <sup>19</sup> but are ran in US under the National Endowment for Democracy (NED). The activities that NED carry out include, support for human rights research, advocacy, campaign for rule of law mobilize democratic consciousness and expose authoritarian abuse.<sup>20</sup> The independent agencies (private organization) form the US that deal with political parties include the ford foundation, the Jimmy Carter Centre for democracy and United States Information Agency.

Equally vibrant and effective with Kenyan political parties were German democratic agencies such as, the Konrad Adenauer, Friedrich Ebert, Friedrich Naumann, Hans seidel Stiftung and Heinrich Boll Foundations. These are all German party foundations will overall goals of promotion of social dialogue and democratic consensus among others activities.<sup>21</sup> They operate along with the British Agency called Westminster Foundation modeled after NED, and a Canadian Agency called the International Centre for Human Rights and Democratic Development (ICHRDD). It should be noted that other agencies

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<sup>18</sup> Those were reforms demand packages the IMF & World Bank prescribed fro African countries. Also see Gibbon Peter; *The World Bank and the New Politics of Aid*; IN George Sovensen : *Political Conditionality* :London, Frank Cass 1993.

<sup>19</sup> Larry Diamond: *Promotion Democracy in Foreign Policy* 87 (Summer 1992)

<sup>20</sup> Ibid

<sup>21</sup> Activities of the Friedrich Ebert Foundation by Region Document presented at the summit meeting of Democracy Promotion Organization; Airlie House, Warrenton Virginia Feb.4 – 6<sup>th</sup> 1993.

such as UNDP, Care Kenya, UNHCR, OXFAM, Action Aid and Plan International have also in many occasions held seminars where stakeholders including party leaders are called to tackle issues such as equality non violence, marginalization, representation and attitude change.

The involvement of these external agencies with political parties can be pointed out as crucial in areas such as civic education in parties, dialogue need for wider participation, promotion of consensus, electoral mobilization, and reconciliation and focused leadership. These influences are normally imported using various approaches meant to deepen democracy at both the grassroots and national levels. The most widespread approaches include holding of seminars to educate party leaders members and officials, sponsoring publication of materials to be used for civic education<sup>22</sup> writing party constitutional framework for parties, sponsoring a team tours by party leaders to visit other countries, sponsoring and observing party elections and Funding party activities.

The NDI for example has performed its functions in influencing political parties, by supporting a constitutional and law reform efforts to enhance the basis for genuine democratic reform. It has been assisting efforts to improve the legal framework for elections in political parties. In collaboration with centre for Democracy and Governance (CDG), they have been proposing law reforms by providing political parties, parliamentary groups and civic organizations with relevant materials on comparative law and constitutional models. NDI through (IFES) funded ventures sponsored in 1992 and 1997 inter-parties dialogue during the election period. Working in conjunction with CGD various parliamentary bills have been drafted in order to ensure a stable democracy in political parties. Notable bill is the proposed Political Party Bill aimed to have government finance political parties in order to avoid corruption and bribery during elections.

In 2004 a local group that coordinates all political activities in Kenya was formed. This agency was called centre for Multi Party Democracy (CMD) and is a Trust that has the

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<sup>22</sup> NED financed the Nairobi Law Monthly magazine, that issued to inform the public on issues related to demand and human rights.

membership of most political parties represented in parliament and local authorities<sup>23</sup> Its main objective are to work with political parties to strengthen capacity building to enhance a sound corporate governance principles to promote good governance transparency and accountability within and amongst political parties and finally to empower political parties to mobilize resources for their activities. The CMD since its inception has been funded solely by the Netherlands Institutes of Multiparty Democracy (IMD). The IMD is an institute of political parties for political parties with a mandate to encourage the process for democratization in young democracies by providing support to political parties as the core pillars of a multi party democracy.<sup>24</sup> Parties are emphasized here as necessary for a well - functioning, sustainable pluralistic system of party politics. The political party democracy promotion agencies named above have all contributed towards political party dialogue, legal framework for elections, the drafting of codes of conduct, inter-party election committees to diffuse possible conflicts and violence, and concrete steps to sustain multi party politics. The importance of these factors were noted by one respondent from NDI who maintained that programmes such “as encouraging dialogue between parties and creating good electoral code of conduct and integrity on political parties have been found to important as a peaceful way to resolve political completion in other such volatile places as Cambodia, Macedonia Peru and Sierra Leone”<sup>25</sup>

However the positive aspects of influence of external actors notwithstanding, there are certain incipient hurdles, structures and interest that retard effective move towards consolidating democracy. The first major point of contention is how democratic in the first place are political parties. According to Oyugi (2003), political parties in Kenya are not founded on principles, they are ethnicized and lack vision<sup>26</sup> He went further to describe other political parties as “brief case” parties as with no known base. He also asserts that political parties are influenced by personal, ethnic and regional

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<sup>23</sup> Condition for being a member of CMD is that a party has to have a representative either in Parliament, Civil Authority or both.

<sup>24</sup> IMD Report 2005

<sup>25</sup> NDI has the experience of election observation, Conflict resolution and peace building in various parties of the world.

<sup>26</sup> Oyugi W. Politics: Politics of Transition in Kenya (2003) opcit. PP.361 -3363

considerations.<sup>27</sup> Besides, in 1997 local observer groups criticized party nominations towards the general election by stating;

“The recently conducted party nominations were marred by malpractices including autocratic behavior of party bosses in imposing leaders.....”<sup>28</sup>

To demonstrate how undemocratic practice has negative effects on, democracy, the factors listed above led to constant opposition loss of elections of 1992 and 1997. In 1992 for example, FORD at initial stages presented a credible challenge to KANU but because of ethnic rivalry between Kikuyu and Luos, ideological differences between Odinga and Matiba, FORD disintegrated into weaker factions that eventually lost elections to KANU. Divisions related to similar issues saw opposition lose again to KANU in 1997 when they failed to unite. Throughout 1992 – 1997 period according to Oyugi (2003), opposition parties had been at war with one another in addition to being involved in internal factional wrangles. Personal dictatorship and big man syndrome in the mind of party leaders, have often led to imposition of certain individuals in party leadership and this marks the beginning of chaotic scenes towards elections. KANU in 2002 had its share when some of its members rebelled after the outgoing President Moi appointed undemocratically his perceived successor Uhuru Kenyatta. Against these backgrounds political parties can not attain democratic credibility.

According to Adams Oloo (2005) Democracy has a chance to flourish if parties are well and democratically organized, offer the people clear choices of policy and goals, uphold constitutional values, pursue their objectives with dedication and professionalism and seek honesty to reflect public interest and public opinion.<sup>29</sup>

He further argues that if these aspirations are not demonstrated by the political parties, parties become instruments of manipulation and control, they became corrupt, and also pursue narrow sectional interests bordering on tribalism, lack moral values with the end result of dividing the society, engage in violence and compromise democratic

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<sup>27</sup> Ibid

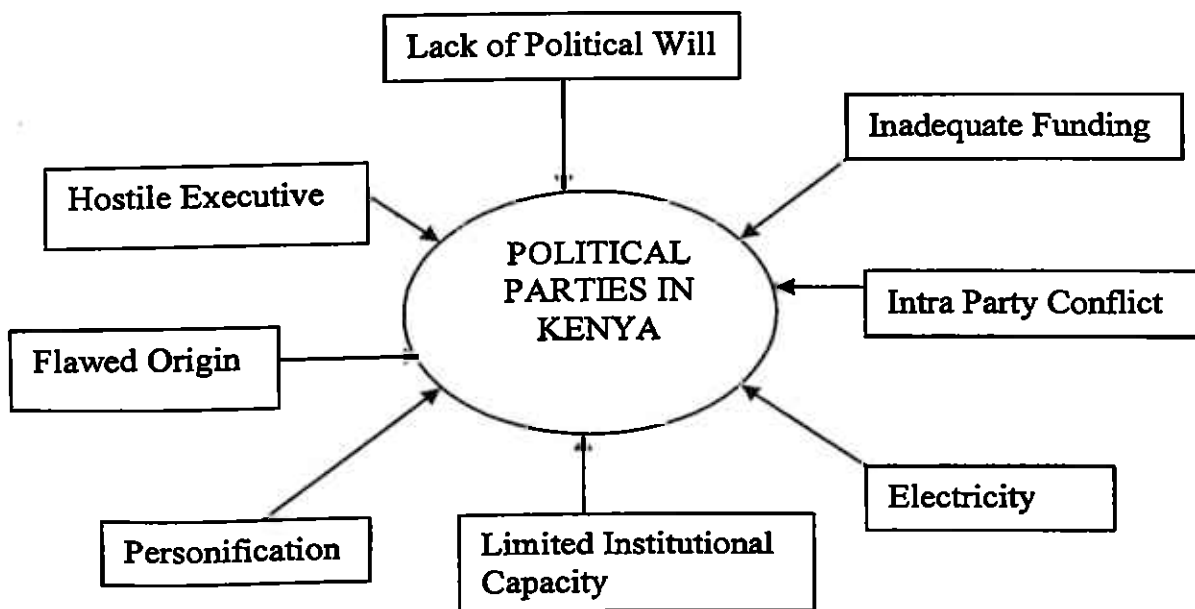
<sup>28</sup> Daily Nation Dec 11. 1997,

<sup>29</sup> Oloo Adams Fiance August – Sept, 2005. opcit P.32

practices<sup>30</sup>Oloo's observation has aptly applied in Kenyan case which therefore means that in Kenya there has been lack from the beginning of a predisposed structure that would be readily used by external influences to deepen democracy. The elites in political parties hardly embrace change even if they do, they quickly revert to old ways of doing things.

The sketch in figure 4.1 below shows various constraints that have direct or indirect impact on the efficiency and effectiveness of political parties in Kenya.

**Political Parties and their Operational environment in Kenya.**



**Fig 4.1**

**Source:** Fred Jonyo and Solomon Owuoch. Political Parties and Civil Society in Governance and Development 2002 P.20

Fig 4.1 shows that political parties in Kenya are captive to a tricky domestic environment hindered with numerous democratic take-off hurdles leave alone growth and it requires above all an external ingredient to defuse and overcome domestic malaise and pave way for meaningful practice of democracy. The frequent failure of electoral democracy has its roots in the hostile democratic environment in which political parties are founded

<sup>30</sup> Ibid P.32

What about the external actors? They too have their share of blame. They operate with chosen political parties mostly opposition and at times with dictatorial ruling parties. This parochial approach heightens mistrust and undermines dialogue. The Kenya NGO Coordination Act 1990 was a reaction to curtail and monitor activities of NGO's which the state perceived as undermining it (state).<sup>31</sup> External actors identify with certain political parties with anticipation of benefits if such parties get power or are the ones ruling. The British for example, during the first two multiparty elections of 1992 and 1997 were tacitly supporting KANU which they perceived was taking care of the British interest in Kenya.<sup>32</sup>

The parties' organization in Kenya presents a very complicated scenario since the advent of multipartyism. For example parties that pose big threat when elections were approaching ended up disintegrated by the election times. For instance, FORD Party disintegrated in 1992, the same to the United Democratic Alliance (UNDA) which disintegrated towards the 1997 elections. Even NARC which won 2002 elections is likely to approach the 2007 election as a disintegrated party. Virtually in Kenya parties undergo metamorphosis at a very fast rate such that a review of parties since 1992 reveals that only a few parties (KANU, FORD K, FORD P. notably) have strong representation in parliament.

The external actors should press further for the enactment of a Political Party Bill to reduce corruption in political parties.<sup>33</sup>

A well organized party structure, culture and management has a great value to democratic consolidation because it will impart in the governance of the country a custom, tradition and political practice among the elected leaders as noted by Oloo (200) that , the health of the political process depends fundamentally on the state and health of political parties.

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<sup>31</sup> Oyugi W.O. Role of NGO's in Development and Governance. Seminar Paper – Africa in the New Millennium 8<sup>th</sup> – 12<sup>th</sup> Dec 2002 Kampala, Uganda.

<sup>32</sup> Musambay K. 1995. Throup D. Elections and political legitimacy in KENYA: Africa Confidential Vol 53 1993

<sup>33</sup> Ludeki G. Electoral Politics in Kenya . Nairobi, Claripress 2002 PP. 175 -183.



#### 4.4 External forces: Human Rights and Civil liberty campaign

Effective promotion and protection of human rights, realization of citizenship and emergence of nationhood are central features of democratic governance and unless the factors that frustrate their realization are addressed, achieving a democratic governance will be slow.<sup>34</sup> Human rights in Kenya is viewed in the same broader and universal concept that human rights are God given rights enjoyed by both men, women and children. The basic foundation of Kenyan human rights are articulated in the International Bill of Human Rights such as the Universal Declaration of Human Rights (1948) the International Convent on Economic, Social and Cultural Rights (1966). The rights contained in these documents are indivisible and interdependent – economic and social rights are human rights as much as civil and political rights.

The major international bodies that deal with human rights situation worldwide include, United Nations High Commission on Human Rights (A UN HCHR), Amnesty international (AI), Human Rights Watch (HRW), International Commission of Just (ICJ) Transparency International and several others based on the regional levels. These institutions constantly get backing from governments like the US, British, UN, and grouping such as the EU, Nordic countries and finally the international Financial institution including the World Bank, IMF USAID and UNDP. In Kenya, one of the reasons for demanding multipartyism and democracy in the early 1990s was to do with mass abuse of human rights and restricted personal freedoms.<sup>35</sup> The abuse of these rights has been, indeed a common occurrence in the single party era when detention without trial, torture of opposition politicians, disenfranchising of people and manipulation of the justice system were rampant.

Table 4.4 overleaf presents the numerous human rights agenda in Kenya over the years.

<sup>34</sup> Mburu Gitu. Human Rights, Citizenship and Nationhood in Kenya. In the East African Journal of Human Rights and Democracy Nairobi V.2 No 4 2004/5.

<sup>35</sup> Murungi K. In the Mud of Politics; Nairobi, Acacia, Stantex Publishers 2000

**Table 4.4 Human Rights Agenda in Kenya Since Early 1990,s**

	1992	1997	2002	2005
Detention without trial.	✓	—	—	—
Lack of Political freedom (More political and Social freedom)	✓	✓	—	✗
Unfair distribution of national resources;	✓	✓	✓	✓
Un warranted killings & Police Brutality.	✓	✓	✗	✗
Discrimination – Tribalism	✓	✓	✓	✓
Lack of Press Freedom.	✓	✓	✓	✗
Constitutional Dispensation	✓	✓	✓	✓
Gender Disparity	✓	✓	✓	✗
Negative Cultural Practices	✓	✓	✓	✓
Judicial Fairness	✓	✓	✓	✓

**Key:**

- ✓ Issues yet to be addressed
- ✗ Issues addressed somehow
- Issues fully adressed

**Source:** Constructed from the data obtained on Human rights literature in various Publications.

Table 4.4 shows that human right agenda in Kenya still remains the same over the years. The pressure for rights improvement has led only to elimination of detention without trial and marginal improvement on unwarranted killings (tribal clashes and police brutality), press freedom and gender disparity. However, most ills that were crucial when demanding democratic, reforms are still prevalent and far from being eradicated. The demand to address issues such as negative cultures, new constitutional order poverty due to poor distribution of National resources, Nepotism, tribalism, unfair Judiciary are even on the increase and will take time to address. More so some of the issues assumed to have been addressed like police brutality, tribal clashes, gender disparity and lack of freedom both press and political keep on recurring as political environment keeps changing.

Although human right abuse in Kenya, like any other third World countries, continued with impunity on a number of occasions, things, however, begun to change in earnest in the mid 1980s then continued to gain strength and currency with the democratization wave. The issuance of a report by the World Bank in 1986; entitled, *Sub-Saharan*

*Africa: From Crisis to Sustainable Growth*<sup>36</sup>, where the Bank cited stagnation of growth and failure of SAPs as due to unstable political environment or poor governance”.<sup>37</sup> The view of the Bank was adopted quickly by both bilateral and multilateral donors that made “good governance” as a political conditionality on economic assistance. The World Bank, the IMF, Western government and institutions went further to include in the political conditionality the human right issues such as freedom of speech and of the press, freedom of movement and tolerance towards critics Human rights therefore gained a central position in the democratic reforms that led to multi-party politics.<sup>38</sup>

The external actors exerted a direct pressure on Kenya in 1997 when Scandinavian countries notably, Norway which had Kenyan’s exiled activists, broke diplomatic relations with Kenya in 1991 and from there hence pushed for reforms citing the countries poor human rights record<sup>39</sup> The elections of 1992 marked the triumph of “good governance” principle which had the human rights ingredients. However equally important would be to ask how did external actors viewed Kenya’s human rights situation between 1992 and 2005? Did the advent of multipartyism present a mixed hope when, in 1992 as the country was preparing for its first multiparty election? Kenya witnessed politically motivated ethnic clashes in parts of the Rift – Valley, Nyanza, Western, North Eastern and Coast Provinces. According to Kiliku and UNDP reports on the events several people were killed, injured and several others displaced.<sup>40</sup> Human right abuse occurred in loss of innocent lives, loss of property, raping, maiming displacement, disenfranchisement and loss of land. The KANU government was censured in the UNDP report as being responsible and the agency together with the Kenyan Red cross and UNHCR provided assistance to the victims.

In the same year the COG and IHRLG issued statement blaming the government for interference with voters in ethnic clashes zones especially in the Rift Valley and the Electoral Commission was urged to address the matter so as to let eligible voters cast their votes. Similar reports were noted in 1997 when the DDDG in liaison with the

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<sup>36</sup> World Bank Report: Sub-Saharan Africa from crisis to sustainable Growth Washington DC World Bank 1989.

<sup>37</sup> Ibid

<sup>38</sup> Barkan I.D: Kenyan: “Lesson from a Flawed Election” Democracy. No 4 No 3 July 1993

<sup>39</sup> See Reports by Africa watch 1993, UNDP 1993, NEMU Report 1993 and Kiluki Report 1993

<sup>40</sup> UNDP 1993, NEMU Report 1993 and Kiluki Report 1993

Catholic Peace and Justice Commission issued reports in 1998 that pointed out the government's hand in violence in Likoni (Coast Province), some parts of the Rift Valley and Nairobi. The report maintained that elections were not free and fair and the eligible voters did not cast their votes due to political influence.<sup>41</sup>

Other Human Rights agencies gave various observations on the human rights situation in Kenya especially after the second multiparty election of 1997. The International Commission of Jurists (ICJ) in 1997 issued a report which concluded that there was torture in the police force among other violations. It indicated that 630 prisoners died in custody in 1996, the majority from infectious diseases due to unsanitary conditions, lack of food and inadequate medical care.<sup>42</sup>

The Transparency International for instance issued its analysis of the human rights situation in Kenya over an eight year period (1997-2005) and noted that Kenya has remained among the top ten most corrupt countries in the world. During this period the transparency index of the country has generally declined although it has been fluctuating between 2.5 to 1.9. The improvement of around 0.6 can however be attributed to reforms by the new NARC regime which has been advocating policies such as zero tolerance to corruption and investigation of grand corruption such the Goldenberg and the Anglo-leasing ones.<sup>43</sup>

The Amnesty International in 2002 similarly enumerated human rights violation during 2001 as abuse of power by security forces, denial of freedom of expression and association and harsh prison conditions.<sup>44</sup> Reporting over the same period, the United States of America's Department of State concluded in 2004 that Kenya's human rights record had ever remained poor. It should be noted that KANU regime in Kenya was denied essential donor aid from 1994 up to the time it lost powers to NARC in 2002 due to corruption and poor human rights records.

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<sup>41</sup> The DDDG Election monitoring Report 1998

<sup>42</sup> ICJ Report on the Human Right Situation in Kenya 1997.

<sup>43</sup> The Standard, Tuesday Nov.2006.

<sup>44</sup> The Amnesty International Report on Kenya 2002.

The Sustained external pressure over Kenya to improve on human rights records did not go unnoticed. Since Kenya crucially needed the donor aid in some respect it was forced to act on its human rights situation. According to a respondent from the Kenya Human Right Commission (KHRC), the commission was created in 1992 as a way of addressing the human rights issues. The same year USAID through IFEs funded the Institute for Education in Democracy (IED) together with Kituo cha Sheria and CPJC to carry out civic education as people approached the general election.<sup>45</sup> For more activities of USAID see table 4.5 below.

**Table 4.5: Usaid Reform Support in Kenya in 2005**

<b>ACTIVITY</b>	<b>FUNDS US POLLARS.</b>
Anticorruption Reforms.	400,000
Strengthening Government Institutions.	750,000
Promotion of free and fair Elections.	700,000
Strengthening Civil Society.	750,000

*Source:* USAID 2005 Financial Year Assistance on Democracy and Governance. Kenya.

Table 4.5 shows USAID reform support in Kenya with particular emphasis on democracy and governance. Although corruption has been identified as necessary reform criteria, it attracted least funding in 2005 among the areas USAID has targeted for reform. Much priority seemed to be placed on strengthening governance Institutions and the civil society going by largest funding they attracted. Promotion of free and fair elections is also among the top priority of USAID. The scenario above can be based on a widely held view that choosing of an accountable leadership can be achieved through elections. Where free and fair elections are conducted leadership is likely to be accountable hence reducing chances of corruption. However this is hard to prove since civil society in Kenya is still nascent accompanied by weak institutions of governance that are easily permeated by corruption and unfair choice of leadership. Increased involvement by other internal donor agencies and NGOS accompanied by well designed sustainable Programmes can have greater impact on democratic consolidation in Kenya.

The government liberalized further by allowing the creation of International Commission of Jurists (ICJ Kenya) which has been acting independently on human rights and justice issues. Transparency International (Kenya) was also formed to act in collaboration with

<sup>45</sup> Throup and Hornsby. Multi Party Politics in Kenya opcit P.100

the international one. Due to comprehensive demand by the international community Kenya formed an independent human rights group called Kenya National Commission on Human Rights (KNCHR) in 2002 and became operational under the Act of Parliament in March 2003.

It was not only the government which responded to the donor's call for human right situation in Kenya. The civil society also took a clue and a plethora of human right related agencies emerged to push for civil liberty, freedom, of expression and justice. Such agencies include Kenya institute for Education in Democracy (IED) Kituo Cha Sheira, FIDA, COVAW, Release the Political Prisoners (RPP) League of Women Voters, Citizens Coalition for Constitutional Change (4-Cs, NCKK, NCEC and Kenya National Land Alliance. These agencies deal with broad range of issues which include children's rights, labour rights, environment rights, rights of women, refugee rights, fair trial and due process rights. Some of thee bodies are part of transnational advocacy networks while others have a purely localized role

What therefore were the impacts of international Human rights agencies in Kenya since the advent of multi-party politics? Against the authoritarian KANU regime that transcended multiparty democracy, the human right agencies had to challenge various abuses. UNDP for example was at the forefront of resettling and feeding of the ethnic clashes victims of 1992 and 1997 in different parts of the country. Together with UNHCR and Oxfam, UNDP also worked with the pastoralists of Northern Kenya to resolve problems such as cattle rustling, communicable violence, child labour and cultural problems such as violence against women and female genital mutilation. They hold conferences on the above problems with a view to promoting collaboration of communities, through promotion of ethnic tolerance and expansion of civil education. The UNHCR for example came up with Peace Education Program (PEP) in the refugee camps such as Kakuma and Dadaab since 2002. to encourage skills such as problem solving, conflict resolution end empowerment <sup>46</sup>

As earlier mentioned, the creation of KHRC in 1992 was occasioned by the donor pressure. The same can be said of the KNCHR created through an Act of Parliament in 2002 and became effective in 2003 and others like ICJ – Kenya and TI – Kenya. Even as

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<sup>46</sup> Refugee 11, August.2002

these institutions had been put in place, the external agencies continued to demand further changes in the Kenya's political environment. The changes were to be enshrined in the country's constitution in order to avoid further arbitrariness witnessed before. The donors therefore pushed for legislations such as the creation of the office of Ombudsman in parliament, Kenya Anti Corruption Commission, Truth Justice and Reconciliation Commission, Economic Crime Bill, Public Ethic Bills, Sex offences bill and Anti Terrorism bill. However, all the envisaged changes were mostly to take place in the NARC regime, which is nascent and became plagued by factional wrangling immediately it assumed power<sup>47</sup> Achievement was made in limited areas such as the enactment of KACC bill in 2002, Public officers' ethic Bill and Economic Crime Bill in 2003 and Sex offences bill enacted in 2006<sup>48</sup>.

Others bills such as Truth and Reconciliation, Anti Terrorist Ombudsman's office creation, and mostly on the Bills of rights were not realized partly due to disunity in the ruling coalition and due to the failure of the enactment of a new constitution that was defeated in a national referendum in November. 2005.

In a protracted case by case basis the international community has from 2002 been targeting – the judiciary as an area which needed reform in order to achieve justice and improve human rights in Kenya. As a result of this the Kenya government embarked on what it called – “radical judicial surgery” aimed to purge judiciary of corrupt elements. In this extensive exercise what was under the chairmanship of Justice Aaron Ringera a report called Ringera Report in 2003 was issued and recommended the sacking of 5 court of Appeal justices, 18 High court justices and 82 magistrates.<sup>49</sup> The report claimed that the surgery of the judiciary was necessary to bring it within the light of international standards. The Transparency international issued a critical report entitled “Human Rights case study Kenya” in October 2004. In this report it concluded that “fighting corruption in Kenya is an essential element in institutionalizing a democratic and open society. The struggle for judicial reform should be seen as part of and not in isolation from the

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<sup>47</sup> NARC was a coalition of parties (Liberal Democratic Party and National Alliance Party) joined together by a memorandum of understanding (MOU). However the coalition was plagued by wrangles after NAK was perceived by LDP to short changed the coalition arrangement.

<sup>48</sup> The Sex Offences Bill was brought to Parliament by a Nominated MP Njoki Ndungu after several amendments.

<sup>49</sup> Kenya Judicial Independence, Corruption and Reform ICJ and ICJ-Kenya, ICJ April 2005.

struggle for democracy.<sup>50</sup> The report by TI immediately triggered an international response with the ICJ – Kenya teaming up with its Kenya chapter to conduct a high level fact finding mission in Kenya in December, 2004 with a view to finding the state of judicial independence and accountability following major political changes and the “judicial surgery” of 2003<sup>51</sup>

From July 2004 after a threat by international donors to suspend or delay aid release to Kenya due to the extent of corruption in the country, the government agreed to partner with donors to fight against corruption under a strategic plan called the Governance, Justice Law and Order Sector (GJLOS). This is a multi-sectoral reform programme implemented by the Ministry of Justice and Constitutional Affairs and coordinates judicial and legal reforms. The programme is funded by the European commission, UNDP, the world Bank, UN HABITAT, Canada, Germany Denmark, Finland, the Netherlands Sweden Norway and the USA.<sup>52</sup> The diverse involvement by various donors’ emphasizes the role of donors in encouraging irreversible reforms in Kenya in a bid to consolidate democracy. The activity of the external actors from the evidence provided are; advocacy, empowering local human rights and advocacy groups, funding of human right organizations and for a, pressure on the government to legislate on human right laws, empowerment and actioning on human rights abuses.

When we use the argument of Lijphart<sup>53</sup>(1999) that democracy can not survive unless human rights are effectively protected and that for consolidation to take place a minimum core of civil and political related to participation and wide range of rights must be secured, human right situation in Kenya may be far from the ones of democratic nations. Human rights abuses have persisted in Kenya despite awareness levels<sup>54</sup> and political changes that have taken place. This can be attributed to factors such as lack of extensive civic education, low level of education, and ethicized political environment where the regime in power gives due advantage to its supporters who in turn tend to ignore the

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<sup>50</sup> The East African Journal of Human Rights and Democracy, Nairobi vol 2 No 4 2004/5

<sup>51</sup> Ringera report of 2003 famous known as “Judicial Surgery” recommended several reforms in the Judicial sector including Probing Judges and Magistrates found to be corrupt. 5 Judges of court of appeal, 8 High court and 82 Magistrates were sacked.

<sup>52</sup> GJLOS is funded by a donor consortium to bring changes in the Governance in Kenya.

<sup>53</sup> Lijphart Arend Patterns of Democracy. Yale 1999 P8

<sup>54</sup> Transparency International Report on Kenya, 2004.



plight of others. There is also a weak legal framework for example Sex Offences Bill was passed only recently (2006) and no strong rights groups in rural areas as most of them are urban oriented. Where abuses do occur and are reported, the rights groups are defeated or deterred by weak legal frameworks which often see offenders off the hook either through loopholes in prosecution and related clauses in the constitution or through corruption in the judiciary.

### Human Rights Perception in Kenya

Individual survey was carried out for three weeks in Nairobi to assess the level of human rights situation in Kenya today.

82 people in different parts of Nairobi were interviewed. Those assessed were between 35 – 45 years both male and female. For gender clarity the 82 people were divided into 41 male and 41 female. A further 20 foreigners of both sexes were also interviewed.

The data was projected as on table 4.6 below.

**Table 4.6: Human Rights Perception in Kenya 2005**

PERSONALITY	% Satisfied	% Fairly Satisfied	Dissatisfied	%No Opinion
Men 35 – 45 Yrs	61	27	10	2
Women 35 -45 Yrs	52	24	16	8
FOREIGNERS	46	35	19	0

*Source:* Constructed from field survey data

Generally viewed from table 4.6 above, every category of people interviewed seem satisfied with human right situation in Kenya. Over 60% of adult men, 50% of women and 46% of foreigners are satisfied. However about 20% of foreigners and 16% women interviewed seem dissatisfied with 8% of women having no perception. This compares unfavorably with 10% men dissatisfied and only 2% having no perception. The disparity in perception is brought about by level of information and direct impact on human rights issues. Foreigners seem to be more aware of right issues since 19% of the expressed dissatisfaction and none had no opinion on human rights issues. However, more women (16%) were dissatisfied than men. Probably this is due to wide range of issues such as cultural discrimination, gender disparity, Workplace segregation and lack of access to resources. These issues always make women feel disadvantaged more than men.

However overall 60% of satisfaction should not be taken to mean that human right issues in Kenya are well addressed compared to when it would have been 80% and above.

Indeed the respondent was not far from the point. Increased a buses in marginalized pastoralist areas are fuelled by traditions such cattle rustling, belief in female circumcision, inter-clan competitions and access to resources<sup>55</sup>

Human right groups in Kenya are also failing because of their over reliance on foreign funding which in most cases not enough and is directed toward a predetermined targets. Besides the government control restrict the operation of such bodies thereby restricting their sustainability, viability and relevance. The NGO coordination Board at times restrict the operation of the NGOs perceived to be critical to the government The Kenya National council of NGO though supposed to be independent, is often infiltrated by the government hence does not work for the western NGOs. Even the international NGOs like their local partners face the problem of internal corruption, lack of transparency and focus. They also suffer form leadership wrangles and often give biased or doctored reports to suite their interests.<sup>56</sup> They hardly reach the grassroots since most their activities are seminar based in hotels far form the locals.

The recommended options for external human right bodies to be effective in Kenya should be to further lobby for legislation by Kenya Parliament, extension of paralegal services to cover rural areas and incorporation of human right components in widespread activities such as in constituency Development Fund (CDF), church activities, and political organizations and in Primary schools. This approach will deepen human rights in Kenya and help solve problems such as rural poverty, illiteracy gender imbalances, violence against women and children and eliminate harmful cultural practices Democratic rights are only possible when economic rights, civil rights, social right and political rights are achievable. However external forces have caused Kenya to move along the democratic consolidation path. Independent institutions like KNCHR KACC Public Ethics Act, etc are likely to be fully freed of influence from other quarters.

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<sup>55</sup> Lewis I.M. A Pastoral Democracy- A study of Pastorism and Politics Among the Northern Somalis of the Horn of Africa. London, Oxford University Press 1961 PP45-46

<sup>56</sup> Transparency International Report 2005/6. It attacked NGO's as offering doctored reports and failing to be in touch with the locals at the grassroots.

#### 4.5 External forces and constitution reform

Constitutional Reform in Kenya has been at the forefront right for the time of multi-party advent. In early 1990's the Moi regime recognized this need when the Saitoti committee went round the country collecting views of Kenyans on the reform they anticipated.<sup>57</sup> However when section 2 (a) of the constitution was repealed; the KANU regime fell short of reviewing the whole constitution thereby only legalized multi-partism. This marked the first grave failure by the opposition to take the advantage and push for more reform on the issues such as electoral procedures, entrenchment of multi-partism in the constitution, independence of the judiciary and the one for constitutional offices, and laws relating to freedom and security. According to Oyugi (2003) the opposition was to blame for the oversight that led to the constitutional impasse.<sup>58</sup>

Table 4.7 below illustrates various attempts made in Kenya to reform the constitution.

**Table 4.7: Attempts for constitutional change in Kenya. 1990 – 2005**

PERIOD	GROUP	IMPACT
1990 – 1992	NCC, FORD PARTY, LSK	Repeal of section 2(a) of the Constitution to introduce multi partism.
1993 – 1997	NCEC, NCK, CPJCC, Kituo cha Sheria (LSK)	IPPG minimum reform. Had no major impact on the Constitution.
1997 – 2002	UFUNGAMANO, PSC I <sup>st</sup> CKRC BOMAS I. DELEGATES	Impasse – NO result
2003 - 2005	PSC, CKRC and BOMAS II DELEGATES NAIVASHA ACCORD (MPS) & PARLIAMENT CITIZEN IN THE NATIONAL REFERUNDUM 2005.	Impasse – No result led to total collapse of Constitutional Reform.

**Key:** NCK – National Council of Churches of Kenya, LSK – Law Society of Kenya, NCEC- National Convention Executive Council, CPJC- Catholic Peace and Justice Commission, PSC – Parliament Select Committee, CKRC- Constitution of Kenya Review Commission.

**Source:** Constructed from the data obtained from the literature on Constitution making process in Kenya. From the above table it is evident that domestic efforts at reforming constitution in Kenya since early 1990's has remained a pipe dream. Only in 1992 and 1997 with same external

<sup>57</sup> Grignon Francois – Understanding Multiparty in Kenya 1990 -1992 years. Working Paper No 19 French Institute Research in Africa, Nairobi 1994.

<sup>58</sup> Oyugi W.C. Politics of Transition in Kenya (2003) opcit. P. 353

pressure did reform in Kenya produce some amendments. Repeal of Section 2(a) in 1991 paved way for multiparty politics and the IPPG heralded minimum constitutional amendments. These amendments were however selective and did not amount to constitutional overhaul. Efforts by various groups to bring new constitutional order have been resisted by the regime's machinations to maintain a status quo. Considerable involvement of external forces there is permanent to Kenya's Constitutional reform.

The external influence towards the constitutional reform in Kenya was directly applied when the German embassy facilitated a meeting between the government, opposition and the civil society under the NCEC to come with the Safari Park IPPG Accord which addressed certain minimal reforms namely; Kenya Broadcasting Corporation Act to allow for equal and fair reporting by KBC, of both opposition and government events, Reviewing of the Chief and Public Order Acts, legalizing section 2 (a), scrapping of detention without trial and creating of ECK..<sup>59</sup>

In October, 2001 the IMF and World Bank informed Kenya that they were suspending their funding to the country after disbandment of Kenya Anti Corruption Authority (KACA) occasioned by the Ringera Ruling.<sup>60</sup> The institutions gave tough condition that they could only reconsider resuming aid to Kenya after the government had reconstituted KACA. In 2001 the EU representatives also further affirmed that they would make further disbursement in future subject to progress in fighting corruption.<sup>61</sup>

As Kenya was undertaking the Constitutional Review process, the external agencies were part and parcel – they were given observers status during the Bomas Constitutional Conference, and they also provided and funded expert drafters drawn from various parts of the commonwealth and the west. In terms of the content of the proposed constitution, external influence were brought into focus like systems of government whether Parliament or presidential - based in either French or British models, the issue of dual citizenship, devolution, executive powers, two chamber parliament, and regionalism. The presence of the foreign envoys exerted certain implicit pressure for the entrenchment

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<sup>59</sup>See IPPG ACCORD Recommendation 1997

<sup>60</sup> Earlier in 2001 Justice Aaron Ringera of High Court of Kenya declared Kenya Anti-Corruption Authority as unconstitutional hence recommended its disbandment which was subsequently done

<sup>61</sup> European Union Report on state of Reforms and Democracy in Kenya in 2001. The Amnesty International report on Kenya 2001.

of certain bills in the constitution that would safeguard democracy. They therefore wanted the inclusion of the following into the new constitution; Sex Offences Bill, Public Servants Ethic Bill, Media Freedom Bill, Anti Terrorism bill and Economic Crime Bill among others. Following the Boma collapse the external actors pressed for constitutional reforms through sponsoring Governance Justice Law and Order Sector (GJLOS) notwithstanding sporadic attacks on the government's lack of will to give a new constitution.

The involvement of external forces in Kenya constitutional making process, though not explicitly, has had a remarkable achievement and a move towards democratic consolidation.

The IPPG reform for example, abolished detention without trial, reduced the powers of the chiefs and executive in reviewing both the Chief and Public Order Acts.<sup>62</sup> It also reformed the electoral procedure by expanding the number of Electrical Commission commissioners from 11 to 21 and created a somehow independent ECK besides recommending that vote counting be done in polling stations. These areas have led to the enhancement of the credibility of the electoral process in Kenya. The external actors' suggested bills had positive repercussions for democracy - some such as -Public Officers Ethic bill, Economic Crime Bills, Sex Offences Bill have so far been enacted through parliamentary legislations.

However, the constitutional reforms are far from over considering the antagonistic interest of the regime in power, the opposition and the external actors. Constitution making has seen the conservative hand of the government, the radical view of the opposition and entrenched self interest of the foreign actors. The Anti-terrorism bill for example, is a bone of contention between the interested groups. As the position currently is, while the government is under strong pressure to enact the bill, the opposition is opposed to it since they claim it targets certain sections of Kenyan community, the Muslims.<sup>63</sup> Even the Sex Offences bill was later enacted but after it was greatly revised. The presence of the foreign observers and drafters at the Bomas of Kenya never proved effective enough to make the constitutional enactment a reality. The over - whelming

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<sup>62</sup> Area reviewed in the IPPG Accord 1997. Chiefs Act and Public Order Act used open avenues for the abuse of Human Rights and Personal Freedom.

<sup>63</sup> Muslim Organizations, Religious Leaders and Human Rights Activists have petitioned opposition repeatedly not to support Anti Terrorism Bill since it will oppress Muslims.

interest of the regime elites, the hostile and divided Parliamentary Select Committee (PSC), less independent Kenya Constitutional Review Commission (CKRC), querulous politicians and delegates often led to lack of consensus necessary for constitution making, more so, the external actors have all been unable to prevail upon the government to be neutral in the review process hence allowing the regime interest to transcend the ripe moment – for a constitution. The external actors also lack clear entry point in the process since the mandate is with the “people of Kenya” (Wanjiku’s) and Parliament. Even in previous instances politicians used to amend the constitution at parliament level, but where the “people”, the civil society and “donor” are to be involved, a clearly defined approach should have been put in place to stem fiery differences like witnessed in the Bomas of Kenya.

Perhaps the best option for the external actors opportunity would be to use the civil society to champion their interest because they are closer to the grassroots and are trusted and in most circumstance more democratic or cut across the society.<sup>64</sup> They could be allowed to bring experts who are neutral simply undertake civic education to empower the society that will be conscious of their rights, who in turn will push for them to be included in the constitution. Although this option book plausible, it is a long term one which need to be speeded up especially at times such as now when the constitution making process is stalled. The future role of external actors will be fulfilled when the civil society is uplifted, the politicians are made to embrace democracy and external forces consult widely across the board in order to come up first with acceptable starting point to making the constitution. An amicably agreed take off is the only promising option for constitution making in Kenya.

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<sup>64</sup> Gyimah Boadi E. Civil Society and Democratic Development in Democratic Reform in Africa – the Quality progress. E. Gyimah – Boadi ed. London Lynne Rienner Publishers Inc. 2004 PP.99 -117

## CHAPTER 5

### 5.0 CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Research Summary

The study has examined the role of external forces in Kenya democratic consolidation process 1992-2005. The major objective was to answer the research question as to what role and how have external forces contributed to the democratic consolidation process in Kenya. It was also based on the central hypothesis that the realization of democratic consolidation is higher when external forces are continuously driving the process either through direct involvement or through their policies articulated by diplomats and agencies.

I conclude that external forces were and have been instrumental in instituting the democratic consolidation process in Kenya using their influences based on factors such as economic leverages diplomatic clout and established policies. They have used these advantages to augment domestic forces in order to enthuse the consolidation of democracy in Kenya.

However even the external forces had certain weaknesses that in some ways impeded the initiation of and a genuine drive towards democratic consolidation. The weakness of border on issues such as the motivation behind external intervention, inconsistent policy approaches; unfair use of economic leverages etc. It also emerged from the study that these same issues form the basis for understanding the underlying motives of external actors' involvement in other countries to champion changes. For example, the US, according to Whitehead involves in other countries to promote democracy because it has to extend to the rest of the world the benefits of a system that is valued at home.<sup>1</sup> The Western democracies collectively regard democracy as a tool of making the world safer from future wars and thereby guaranteeing global peace and security.<sup>2</sup> External actors like Nordic countries value human rights more hence intervene to promote the same. The US also regards its foundation according to Larson, as based on "strong puritan ethics"

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<sup>1</sup> Whithead Lawrence, *International Aspects of Democratization in Transition from Authoritarian Rule. Comparative Perspective* O,Donnell, Schmitter and whitehead Eds. Baltimore/London. Johns Hopkins. Univ. Press. 1996. P 10.

<sup>2</sup> See James Lee Ray. *Democracy and International Conflict. An Evaluation of Democratic Peace Proposition.* Univ. of Columbia, South Carolina Press. 1995.

that respect human dignity and equality to all.<sup>3</sup> Democracy is regarded as a better means of addressing human rights problems, corruption, poor governance and authoritarianism.

The West's inconsistent policies are a result of diverse interests. Britain, France and Germany for example, wanted to protect their business interest in Kenya while the US did not want to disrupt its long cherished geo-strategic interest in Kenya used as a bulwark against communism and as a staging post for safeguarding the Western interests in the Indian Ocean and the Persian Gulf.<sup>4</sup> Besides aid the Western countries did not want Kenya to experience chaos and possible instability like happened in most neighbouring countries. They often praised Kenya as an example of a politically stable nation and would not want to rush Kenya into political change that could bring instability. However, later after 1990, the Western nations changed their policy and drove Kenya into the reform path. After the 1992 elections, their influence continued to be buttressed into areas such as constitution review, civil society empowerment, political and economic liberalization and human rights improvement. Use of tools of leverages like economic power, diplomatic advantages, technological advancement and power hegemony, external forces have continued to drive democratic reform process in Kenya.

The study emphasizes that despite the advent of multi party in Kenya in 1991 and subsequent elections in 1992 through to 2005, democratic consolidation has not taken a firm root. This has been due to the fact that several parameters of a consolidated democracy like a strong acceptable constitutional order and open competitive electoral process have been lacking. As noted in the previous chapter, Kenya political parties lack a committed ideology besides being undemocratic, divided and vision less.<sup>5</sup> The civil society like, political parties are also weak and lack independence. Finally up to today the Kenyan constitution is yet to be comprehensively reviewed to address electoral areas, the excess executive power and create an acceptable form of government with clear separation of power. In the final analysis, the democratic, consolidation process in Kenya still suffers from the whims of the executive and the ruling elites.

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<sup>3</sup> Larson L. David. *Objectivity, Propaganda and Puritan Ethic* Princeton N. York Nustrand Co Inc. 1996 P.1

<sup>4</sup> Widner Jenipher. *Kenya's Slow Progress Towards Multi-Party Politics*. *Current History Vol. 91. May 1992*

<sup>5</sup> Oyugi W. O. *The Politics of Transition in Kenya 1992-2003. Democratic Consolidation or Deconsolidation in Oyugi W.D., Wanyanze P. and Mbai Odhiambo C. The Politic of Transition in Kenya KANU to NARC. Nairobi Bill Foundation 2003 pp 345-375*



If we use Huntington's (1993) definition of a consolidated democracy that "a democracy is consolidated when there are two democratic and peaceful democratic transitions of power subsequent to the creation of initial government" in successive elections,<sup>6</sup> one can view democracy in Kenya as consolidated or close to being so. However, when Dahl's (1971) model is included<sup>7</sup> Kenya is still far from being a consolidated democracy as it is yet to be institutionalized, routinized and legitimized and the country is characterised by weak economy, civil society and political parties. The state of democracy therefore calls for the continued presence of external forces to augment the fledging civil society and nascent political parties. The presence of the external forces will act as a counter weight to the incumbent regime and its elites that tend to have no clear agenda on democratic reform. Left unchecked the ruling elite in government supported by muzzling laws can hardly initiate reform and instead may undermine it. This justifies the essence of the continued presence of external forces in order for democratic consolidation to be genuinely driven in Kenya.

## 5.2 Conclusions

It is evident from the study that external actors played an important role in the Kenya democratic consolidation process. A part from the incessant pressure they put on the authoritarian Moi regime to legalise multipartyism, they also became part and parcel of further democratic reform that followed. The external agencies have maintained a focus on areas that are crucial for democratic consolidation including, electoral reform, constitutional review, strengthening of political parties and civil society, and challenge for governance and human right records. Nonetheless some intermittent success was experimented due to internal weaknesses of the very forces, and further hampered by the recalcitrant incumbent regime elite who show a complete disregard to free and fair elections, and a functioning multi party democracy.

However, the external actors' weakness, notwithstanding their involvement and influence has seen much progress achieved towards democratic consolidation. They have continuously funded subsequent elections in Kenya since 1992 as well as provision and transportation of materials and observers. The study found out that external donors total

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<sup>6</sup> Huntington, S. P. Democracy's Third Wave. In: The Global Resurgence of Democracy. Eds .Diamond L. and Platter, F. M. Baltimore/London. Johns Hopkins. Univ. Press. 1993.

<sup>7</sup> Dahl R.A. Polyarchy: Participation and Opposition. New Haven. Yale Univ. Press. 1971.

funding of elections in 1992 – 2002 accounted for 30% of total funding of electoral process in Kenya. Beside this they formed an essential element of legitimising elections in Kenya through constant elections observation under corporate bodies like COG, DDDG and IHRLG which teamed up with domestic ones.

Through their efforts, outdated laws like the Chiefs Act, and the Public Order Act were reviewed and amended. There have also been efforts to empower the civil society and recognise the role of the opposition. The funding of civil rights campaigns, constitutional review process and education on democracy has been done by external actors. In retrospect external Authors have brought great bearing on free and fair elections, voter registration, creation of a free atmosphere of political campaign for the opposition parties, allowing foreign election observers and monitors during the election, composition of an independent Electoral Commission, fair registration of political parties, hence added some legitimacy credit to democracy in Kenya.

The study has also found out that due to external influence party politics in Kenya is increasingly becoming important. It is established that political parties increased by more than 50% towards every election year since 1992. These parties although weak and undemocratic still form the bedrock of political competition and fora in Kenya. The parties were also found to be the link through which foreign democratic institutions find a foothold in Kenya's electoral politics. However these parties operate in a delicate environment where they are held captive by several political, social economic and administrative bottle necks.

On human rights the study has found out that several international rights bodies have been operating in Kenya and were part of initial pressure that triggered the advent of multipartyism in Kenya. The category includes Amnesty International, Transparency International, International Commission of Jurists etc. Their intervention in Kenya led to the springing up of several domestic rights based bodies such as Kenya National Commission of Human Rights, Kenya Human Rights Commissions, FIDA Kituo cha Sheria and other related bodies. The combined effort of these right bodies have been able to influence certain legislation in Parliament aimed to improve the lives of Kenyans and address social problems and inequalities.

In terms of perception, 60% of the people are satisfied with human rights condition in Kenya and 40% dissatisfied. It is also found out that human rights agenda in Kenya is changing at a very low pace and certain issues like gender parity, new constitutional order, negative cultural practises, Judicial fairness, unfair distribution of National resources, tribalism and nepotism continue to be current issues. Coupled with weak legal framework, corruption at the judiciary, poor funding and low awareness, human right issues in Kenya still need urgent attention.

Finally the study found out that Constitutional reform effort in Kenya since 1992 has remained a milestone except for repeal of section 2(a) and the IPPG minimum reform of 1997, all efforts to reform Kenyan Constitutional has borne no fruit. Even in the previous two instances mentioned above, reform achieved fell short of the expectation of the people and hardly paved the way for democratic, competitive and wider participation by the citizen. Major efforts that involve all stake holders end up in impasse due to competing interest of politicians, Civil society members and un willing regimes driven by the motive of maintaining status quo. The end result here is that achieving democratic consolidation in Kenya can hardly be proclaimed while an older constitutional order is still in place – it has to be reformed in order to guide the pursuit of equality, wider participation and fairness.

The study therefore maintains that without the external actors-pressure and involvement, the domestic forces alone would have not achieved the reforms that have been seen in Kenya including legalization of a multi party system; a fairly free and fair election as opposed to previous ones characterised by manipulations and rigging by the authorities, operating free press and freedom of speech. The perennial problem of the opposition parties based in undemocratic ideals, polarization based on ethnicity and personality cults never used to offer genuine threat to the incumbent regimes which only exploited the formers weakness to continue its stranglehold on power. Where domestic forces offered real threat as was the case of 1992 and 1997 Moi used to orchestrate the division by using the tactic of intimidation, blackmail and buyout to render the opposition ineffective. In 2002 elections where the tactics failed, Moi and KANU lost to a grand coalition NARC.

It is further emphasized that with less liberalised political front as seen in Kenya recently, where the current regime and, its elites seemed to renege on its promises on constitutional

reform, improvement of human rights records, independence of constitutional offices, zero tolerance on corruption and curtailed executive powers, much prospect on democratic consolidation is a matter of question. It further casts doubts as to whether domestic forces on its own can ensure democratic consolidation in Kenya. Endless political realignment, government harassment and poaching from civil society and a constitutional stalemate will further weaken domestic forces and instead call for continued external involvement.

However, to acknowledge the role of external actors should not mean that domestic forces are ruled to be less important in the democratic consolidation. Neither should this imply that democratic consolidation in the country rests on the hand of foreigners with Kenyans being passive observers. The critical point is that domestic forces will continue to initiate the process and the external factors will only play a catalytic role that will ensure that democratic consolidation remain in focus. As earlier highlighted democratic consolidation process will depend on Kenyans themselves and its speed, quality and guarantee are the only components that will be a function of the external agencies.

Whereas it is appreciated that Kenya has moved along some democratic consolidation path and its political players equally remain expectant that Kenya should further consolidate democratic gains, a disturbing scenario where politicians subvert to accede to their cronies, ethnic entrenchments, and raw power struggle while at the same time muzzling the civil society, portend disaster for democracy. There is a great procrastination by the ruling regime whenever a move for genuine reform is made and the fear is that should Kenya's ruling elite succeed in dominating reform process democratic consolidation process in Kenya may stall mid stream.

### **5.3 Recommendations**

This study had to limit itself to certain confines of its specific objectives and therefore was unable to venture to other avenues although such areas featured prominently during the literature review and field interview. It is therefore imperative that such areas need to be separately investigated.

### **5.3.1 Areas for Further Research**

The issues raised that require further research are:

- Role of specific external actors as it was clear that although they applied collective approaches on Kenya, each actor had specific individual interest that could have or may be used to promote democratic reform in Kenya.
- Because various brands of democracy exist in the West it is important to determine which type for example will be suitable for Kenya. Is it Parliamentary, presidential, practical, monarchical or minimalist or maximalist?
- What specific areas in domestic sphere should be targeted by the external forces in order to strengthen their role in democratic consolidation? Issues to be investigated include quality of leadership, patriotism, ethnicity in Kenyan politics and working joint venture between external and domestic forces.

### **5.3.2 Policy Recommendations to External Actors.**

As a matter of policy, external actors should note the following points as they aim to achieve a consolidated democracy in any other country:

1. For a particular country to be made to change and adopt to a new system, the economic, social and political structures of such a country should be deeply understood so as to ensure a genuine change without destroying the internal cohesion crucial for political stability.
2. Democratic promotion in other countries should be holistic. Any partisan approaches can generate suspicion and bad blood between various parties involved in the reform agenda.
3. Targeting the state only in order to come up with democratic consolidation can be misleading. Consolidation can only be realized when an amicable consensus is achieved between domestic forces and the state. Lack of consensus can delay the process of consolidation.
4. External actors can only play a facilitative role in democratic consolidation as the major task rest with the state and the domestic forces (actors).
5. Only a genuine multilateral approach can facilitate democratic consolidation process. The corporate process witnessed during the DDDG, COG, EUOM and NEMU

electoral observation have higher chances of achieving the expected outcome. In the diplomatic cycle, private diplomatic channel should be used as well as public diplomacy although caution should be taken to shield the agenda from the press exaggeration. The external actors should also harmonize their policy goals towards a target country.

6. Bringing about a consolidated democracy is always hard to achieve. It is a matter of relativity and can take decades to achieve while at the same time the gains made can easily be destroyed. There is no guarantee that a democracy consolidated cannot collapse or that the ones destroyed cannot be revived. Any key to success in consolidating democracy must entail the following; Structured dialogue, collaborations, wide consensus, policy accommodation and fair use of power levera

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## APPENDICES

### APPENDIX 1

#### M.A. (Diplomacy and International studies) Research Interview guideline

##### *Introduction*

*I am carrying out a Master of Arts in Diplomacy and International Studies research on the Role of External forces in the Democratic consolidation process in Kenya 1992 – 2005. The research by focusing on the external forces seeks to establish the extent and ways that external actors influenced democratic reform in Kenya. As a key stakeholder and a participant in one way or another in the process, you have been identified as a key informant in the research. Your valued opinion, which I hereby seek, will be of great benefit to this research and the general studies of democratic consolidation in Kenya. Your opinion on the following research questions will be greatly appreciated.*

*I wish to reassure you that the information provided will be treated with utmost confidence and shall only be used for purposes of the research.)  
Kindly take a few of your minutes to participate*

#### SECTION A: KENYAN ELECTORAL PROCESSES

1. In your view, have the past two general elections been free and fair?  
(Briefly explain)  

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2. What role of the ECK ensuring free and fair electoral process in Kenya?
3. Which external Institution have you collaborated with during elections? What are the main challenges of conducting elections?  

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4. What measures do you think should be put in place to consolidate the process of successive electoral process?  

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#### SECTION B HUMAN RIGHTS AND FREEDOM CAMPAIGNS

*To be administered to respondents from selected Human Rights Organizations*

5. What is your opinion on Kenya's Human Rights status? What has been the human rights agenda in Kenya?  

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6. what role does this institution play in ensuring human rights and freedom in Kenya  

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What are the other bodies you Collaborated with on human rights issues?

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what measures do you think should be put in place to guarantee human rights and freedom in Kenya

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**SECTION C: CITIZEN EMPOWERMENT AND EDUCATION**

*To be administered to respondents from selected Civil Society organizations political parties, and constitutional officers/bodies*

7. In your view, has Kenya been able to attain wide participation by civil society and citizens in democratic consolidation during the past one decade? (Briefly explain)

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8. what role does your party/society/institution play in ensuring wider participation by the citizens in democratic consolidation in Kenya Which foreign bodies supplement your efforts?

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9. What are the main challenges of conducting civic education and empowerment in Kenya?

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10. What measures do you think should be put in place to enhance wider participation by the civil society and citizens in democratic consolidation in Kenya?

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**SECTION D: DEMOCRATIC PROMOTION IN POLITICAL PARTIES**

*To be administered to respondents from political parties funding organization.*

11. In your view, do the political parties in Kenya enhance or hinder development of democracy?

---

12. What role does this institution play in ensuring efficacy and functions of the existing political parties

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13. What are the main challenges faced in running and sustaining political parties

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14. What measures do you think should be put in place to promote democratic consolidation with the existing political party experience?

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**SECTION F: CONSTITUTION REFORMS PROCESSES**

*To be administered to respondents from Parliamentary Select Committee on Justice Affairs, former commissioners of CKRC, ECK and organizations that funded the process)*

15. In your view, what has been the significance and process of legal reforms since the introduction of multi-partyism to date? Briefly explain

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16. What did/does PSC, ECK, CKRC donor) play/played in ensuring full attainment of legal reforms and order over the last one decade in Kenya? Are there foreign bodies also pushing Constitutional reform in Kenya?

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17. What are the main challenges of legal reforms and order in Kenya?

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18. What measures do you think should be put in place to ensure full attainment legal reforms and order in Kenya?

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**Thank you for your responses**