GOOD GOVERNANCE AND HUMAN RIGHTS: A PHILOSOPHICAL APPRAISAL OF THE KENYAN EXPERIENCE

BY

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DECLARATION

This project paper is my original work and has not been presented for a degree in any other University

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DEDICATION

This project paper is dedicated to my beloved Mother, Mrs. Rebecca Mutunga, who sacrificed a lot for my education. Also I dedicate the thesis to my family members: Kyalo, Joseph and Mueni.

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ABSTRACT

The purpose of this project is basically concerned with the nature of man and how he relates to the nature of the political order, leading to good governance and human rights protection in the context of the Kenyan experience. The subject matter of the thesis is presented in the course of five chapters.

In the first chapter, I attempted to situate governance and human rights in the context of the Kenyan condition. This second chapter focused on aspects of the primacy of the human person. The aim was to elucidate that the human person guides and directs the issues of governance and human rights. The person is both autonomous and social, as expounded in chapter three. As a social being he requires the State for his existence. But the terms in which we become accustomed to discuss the political order obscure the fact that everyman is a person with an intrinsic value based on finality. Here we considered various philosophers and their views regarding the relationship between the State and the individual. The fourth chapter aimed at pointing out the various facts of governance in Kenyan political culture. We elucidated some social facts and how these have been perverted in their nature leading to poor governance and human rights abuse. Finally in chapter five, the study focused on building a political culture for Kenya keeping in mind that any genuine political culture must be pinned down by a proper conception of the human person.

In the general conclusion, we have attempted to anchor the reflections of the study.

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1 CHAPTER ONE: GOOD GOVERNANCE AND HUMAN RIGHTS: A PHILOSOPHICAL APPRAISAL OF THE KENYAN EXPERIENCE

1.1 BACKGROUND

Good governance and human rights are major issues in political and philosophical discourse. One cannot be discussed without the other since both compel one to go to the roots of society and the human person respectively. In Africa, and in Kenya in particular, there is a distinct need to examine the notion of the human person and how both these elements (governance and human rights) interact.

To a large extent, governance has been identified with power and this in turn has led to a demarcation of society into rulers and those who are ruled. There is therefore a need to analyse the relationship between good governance and human rights, but advanced in such a way that the analysis caters for the distinctive configurations of the human person and Kenyan society.

1.2 DEFINITION OF TERMS

Governance is the ability or manner of governing by structure of administration, that is the government.

Govern means art of directing the public affairs of a country.

Governing is the right or power to govern.

Right is a valid claim that certain treatment is owed to oneself and to others.

1.3 STATEMENT OF THE PROBLEM

The political culture of Kenya since its independence has been a flawed one. It has been fraught by ethnocentrism, separatism and other various forms of corruption and, in particular, discrimination in its various guises. This feature has resulted in violations of what have been recognised internationally as fundamental, that is Human Rights.

The root cause of this political malaise has been the lack of a proper conception of the human person in society. The consequence has been poor governance and the violations of human rights.

Therefore the main focus of this study is the principle of the primacy of the human person and how that principle relates to the issues of good governance and human rights.

1.4 OBJECTIVES OF THE STUDY

The colonial and post–colonial State processes were founded on the fundamentally unsustainable view that Africans were sub-humans. Consciously or unconsciously governments in African States sustained or if you like inherited this view. The consequence has been poor governance and the violation of human rights. This study will provide a clear conception of the human person and argue for a relationship between governance and human rights.

1.5 JUSTIFICATION AND SIGNIFICANCE OF THE STUDY

Kenya has been a nation of deprived citizens where the masses are held in bondage of deprivation, while a minority luxuriates in conspicuous consumerism. The source of this situation is not in the decrees of the gods. Rather it is the man-made political culture that has developed from colonialism and that continued in the post-colonial era. The need for a political vision that would cross all the cultural and ethnic divides has not been recognised; the barrier lines have been drawn and fixed in the consciousness of the people. The divisions have been augmented by an ethno-centered politics and a personality cult that have plagued the nation from its inception.

The significance of this study, therefore, lies in the fundamental fact that as long as leaders are blind to the needs of the people, the citizens will continue to languish in despair and discomfort.

That is the reason why I not only present here a critique of the status quo, but also address the issues of qualities of leadership that must prevail, the conditions that allow leadership to play its role and above all, a vision rooted in the soil but reaching to the Kenyan skies. Such a vision, guided by a proper notion of the human person, must be internalised in the political culture of our time if the children of tomorrow are to enjoy genuine freedom.

1.6 LITERATURE REVIEW

The first book that has been found relevant to the present study is Plato's *Republic*. The text addresses the multiplicity of political arrangements of which humans are capable. The State exists in order to serve the wants of people. The people are not independent of one another, but need the aid and cooperation of others in the production of necessaries of life. However, Plato seems more concerned with the harmony and stability of the Whole State rather than the well being of the individuals in it. The three-fold class-division and his insistence on the harmony and stability of the State, requires that each person fulfil his allotted function and that alone.

The question of justice is not posed in terms of the relation between the individual and the State as if the two were naturally separated from each other. His conception of justice in that the State is not all what we mean by the term, which implies something like equality before the law, and fair shares for all.

Stability and efficiency are valuable, but they are certainly not the only criteria or perhaps the most important, for the well being of a society. However, Plato should have realised that while the notion of a constituted or shaped individual is vital, so also is the idea that the human person is naturally endowed with a constitutive element that cannot be shaped, which operates out of time and which to be changed, must be redeemed from time.

Contrary to Plato's views, Aristotle in *the Politics* argues that the State and the individual have a relationship of mutual reciprocation that is natural: the State is the true and final perfection of the individual. However, like Plato, Aristotle sees the State and the individual as equitable morally, a distortion of reality. Further Aristotle, on a positive note, defines the State's responsibility to the individual:

> "In like manner and analogically, therefore, an individual cannot fulfil his purpose unless he is part of a State"[1].

However, Aristotle thought that the State could provide for all the person's (individual) needs because of his monolithic conception of the finality of man.

St. Thomas Aquinas in the *Summa Theologica* further distinguished properly the person and the individual. He argued that through *matter* one is an individual and that though *the act of being*, one is a person. He however, in his analysis on the nature of the State, understood and analysed the human person simply as social in nature. The common good according to Aquinas was to be provided by the State. He further warned that authority should never be a means to egoistic ends and that the common good should not lose sight of the individual good. The talk of common good will make sense only when it results in the good of the individual.

Hobbes in *The Leviathan* views government as emanating from human nature. Because he viewed man as an integral part of a mechanistic universe, he believed that the philosopher or social scientist could treat human actions and desires in the same way the physicist treats measures and weights, hence demeaning the person. Also man is determined in everything he does either by appetite for something or aversion from it. He argued that man is characterised by a restless desire for power:

> "So that in the first place, I put for a general inclination of all kind, a perpetual and restless desire of power after power, that ceasseth only in death. And the cause of this is not always that a man hopes for a more intensive delight than he has already attained to; or that he cannot be content with a moderate power: but because he cannot assure the power and means to live well, which he hath present, without the acquisition of more"[2].

Hobbes viewed man as purely egoistic. Unlike the lower creatures, which do not distinguish between private good and that of the species to which they belong, man is naturally in competition with his fellows and part of his joy lies in exalting himself over other men. However, Hobbes acknowledges that the same man is endowed with reason that serves as a regulative element. It is this conception of the nature of man that made him advocate absolutism.

Machiavelli in his book *The Prince*, gave a philosophical support to individualism. The power of the State and the authority of law are justified because they contribute to the security of the individual. For him religion and morality are in a subordinate and insignificant position in relation to politics:

> "A sound maxim that, when an action is reprehensible, the result may excuse it and when the result is good, always excuses it[3]."

Machiavelli, like Hobbes, viewed man as egoistic, aggressive and acquisitive.

John Locke in his book the *Second Treatise of Government* rejected the *Contracterian* psychology of man, the state of nature and the natural law. The significance of Locke's views on this study stem from his ideas on equality, the rule of law and the notion of freedom:

> "To understand political power right, and derive it from its original we must consider what state all men are naturally in, and that is, a state of perfect freedom to order their actions and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature; without asking leave, or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; their being nothing more evident than that creatures of the same species and rank promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection; unless the lord and master of them all should, by an evident and clear appointment, give an undoubted right to dominion and sovereignty"[4].

However, Locke confused the notion of differences and similarities as a measure to award freedom and equality thus denying particular parties these qualities.

Jacques Maritain is the great philosopher of the primacy of the person and human rights in society. His moral and political philosophy lies within what may be called the *Aristotelian–Thomistic* natural law tradition. Following Aquinas, he maintained that there is a natural law that is unwritten but immanent in nature. He defines natural law as:

> "An order or a disposition that the human person may discover and according to which the human will must act to accord itself with necessary ends of the human being"[5].

He further asserts that the law:

> "Prescribes our most fundamental duties[6]"

A key notion in Maritain's philosophy is that of Hunan Freedom. He says that the end of humanity is to be free but, but "freedom" he does not mean license or pure rational

autonomy, but the full realisation of the Human person.

> "No matter how miserable, how enslaved and humiliated he may be, the aspirations of the person remain indefectibility; and they tend as such, in the life of each of us as in the life of the human race, towards the conquest of freedom"[7].

This moral and political philosophy cannot be considered independently of his analysis of human nature. He distinguishes on the notion of the individual and the person in his work *the Person and the Common Good* in the line of thought of Aquinas:

> "Human beings are individuals who are related to a common social order of which they are parts"[8]

But they are also persons:

> "The person is "whole", is an object of dignity who must be treated as an end[9]"

> "A whole being is an individual by reason of that in us which derives from matter, and person by reason of that in us which derives from the spirit[10]"

In both the material and the spiritual order, however, human beings participate in a 'common good'. Thus, one is an individual in virtue of being a material being; one is a person in so far as one is capable of being of intellectual activity and freedom. Both elements are equally necessary to being a human being. It is in virtue of their individuality that human beings have obligations to the social order, but it is in virtue of their personality that they cannot be subordinated to that order:

> "If the good of the whole profits the parts, as the good of the body profits its members, it does not in the sense that it is turned back or redistributed to them, it is merely in ore that the whole itself might subsist and be better served that its parts are kept alive or maintained in good condition. Thus, they partake of the good of the whole but only as parts of the whole"[11].

Maritain's political philosophy entailed an account of human rights. Since the natural end of each person is to achieve moral and spiritual perfection, it is necessary to have the means to do so, i.e. to have rights, which, since they serve to realise his or her

nature, are called natural.

> "Man — as a person — has primordial rights which (political society) must respect[12]".

He laid great emphasis on the common good as the Guiding Principle in society and not individual rights. More so his emphasis on relationship between common good and human rights is fundamental to the study. He wrote at a time when primary rights were being butchered as a practical consequence of the flawed philosophies. The flawed philosophies had their roots in the general will of Rousseau.

There was however another historical strain in the evolution of political philosophy – the libertarian. Locke, Mill, and Adam Smith advocated this. While learning from this strain, Maritain devised distinct understanding of the relationship on governance and human rights.

In 1963 Pope John XX111 produced a model of the truly human political community. He did this in *Pacem in Terris*. In his recent message for the New Year, John Paul 11 celebrated the 40th anniversary of that encyclical. The keynote in both documents is the primacy of the human person who interacts at national and international levels through the institutions of governance:

> "The conviction that all men are equal by reason of their natural dignity."[13]

The pope knew that that dignity was still being trampled upon in many parts of the world. Seeing the growth of awareness of human rights that was then emerging, the pope John XXIII caught the potential of this phenomenon and understood its singular power to change history. He argued that defence and promotion of basic human rights,

which every human being enjoys, not as a benefit given by social class or conceded by the state but simply because of or humanity:

> "Any human society, if it is to be well ordered and productive must lay down as a foundation this principle, namely that every human being is a person, that is, his nature is endowed with intelligence and free will. Indeed, precisely because he is a person he has rights and obligations flowing directly and simultaneously from his very nature. And as these rights and obligations are universal and inviolable so they cannot in any way be surrendered".[14]

Each lays down the proper existence between rights of individual and duties. Applying this to the relationship between citizen and State, the documents outline a political philosophy at the national level that statesmen will neglect at their peril.

Bernard Lonergan in his epoch making book *INSIGHT*, which he published in 1957, attempts to illustrate on the nature of critical inquiry and identifies the essential steps if such an inquiry is to be successful. Thus he discovered the laws of genuine inquiry and the process, which is independent of any particular area of inquiry, while at the same time he insisted that in order for his understanding of insight to be successful in practice, any particular inquiry must root itself in the modalities of that distinct area. In Ethics, these precepts are:

> Be attentive, be intelligent, be reflective and be responsible[15].

In our study, we apply and recover a remarkable complimentary among the works of these philosophers.

1.7 THE SCOPE AND LIMITATION OF THE STUDY

The geographical limit of the study is Kenya. The focus of the study will be the relationship between good governance and the promotion and protection of human rights. The concern, however, is mainly philosophical. Consequently, while taking into account the socio-economic and prevailing political scenario in Kenya, the study moves on to an analysis and development of the notion of the human person in relation to governance and human rights.

1.8 THEORETICAL FRAMEWORK

We need a theoretical framework out of which we can develop a solid philosophy on the relation between good governance and human rights. The theoretical framework is based on a personalistic theory of politics. Such a theoretical framework must be rooted in the concept of the person as the ontological source of good governance. In the analysis of such a concept, we must consider in particular the finality of the human person and how good governance and human rights are linked to such finality. In such an analysis of the human person we discover that ontologically he is complete within himself while at the same time his nature is to develop through interaction within the social system. In such an understanding the human person does not 'join' society but rather is 'born' into the society and 'becomes' a mature person through the society.

Among the social institutions that play a formative role in the evolution of the

human person, the State has a unique position.

It's distinct role is to protect and promote the rights of the individual which correspond to the needs that must be fulfilled and are natural to each of us. The State performs its function through the promotion of the common good. It's role is to provide the conditions that are necessary for the realisation of that good.

Given the fundamental character of its tasks, it enjoys a range of entitlements over its citizens as members. However, the entitlements are not absolute. For just as the finality of the human person gives the State status, that same finality ensures its limitations. This personalistic political philosophy must be balanced by another thesis if society is not to be seen as a means to the development of the person. This is the notion of the human person as an individual, with a finality as such an individual. Here there is a dialectical tension between the State and citizens that has been a point of reference down the ages.

Nowadays however, we live in an era of government plans, voting procedures, economic plans, voting through devices etc. The government has an obligation not only to provide the good of order but the participation of its citizens, fair sharing in the conditions of the common good. This is where philosophers like John Locke, John Stuart Mill, Rousseau and to some extent Karl Marx have much to offer us.

Finally a most influential source on this theoretical framework is the program of Catholic Social Teaching which has become more and more influential since Pope John XXIII's epoch making Encyclical of 1963. Two powerful principles of this teaching are fundamental to our theoretical framework. They are the principles of solidarity and subsidiarity.

The principle of solidarity recognises "the unity within diversity among people and how they may work together towards the common good".

The second great principle that has become so much a feature of international organisations and constitutions today is that of subsidiarity.

1.9 HYPOTHESES

That the proper conception of the human person guides the issues of governance and human rights.

1.10 METHODOLOGY

Given the philosophical character of the study, the main research has been conducted in libraries. The study has for the most part relied upon main source and secondary information. The data will be analysed using content analysis. Further to this, historical studies will be utilised in the analysis of the Kenyan political experience. However, while much has been written on the economic and socio-political aspect of the Kenya problem, little or nothing has been written on the moral dimension that must underpin any genuine political process.

We must develop a moral dimension to the political integration. The truth of the matter is that the main thrust of contemporary political philosophy is to concentrate on political institution and on power. In this way such philosophy tends to be positivistic in character. However the fundamental political issues affecting the lives of millions of

people have been largely neglected. This is an oversight and we hope to rectify this in the thesis as it arises in the Kenyan situation.

END NOTES

[1] Aristotle, **The Politics** (Middlesex: Penguin Books, 1988), 55-59.
[2] Thomas Hobbes, **The Leviathan,** ed. Macpherson (Middlesex: Penguin Books, 1975) , 15
[3] Niccolo Machiavelli, **The Discourses** (Middlesex: Penguin Books, 1983), 63
[4] John Locke, **Two Treatise of Government**, ed. Laslett (New York: New American Library, 1965), 374
[5] Jacques Maritain, **The Rights of Man and Natural Law** Trans Doris C. Anson (New York: Scribers Publishers, 1943), 21
[6] Jacques Maritain, **Man and State** (Chicago: University of Chicago Press, 1951), 95.
[7] Jacques Maritain, **Freedom and the Modern World,** (London: Sheed and Ward, 1935), 34.
[8] Maritain, **Man and State,** ibid., 26
[9] Maritain, **The Rights of Man and Natural Law**, ibid., 84.
[10] Maritain, **The Person and The Common Good,** op. cit., 14
[11] Jacques Maritain, The **Person and The Common Good,** (London: Geoffrey Press, 1956), 27.
[12] Jacques Maritain, **Scholasticism and Politics** (New York: Macmillan publishers,1940), 61
[13] John XXXIII, **Pacem In Terris** (Rome: Vatican Press, 1963), 268.
[14] Ibid.. 259
[15] Bernard Lonergan, **Method in Theology**, (London: Darton, Longman & Todd 1971), 53.

2 CHAPTER TWO: THE PHILOSOPHY OF THE HUMAN PERSON

2.1 INTRODUCTION

The elements of integration (such as democracy, rights, ethnicity, law, religion) in the Kenyan political system are not grounded sufficiently. The integrating elements of the political system have further been distorted in their nature and role because of an underlying self-centred ideology that operates both at the collective and individual levels. Race, tribe, religion have been perverted to racism, tribalism and fanaticism respectively. The Kenyan situation has been pathetic and intolerable.

It is at this point worth noting that the problem is both epistemological and moral. It is epistemological in the sense that integrating factors in the political system in Kenya, and their interpretation, clearly show that the system itself is dysfunctional. Moral, because such disfunctioning affects the qualities of life of the people, so that millions are in daily misery. Hence the moral imperative of the study to address the situation. The study intends to offer a solution by way of dialectic between the philosophers who have contributed to the issues.

The purpose of this chapter therefore is to lay down the full dimensions of the human person so that arising out of such analysis the parameters of political practice, that is the framework of political activity, may have deeper roots in a philosophy that is truly personalist while not neglecting the place and role of the individual.

It is my conviction that the problem of Kenyan politics is in the first instance a problem of vision, most especially regarding the primacy of the human person. For it is only in such a way that a political morality may be devised which recognises both the uniqueness of each person and his role as part of a political system.

2.2 THE PRINCIPLE OF THE PRIMACY OF THE HUMAN PERSON

In today's culture various notions distort the primacy of the human person. The disintegration of the concept of person, that has found room in modern thought, has also frightening consequences on the political and social plane. Poor governance and the violation of human rights are not only due to human wickedness, but also to the disintegration of the concept of the person on the philosophical plane. Descartes' renunciation of metaphysics diluted the entire concept of the human person:

> "According to Descartes, what constitutes the human person is the consciousness the soul has of itself"[1].

After Descartes, either there were exaggerations or diminution of the concept of person. Diminution came from Hume, Freud and Watson.

Nietzsche, Fitche and Hegel exaggerated the concept.

Hume reduced the person to sensations and put together by associative power of fantasy by making the person a fact of consciousness. For Freud, the person is composed of the Id, Ego, and I. He identified the true I with sub-consciousness. Watson linked the person to behaviour and response in society.

The idealists Fitche and Hegel assign reason to the power of putting them into being. Reason is itself identified with person. Person is an absolute spirit, with no ontological constancy. Instincts and passions in naturalism guide the approaches to man and exhibit an evolutionary development in nature. Man is:

> " The bridge leading nowhere" according to Nietzsche and his essences is a "will to power[2]"

Giving priority to will over reason, Superman takes the place of the person as absolute value, as the incommunicable ontological identity. The disintegration of the concept of the human person has influenced this study into new investigations on the dignity and value of the person.

The self–apprehension of the person incorporates characteristics that are extremely important in any consideration of Politics and Ethics. Hence each human being experiences himself as the centre of activities. These activities are experienced at different levels of his being. Some such activities are more peripheral while others are more central to his being as human. And this same distinction has its own inbuilt hierarchy, against the horizon of the human person as such, as advocated by Plato. Therefore, as Epicurus noted many centuries ago, some values are necessary while others are optional. Furthermore, there is a hierarchy of values where the physical, the cultural, the religious and the personal have their place within the horizon of the human person. Personal development is a socialisation of the human values inherited from a community of persons through centuries of lived experience. Just as the community as a whole developed the values that give a people their life style, so too the individual discovers what is acceptable or rejected through trial and error.

Hence these values cannot be separated from the roots of self. They affect it in different ways and it in turn is conditional and formed by them.

Thus both the external values and the equilibrium of values within the individual have a profound impact on the self-image of the subject in each case. Moral values are discovered by the person's free choice and personal appropriation of each and all-human values.

In complex situations there can be a conflict of values, and in this case the choice must be left to the conscience of the individual person. Postponing or sacrificing a value for the protection or promotion of another implies a moral responsibility[3]. In these situations it is necessary to deliberate which values are more significant, which are more urgent, whether the threat to a particular value is immediate or remote, certain, probable or merely possible. In this way, physical actions are vital or pertinent in the moral and political order only insofar as they are given personal human meaning by the intention of the person making the choice. Clearly the governance of a nation, wherein one is a member, plays a profound role on the quality of life a subject enjoys even though the subject himself plays the most crucial role. The discoveries presuppose an objective order as the frame for the community and the individual. This is a discovery going back to St. Augustine but newly developed in modern philosophy. Augustine in the attempt to comprehend the Trinity without error of deriving three divinities or individualities equated essence and substance:

> "By this time also the term (which) referred to individual human beings, and Augustine apparently feared it might indicate the separatability of the divine persons"[4].

For him, the distinction belongs instead to the term '*ypostasis*' and the Latin corresponding 'person', which does not signify a species, but something singular and individual.

In line with this way of thinking, the individual is experienced as part of a political system and yet as distinct from that same system. An analysis of our own experience of being reveals to us a range of values which are both commonly shared and personal to each of us. Such a sharing cannot be engaged in isolation. Hence come the principle of subsidiarity and the principle of solidarity. Just as we cannot survive in isolation so too we cannot develop in segregation. This is the reason that we are born into society, survive in society, mature in society, and grow into our mature humanity in society[5]. Mounier argues that I cannot think without being and be without my body: by means of my body I am myself, the world, and others; by means of my body I escape from solitude of a thought which would only be the thought of my thought:

> "Refusing to concede a complete transcendence to myself, the body continually projects me outside of myself, into the problematics of the world and the struggle of man[6]."

And:

> "Therefore, the person cannot be resolved either in thought or in consciousness (much less the conscious) but is conceived instead, 'as incorporated existence,' incarnate [7]"

In reaction to Descartes' position, Martin Buber, argues that there is a twofold conception of man: I-It and I-Thou.

> "Without the ***it*** man cannot live. And yet he who lives with ***it*** is not a man[8]".

> "This means, in effect that the human I cannot stand alone in isolation but is oriented toward other consciousness - other is"[9].

In recognition of this fact Maritain distinguishes in each human subject both his personality and his individuality. He argues that the human being is both an individual and a person.

In *The Person and the Common Good*, Maritain asserts that the:

> "whole being is an individual by reason of that in us which derives from matter, and person by reason of that in us which derives from the spirit[10]"

The person is spirit incarnate, enfleshed in a material body subsisting in his or her own right, 'never a means to an end' always open to the world and to other people as being called to self realisation and self transcendence. Boethius defines a person as an individual substance of a rational nature[11]. Aquinas had previously argued:

> "The person names the most perfect in all of nature, subsistent beings with a rational nature[12]."

The person signifies what is most perfect in all nature i.e. a subsistent individual of a rational nature (*natura rationalis individua substantia)*. The human subject is a transcendent subject in himself. In the world of people and things, that value is both supreme and absolute because it is a permanent source of existence and nourishment. This implies that the human being as a person has his own finality and therefore:

> "A man cannot be adequately explained as a thing among other things, as just another event in a universe of blind processes; rather he can be understood as a person only in his fundamental relations[13]".

As an individual, he is a member of the political society. As a person, he is a rational and therefore a supreme value in himself. The finality of the person takes precedence in all systems of interaction:

> "We attach a profound dignity to the term person because, as suggested above, we perceive in the human an activity centre that transcends the world of sensible things"[14].

However, since it is only in and through society that the transcendent value of the human subject may be realised, society itself is entitled to the authority that is a necessary aid to such development. Consequently, the freedoms of the subject may be restricted in their exercise so that the common values of the subject as a person may be protected and promoted.

There is therefore, a dynamic tension between the human subject and the State, the institution that is primarily entrusted with safeguarding the finality of the person. The person best equipped to lead has, among other things, to be an expert in the management of diversity. According to Aquinas, nature and the person are not quite the same; one is a person, but one has a nature in and through which one becomes fully a person in the society.

It is worth noting at this point that person is not simply ex-sistent (Heiddegger), or coexistent (Buber), or just subsistent (Boezian) but is also endowed with finality.

2.3 THE DYNAMICS OF NEEDS AND HUMAN RIGHTS

The view of person, seen as with a finality that can never be reduced to the status of means, leads spontaneously to what today is seen as paramount in human existence, that is, the question of human rights.

Lonergan acknowledges that the person is vested with needs. Although it is impossible to fully describe the structure of human nature, it is possible to isolate some fundamental human needs. These needs must be met if we are to maintain, in even a minimal sense, our humanity. The human needs are physical, psychological, rational, and spiritual. These needs constitute what Lonergan terms as the 'particular good.' The satisfaction of basic needs is necessary for survival and a befitting mode of existence:

> "On an elementary level, the good is the object of desire and, when it is attained it is experienced as pleasant, enjoyable, satisfying"[15].

From the needs arise rights. The person has capacity for operating. These capacities are the means to the satisfaction of the needs. The person then has a duty to satisfy those rights. The rights satisfactions are the instances of the particular good. Such needs are rooted in nature; they have fundamental justification in the human person himself. Therefore rights are inalienable and universal by virtue that:

> "--- these rights or freedoms, rest securely on the nature of the human wants and of the insufficiency of any individual to satisfy these by his own efforts, the State in Plato's view..."[16]

is necessary.

2.4 A CONTEMPORARY VERSION OF NATURAL LAW

In the history of philosophy, it has been argued that there is an objective unwritten law that is the touchstone and foundation of all other laws, of moral obligation itself. This insight was tellingly expressed by the Greek poet Sophocles in the person of Antigone, who was aware that in transgressing the human law and being crushed by it, she was

obeying a higher law, the unwritten and unchangeable law, the law that did not come about today or yesterday, but lives always and forever, whose origin is unknown to us.

The apostles also echoed the same in their evangelistic mission. In spite of criticism, the traditional elements of natural reason are still essential, but they need to be seen in correct relationship and in the context of modern culture.

The natural law in Lonergan's work acquired a new perspective. He argued that precepts of natural law are: be attentive, be intelligent, be reasonable, be responsible[17] and whatever precepts are arrived at by obeying these requirements. This is a perfect example of the move from nature to person, from the laws of nature to laws of reason. These precepts direct the person to be authentic morally.

To be attentive means to be fully aware of all that is involved in the situation. It means getting all the facts, as objectively and comprehensively as possible, and naming them factually, without moral labels. It also means being aware of possible consequences of an action, because these too are facts of the case. *To be intelligent* means to understand the facts, not simply in their physical nature, but also in their cultural context, in their full human meaning. It involves understanding not only the immediate facts of a concrete situation, but also the natural world among other areas.

> So intelligence takes us beyond experiencing to ask what and why and how and what for[18].

To be reasonable means to bring reflective, discursive reason to bear on the facts as understood, to discover the action, the possible outcome of different courses of action, the possible available solution of a problem, what values are at stake, the relative importance or urgency of values in conflict:

> "Reasonable takes us beyond the answers of intelligence to ask whether the answers are true and whether what they mean really is so".[19]

Reflective evaluation brings out which possibilities are reasonable courses of action because of the reasons behind them, and shows what is unreasonable because there are no convincing reasons to support them.

This evaluation is not simply a question of indicating how one conforms to physical nature, but rather an analysis of all human values involved, showing when it is appropriate or imperative to intervene in the natural processes, pointing out which interventions enable people to flourish as human persons, and which activities block human flourishing. *To be responsible* is to move into a higher level, from rational consciousness to rational self-consciousness, from the awareness of oneself as person, to the level of morality and personal responsibility:

> "Responsibility goes beyond fact and desire and possibility to discern between what truly is good and what only apparently is good".[20]

The final step in the process is to actually decide and act on what was discovered by intelligence and motivated by reason. This is the experience of conscience, the awareness of oneself as a responsible being, capable of changing oneself and affecting one's environment.

These transcendental precepts correspond to the epistemological process. The empirical level of the epistemology is concerned with what is derived from experience. This corresponds to the moral precept, *be attentive*. There is an intellectual level on which we inquire, come to understand, express what we have understood, and work out the presuppositions and implications of our expression. This corresponds to the moral precept, *be intelligible*. There is the rational level on which we reflect, marshal the

evidence. pass judgement on the truth or falsity, certainty or probability of a situation. This corresponds to the moral precept, *be reasonable*.

There is the level that we are concerned with our own goal, so that we deliberate about the courses of action, evaluate them and decide and carry out our decisions. Moral precept corresponding to this level of consciousness is, *be responsible*.

2.5 CONCLUSION

The analysis so far points to a fundamental truth that the human person is more complex than what most of the philosophers discussed and presupposed. The aim of the study so far has been to demonstrate that the human person has finality. In this respect, the situation of each person is that he is both part of a system and yet due to the nature of his finality distinct from that very system.

However the study is conscious of the fact that the human person also is an individual and, as such, endowed with finality that is catered for in the State as developed in the next chapter.

1 END NOTES

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[3] cf., D.W. Ross, Aristotle, (Harvard University Press, 1957).
[4] Mark Clark, *De Trinitate* in the **Cambridge Companion to Augustine** (Cambridge University Press, 2001), 96
[5] See Aristotle, **The Politics**, (Middlesex: Penguin Books, 1988), 389 - 476.
[6] E. Mounier, **Personalism**, tr. it. (Ave, Rome 1964), 39
[7] ibid., 29
[8] Martin. Buber, **I and Thou**, (Tr. Eng., Clark Edinburgh, 1937), 34
[9] James B. Reichmann, **Philosophy of the Human Person**, (Chicago: Loyola Press, 1985), 219.
[10] Jacques Maritain, **The Person and The Common Good**, (London: Geoffrey Press, 1956), 27.
[11] Thomas Aquinas, **Summa Theologicae**, a concise translation by Timothy McDermott, (Christian Classics Publishers, 1991), p. 68
[12] ibid., 69.
[13] Deutsch, op. cit., 23
[14] Reichmann., op. cit., 211
[15] Bernard Lonergan, **Insight: A Study of Human Understanding** (London: Longmans Green and Co. 1957), 596
[16] See **Plato's Republic** (Middlesex: Penguin Books, 1987), 220
[17] Bernard Lonergan, **Method in Theology** (London: Darton, Longman & Todd, 1971), 53
[18] ibid.
[19] ibid.
[20] ibid.

3 CHAPTER THREE: TOWARD AN AUTHENTIC PHILOSOPHY OF POLITICAL AND HUMAN INTEGRATION

3.1 INTRODUCTION

It is to the inter-relation of the person and the social order, to the complexity of the manner in which they are co-determined that this study turns. It appears to be difficult to try and think of a person independently of how one thinks of a social – political order. When we do not know what to say about the human person we do not know what to say about the political order; not knowing what to say about a social order makes language about the human person complicated and with conceptual disarray. By integral, the implication is that it evaluates the human as an entity in society, as participating in a common good. By philosophy of political and human integration, one seeks to bring together the different dimensions of the human person together, without ignoring or diminishing the value of either in relation to the State.

3.2 THE PERSON AND THE STATE

In the history of philosophy, the political philosophers conceive various notions in regard to the State and its relationship to the people. Many have a distorted conception on the relationship that has led to poor governance and violation of human rights. These range from Plato - who rejected democracy - to Bodin, Machiavelli and Hobbes, who all advocated a political philosophy that negated the principle of the primacy of the human person.

However, various political philosophers like Hume, Locke, and Rousseau call for a Consensus State, although they are not without error. This dialogue goes back to Plato where the concept of good of order and hierarchy plays a substantial role in his *Republic*. But for today's world Plato's philosophy has a limitation - he rejected democracy. While we applaud Plato's philosophy we dare say that we part company with his political thought for the sake of democracy, that is, the active participation of the people in determining the conditions of their lifestyles and aspirations for the future. Here we learn from Aristotle.

In Plato's *Republic*, the question of justice is not posed in terms of the relation between the individual and the State as if the two were mutually distinct from each other. Rather, the question of justice is considered in the context of one as the model of the other. Both in the individual and in the State, there recur the distinct elements of justice, but in different forms. In the individual there is a distinct form of justice where there is equilibrium between wisdom, courage, and moderation. In the State, justice is on a much wider course where the State (corresponding to the individual soul) is composed of three classes: king-philosophers, military, and commoners of various kinds. Justice here consists in a social equilibrium where the wishes corresponding to the different classes flourish and mutually reinforce each other. Thus in the political philosophy of Plato there is a certain focusing on the State which has the effect of diminishing the uniqueness of the individual.

Aristotle was less austere than Plato and 'encouraged' pluralism. Both Plato and Aristotle thought of the State as a harmonious community of people of unequal abilities and merit who could attain the best that life had to offer them by keeping to their respective places. They believed neither in equality nor in democracy as we today conceive them; and they had no notion at all of the rights of the individual[1].

Hobbes thought that the finality of the State was the satisfaction of the needs and wants as isolated elements and hence anatomistic. He therefore advocated for absolute State power as the only limit:

> "For by his authority, given him by every particular man in the commonwealth, the (sovereign) hath the use of so much power and strength conferred on him, that terror thereof, he is enabled to form the wills of them all, to peace, and mutual aid against their enemies abroad, and in him consisteth the essence of the commonwealth; by mutual covenants one with another have made themselves every other, to the end he may use the strength and means of them all, as he shall think expedient, for their peace and common defence"[2]...

For Locke, the State comes in as means for the protection and preservation and enhancement of property.

Rousseau advocated democracy as a form of governance. His first thoughts were anarchistic; upon reflection, he concluded that man needs protection from his fellow man, and that the political order exists to provide that protection[3].

Human beings are "individuals" who relate to a common, social order of which they are parts. But they are also persons. The person is a "whole", is an object of dignity, who must be treated as an end and has a finality beyond the State.

Maritain advocated an authentic philosophy in regard to relationship between the State and the person. The fundamental relationship between the State and the individual is on the basis of service:

> "The human person as individual is for the body politic and the body politic is for human person as person"[4].

The human being as a person is not for the State but the State is for the person. However man, as an individual, is a unit of something greater and more important to which he stands in a relation of part to whole – hence his good is subordinate to the good of the whole.

However, since man as a person can only reach his fulfilment as a member of the State, he has both rights and duties regarding the State. He has the right to the protection and promoting of his well being as a person. However, that well being must be realised in a political system that is obliged to all citizens. Therefore the State has the right to override the rights of individuals when they are in conflict with the legitimate aspirations of other citizens. By the same token the rights of all citizens who, as persons, give the State its legitimacy in the first instance limit the entitlement of the State. As Maritain noted:

> "Authority derives from the will or consensus of the people and from their basic right to govern themselves, as from a channel through which nature causes a body politic to be and to act"[5].

The power of the democratic society is founded on the notion of representative-ness of the people, by virtue of which the people exercise their very right as people to rule themselves. The people commission their representatives to exercise authority for the

common good. For in all forms of order, human beings participate in a common good. However the State has the primary duty to enforce with social justice.

3.3 THE STATE AND THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

The State should recognise that the human person is more superior. The State for example cannot arrogate to itself the rights proper to the persons, nor can it be considered as more than its individual members in such a way that persons can be sacrificed for the sake of the society. The person then as an individual lives in groups i.e. in political society.

The political society:

> "--- is a concretely and wholly human reality, tending to a concretely human good --- the common good[6]".

The individual operating is to an extent cooperating. This follows a pattern fixed by a role to be fulfilled or a task to be performed within an institutional framework. This Lonergan denotes as the good of order:

> "It is not the object of any single desire for it stands to single desires as system to systematised, as universal condition to particulars that are conditioned, as scheme of recurrence that supervenes upon the material of desires and the efforts to meet them and at the price of limited restrictions, through the fertility of satisfactions"[7].

The capacities are means to procuring the rights, because they are perfectible and plastic in that they admit the development of skills of which they are of service to the

good of order. By virtue that the human being is born into the society with needs that translate into human rights, the human person then is catered for by this very society:

> "If man is morally bound to the things which are necessary to the fulfilment of his destiny, obviously, then, he has the right to fulfil his destiny; and if he has the right to fulfil his destiny he has the right to the things necessary for this purpose"[8].

The State has a major role in this 'destiny'. By destiny, the implication simply is the ordering of the common good. The society too has rights that also have their scope and limits. These rights arise from the bonds between individuals. However and thanks to Rosmini,

> "the State as a society which, while it has the duty to influence for the common good only the modality and exercise of rights in its citizens, has no power to create or destroy human rights"[9].

Further Maritain notes that:

> "Man is constituted as a person ---- before he is constituted as part of a human community ... hence there are ... rights which political community must respect"[10].

However he realised that:

> "These rights being human are like everything human, subject to conditioning and limitation, at least limitation, as we have seen, as far as their exercise is concerned. That the various rights ascribed to the human being limit each other, particularly that the economic and social rights, the rights of man as a person involved in the life of the community, cannot be given room in human history without restricting, to some extent, the freedoms and rights of man as an individual person, is only normal"[11].

In its capacity as protector and promoter of the rights of the person, the State both recognises natural rights and confers acquired rights. Thus, for example, the State recognises a person's right to justice, it does not confer it. On the other hand a teacher

may go to a court of law as an acquired right to establish his claim to a just salary. The finality of the State confers rights that are measured by the finality of the person. That same person, as an individual, is subject to the State's finality. This Lonergan captures succinctly by asserting that:

> "Man's sensitive nature constitutes both the dynamic materials to be ordered and the subjective conditions under which the order is discovered, communicated, accepted and executed[12]."

The State, in its endeavour to promote and protect the rights derived from the particular good, comes up with the good of order. The two goods are distinct but not separate, since the good of order is derived from the particular good. Hence they should be viewed as to the individual and the person all together and recurrent. Education, for example, as a right, is in the particular good but would be a good of order if the provision were made for all. The good of order is a consistent succession of ordering of operations so that they are cooperating and ensuring the recurrence of all effectively admired instances of the particular good and the interdependence of effective desires or decisions with the appropriate performance by cooperating individuals. The good of order is concrete in that it is a functioning or malfunctioning set of "if – then" relationship directing operators and coordinating operations:

> " The State therefore has a duty and responsibility of arranging the practice of individual rights in such a way that individuals are better able to enjoy the use of their innate and acquired rights"[13].

3.4 THE COMMON GOOD AND HUMAN RIGHTS

The human person has liberty i.e. self-determination. As a person he can make valuational choices. The individual and group action attain what we term as a finite good

which is subject to criticism, having its options, limitations, its drawbacks and its risks. The valuational choices made are not decisive and hence liberty as 'thrust' helps in coming up with an option or choice of action. The self achieves moral transcendence insofar as he opts not for the apparent good but the truly good. The self then exists authentically and as a source of value. As such, he brings about terminal values, namely a good of order that is truly good and instances of the elementary good that are truly good. This in short is the common good. Lonergan understands the value as that which:

"Is the good as the possible object of rational choice[14]."

The persons are linked by the dynamics of needs and the common good in their cooperating in the community. The society then has a duty to define instances of particular good and good of order that will constitute the value or common good. The common good or value being the sum of all those social conditions which the human dignity of all to be respected, and their basic needs to be met, while giving people the freedom to assume responsibility for their own lives. Such a conception of common good is indispensable for human rights.

Basic protection of human rights calls for the provision of the common good. This implies that the common good is the good human life of the multitude, communion in good living:

> " — The public welfare and the general order of the law are essential parts of the common good. It has far larger and richer, more concretely human implications, for it is by nature the good human life of the multitude and is common to both the whole and the parts into whom it flows back and who benefit from it[15]".

This is the role of the State to provide public commodities and services that the organisation of common life presupposes; sound fiscal conditions, disciplined force, just and sound laws, good customs and wise institutions.

The common good calls for the integration of all virtues of politics, sense of law and freedom, civic awareness and all other activities that are necessary for the promotion of the finality of the person. These constitute the good human life of the masses by virtue of rights:

> " The end of the society is neither the individual good nor the collection of the individual goods of each of the persons who constitute it[16]"

but the common good as expounded above. The common good:

> "under pain of being itself denatured, implies and demands recognition of the fundamental rights of persons, and recognition also of the rights of family society in which human persons are more primitively engaged than in political society[17]".

The common good implies the integrity of life, and human rights are essential to this implication. The State should provide the conditions necessary for procuring common good. Rights are grounded in the common good:

> It is the common good and not individual rights, that is the basis of the State[18].

Finally, that the proper good of the person is not alien to the common, because (contrary to liberal individualism) the common good includes and makes possible goods perfective of the person, such as justice and education; it "flows back" upon person.

3.5 CONCLUSION

One's private good as an individual is subordinate to the common good of the community, as a person with a finality is superior to society. This is something all political communities should realise. It is in virtue of individuality and hence a finality related to it that human beings have obligation to the social order, but it is in virtue of their personality and a finality outside the State that they cannot be subordinated to that order. The goal of the State is to provide the conditions necessary to making the individual more fully in all aspects: therefore all morality, social and political institutions must reflect this.

2 END NOTES

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[3] Jean H. Faurot, **The Philosopher and The State: from Hooker to Popper,** (London: Chandler Publishing Company, 1971), 95
[4] Jacques Maritain, **The Person and The Common Good,** trans. John J. Fitzgerald (New York: Scribers Publishers 1947), 96
[5] ibid., 110
[6] ibid., 93
[7] Bernard Lonergan, **Insight: A Study of Human Understanding** (London: Longmans, Green and Co.), 576
[8] Jacques Maritain, **The Rights of Man and Natural Law;** trans Doris C. Anson (New York: Scribers Publishers, 1943), 65
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[11] Jacques Maritain, **Man and State** (Chicago: University of Chicago Press, 1951), 106
[12] Ibid., 597.
[13] Cf. Antonio Rosmini, **The Philosophy of Right; Universal Social Rights** (Clearly, D., & Watson, T., (Durban: Rosmini house, 1995),
[14] Lonergan **Insight: A Study of Human Understanding,** op. cit, 601.
[15] Maritain, **The Person and The Common Good** op. cit, 95
[16] Ibid., 102
[17] Ibid, 102
[18] Maritain, **Man and State,** op. cit., 107

4 CHAPTER FOUR: A PROFILE OF THE POLITICAL EXPERIMENT IN KENYA

4.1 INTRODUCTION

Up to this point, we have developed what we term as an authentic philosophy of political and human integration. This precisely develops the view that the person is the centre or primary focus in the society. Indispensable was the notion of the person as part of a system and yet distinct from it. Again, we have developed an epistemological and moral perspective of the person: that the person can acquire knowledge and that he ought to be guided by a particular moral precept(s). The moral challenge then is to have consistency between one's knowing, willing and doing so that we knowingly and willingly do what is right. In both the epistemological and moral ladder, the self realises himself as aware but that awareness is different at each level. This, in the study, is the ideal. Practically this ideal is the yardstick of the maturity of moral intensity of our political system.

Chapter four outlines the empirical situation. The ideal developed so far is the measure of the present chapter. The criterion is twofold namely the Positive and the Negative situation in Kenya. The first is the Positive in that Kenya has experienced an atmosphere of considerable political stability and peace in comparison to war-torn countries up and down the African continent. The second criterion is the Negative aspect which is incompatible with the ideal. An example is the dysfunctional way in which obligations and appointments have been allocated throughout the country; the discriminatory fashion in which similarities and differences are identified in matters of policy.

Just as we are more conscious of inequality than equality, of injustice than of justice, so too we are conscious of Negative criteria, that is, the ways in which practices are incompatible with the ideal, or if you like, morally intolerable. It is against this philosophical analysis that we base the evaluation of the Kenyan situation. The aim of this chapter therefore, is to evaluate governance and human rights in Kenya in the light of the ideal. Inclusive would be the components of the political evolution notably the overseas, the ethnicity, patronage, constitutional, and violence factors. The chapter concludes by an evaluation of the effects of the deemed principles of governance.

4.2 THE COMPONENTS OF POLITICAL EVOLUTION IN KENYA

4.2.1 NEOCOLONIALISM

In Kenya, the "new era" began with the formal start of the Imperial British East Africa Company rule in 1880, but more officially with the declaration of British Protectorate in 1885[1]. The establishment of colonial rule was a start of "real politics" in Kenya. The colonial legacy was and is still alive and thriving in Kenya to date. Colonial policies have continued to influence Kenyan politics.

When Kenya acquired independence in 1963, it endeavoured to govern itself. However,

> "in the struggle for independence most African nationalists did not define very well the type of society they wanted to see after the departure of the colonial regime[2]."

Kenya's "vision-less" struggle for independence led to a given liberty and hence a need by the former colonial master to exercise indirect rule.

Neo-colonialism thus became a major factor determining the political governance in Kenya:

> "Neo-colonialism dominated African culture and this made the people ungovernable and divided among themselves because of personal interests"[3].

4.2.2 DEMOCRACY

Democracy in Kenya was not tolerated during the colonial regime and neither was it in the postcolonial politics. For:

> "An official opposition with the obligation to challenge the government on every issue was, in any case, a concept alien to the traditions of the Kenyan peoples"[4].

One-party politics dominated the Kenya political scenario for decades. In such a single party monopoly, no serious political agenda could have taken place. It was a matter of party-government politics. By taking repressive actions:

> "African one–party States not only violated the rights and freedoms of individual politicians but also the democratic rights of the electorate to vote for candidates and policies of their choice"[5].

Hence Kenya preferred *One-Party* State and an absolute ruler whose powers were unlimited. In order to acquire this goal they appealed to tradition. The Kenya elite

> "to discourage opposition and perpetuate their power, argued that the problems of development demanded unity of purpose, justifying on these grounds the criminalisation of political dissent and the inexorable march to political monolithism[6]".

Governance has been ruined by the lack of commitment and honesty by the Kenyan rulers. The political and economic woes characterised by the collapse of vital institutions, infrastructure, misuse of natural resources are virtually attributed to rulers. Lack of commitment to good governance was the root cause of the woes of Kenya. The rulers 'brewed' laws or policies to their advantage ignoring the common good of all.

Individual and ethnic communities viewed the most powerful post of Presidency as a key to economic and political advantage. The President was vested with power hence occupying central position in the constituency of Kenya:

> "The resulting constitutional changes augmented the powers of the Presidency in relation to other institutions, so returning post independence politics to some authoritarian patterns of colonial rule"[7].

Such a presidency controlled the legislative, executive and the judiciary among other institutions. The leadership had been characterised by authoritarianism. This kind of dictatorship had ensured the lack of accountability and transparency in Kenyan politics. Hence:

> " — totalitarian, which, in its Marxist-Leninist form maintains that some people, by virtue of a deeper knowledge of the laws of the development society, or through membership of a particular class or through contact with the deeper sources of the collective consciousness, are exempt from error and therefore arrogate to themselves the exercise of absolute power[8]".

The political disposition had become an umbrella to protect the politically correct lawbreakers. Rulers tried at all cost to remain in power and when faced with exit they anointed successors.

> "His (Ruler) ambition to remain in power is boundless and he is determined to survive at whatever cost"[9].

The elected Member of Parliament had little impact on the lives of the people who elected them. Once in office their concern was not the people they represented but their own interest.

4.2.3 ETHNICITY AND VIOLENCE

Ethnicity largely contributed to poor principles of governance in Kenya. As succinctly expressed:

> " The issue of ethnicity remains one of Africa most acute problems, particularly with regard to claims to power[10]".

Ethnicity is traced back to the colonialists and their policies. Ethnicity played and continues to play a vital role in Kenya politics. The colonial rule first planted the seeds of ethnicity in Kenya:

> "During the 1950s it's various racial and ethnic groups were divided both by economic differentiation, encouraged by the British Colonial government, and by the consequence of Africans first war of liberation"[11].

The colonialists divided Kenya along tribal lines. This remained the biggest problem for Kenya. Hence from this colonial inheritance, Kenya continued to operate on ethnic lines:

> "It can be stated from the onset that ethnicity permeates the Kenya --- (politics) -- - so deeply that party politics has become polarised along ethnic divides and voting patterns follow ethnic affiliation between voters on one hand and the candidates and party leadership on the other"[12].

Violence was a major component of political evolution in Kenyan politics. The struggle for de-colonisation in Kenya was violent in nature. This applied to the process of colonisation, which was characterised by brutality. The de-colonisation created disorder and chaos since it was confrontation of two forces. Violence necessary was or had to be counteracted by violence. The Kenyan underwent both physical and psychological violence. Violence became a binding force for the oppressed as they were propelled towards liberty.

This phenomenon continued to be magnified in the postcolonial regime. The 1982 coup d'etat was marked with violence of great magnitude. The coup was accompanied by looting. "It was a disturbing experience ..."[13].

Tribal clashes in Kenya marked another ogre scene of violence. The Rift Valley and the Coast Provinces of Kenya were major victims of this tribal violence. 1990 was a year of rising political tensions, which exploded in violent protests. From then to 1993 political violence spread to Nairobi and the major towns in Kenya.

4.2.4 POVERTY AND LACK OF EDUCATION

Poverty, and lack of education in regard to good governance, contributed to poor leadership in Kenya. Ignorance was a hindrance to informed political participation and voting.

Economic impoverishment of Kenya led to negative impact on issues of governance. The economic management in Kenya was poor, leading to its non-growth and it's people impoverished by the crisis. Corruption, a major factor to the collapse of the economy was ignored in spite of its negative impact.

The basic needs of the people were not met. These included the basic human needs namely: Food, Shelter, Clothing and Education.

Many years after independence, a huge number of Kenyans had no access to health-care facilities although the Government recognised that good health was a basic right and a prerequisite for social and economic growth. Problems with access to health services, costs and lack of professional personnel, equipment were common.

4.2.5 INSECURITY AND MARGINALIZATION

Insecurity was another crisis in Kenya. Many Kenyans felt insecure in the country. Security had deteriorated over the years. The slums, characterised by the poor, and the high-class areas of the country, were faced by insecurity. Women and children were exposed to violence of all forms both in the home and in the outside world. Banditry, ethnic clashes and cattle rustling characterised the rural areas.

Marginalisation was prevalent. The North Eastern Province for example was neglected and by implication regarded as non vital to the country. The people of this province were treated with suspicion; inferiority and the basic needs were not acknowledged. The mode of life of Pastoralists was not appreciated. The religious minorities suffered discrimination and their rights, values and institutions were denigrated. The Asians, though economically stable, were politically omitted. Tourist sites in the country gave no direct benefits to local communities within reach. Disability is not inability, a fact the government acknowledged. However, the people with various forms of disability faced challenges, which could be avoided. Women in Kenya were discriminated against in the job market.

Such an intolerable state of affairs affected the quality of life of the Kenyans. More specifically this led to unacceptable conditions in regard to human rights.

4.2.6 UNIVERSITY AND INTELLECTUALISM

University and intellectualism were factors of political evolution in Kenya. The university and its people (staff and students) were a threat to both post–colonial regimes. The riots:

> "— marked the beginning of a rift between the government and the university which, for a variety of reasons, was to pose a growing threat to the country's stability[14].

The University riots were not about food or housing grievances but political. Hence idealism was a threat to the ruling system and it's President:

> "The ideological and idealistic character of the student's opposition was to become a growing concern.... In their campaign for socialism and social justice a more serious threat to stability than the ethnic discontent, which he was gradually getting under control"[15].

University lecturers' frequent arrest:

> "have suggested that he was wary of the ideological opposition to the government policies which was current in university circles[16]."

Frequently the Universities were closed and:

> "remained on the alert to prevent the students from providing the leadership needed by any mass movement of dissatisfaction[17]."

In 1984 – 1985 there was great concern with the ethos of the University members, marked with arrests and riots. The *Mwakenya* movement, aimed at overthrowing the government, was composed of University graduates, which caused the rulers concern. In 1987 the rulers were also concerned with the foreigners participation in the politics of the university. Critics now stemmed from the university circles. Later the trend changed from the intellectuals being critics of the ruling system to pro–government. With this change of attitude, "the main threat --- came from the machinations of an educated minority steeped

in Marxist- Leninists theory and encouraged" by foreigners. A warning Paulin Hountondji gives:

> "In Africa the individual must liberate himself from the weight of the past as well as from the allure of ideological factions. Amid the diverse, but deep down, so strangely similar catechisms of conventional nationalism and of equally pseudo-Marxism, amid so many alibis behind which the powers that can quietly do the opposite of what they say and say the opposite of what they do, amid this immense confusion in which a most vulgar police State pompously declares itself to be a dictatorship of the proletariat and neo fascists mouthing pseudo-revolutionary latitudes are called Marxists-Leninists reducing the enormous theoretical and political subversive power of Marxist dimension of a nuclear, in which the trade unionists, the executives, the students in the midst of all these intellectual and political bedlam we must all open our eyes wide and clear on our path. Nothing will make discussion between free and intellectual responsible individuals possible"[18].

4.3 HUMAN RIGHTS: THE KENYAN CONDITION

The Kenya political system has ensured the provision and protection of human rights in its Constitution.

The Bill of Rights guaranteed the following: -

- The rights to life and liberty
- The right to be protected against slavery; forced labour; and from torture, inhuman or degrading treatment
- The protection of the right to property
- The right to be protected against arbitrary search and seizure
- The protection of the rights of conscience, expression, assembly, association, movement
- The right not to be discriminated against on the basis of sex, race, tribe, place of origin or residence or other local connection, political opinion, colour or creed.

- The right to a fair trial before an independent tribunal established by law in a criminal case including the right to be considered innocent until proven guilty and to be given access to a lawyer.

> "The provisions of this chapter have effect for the purpose of affording to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of these rights do not prejudice the right and freedoms of others or of the public interest[19]".

Apart from fundamental rights and freedom in the Constitution, Kenya was signatory to the International covenant on economic, social and cultural rights of 1966, but was yet to include it's provisions. The Universal Declaration on Human Rights was valid and recognisable in Kenya. However, the Constitutional provision on human rights was limited in scope in regard to those who were to be protected. It did not specify who had a particular right. Again the provision did not specify the kinds of rights protected. The Provision Act did not address the corresponding notion of duty and obligation:

> "The concrete of content of my right to be provided for, exactly corresponds to the concrete content of some identifiable person's duty to make that provision for me"[20].

Rights, duties, and obligations were necessary for a logical and consistence provision of rights. In short:

> " Every claim of right can be wholly translated into the language of duty, and to the extent that it cannot be so translated it is empty, fraudulent, intellectually irresponsible"[21].

Human rights were traditionally grouped into two categories, including on the one hand civil and political rights, and on the other economic social and cultural rights[22]. There was no provision on the socio-economic rights and though some civil-political rights were provided, not all were respected.

In regard to cultural rights, the Kenya Rights Provision was silent. Many cultural

rights were overtaken by time and hence were of detrimental consequence to the society. Such cultural rights included female genital mutilation, wife inheritance, inequality, and child engagement among other cultural vices. Currently peace, development, and environment have been grouped and termed as solidarity rights. The Kenya Provision and Protection of human rights was yet to acknowledge and incorporate these rights.

Discrimination was rampant and hence a violation of human rights based on race, tribe, and gender ensued. The non-guarantee of obtaining information from the hands of the government, ensured that the public authority was free from critics of inefficiency and dishonesty.

Exceptions were guaranteed by the provision of Rights in Kenya. There was the notorious *Preservation of Public Security Act*, which was used for particular benefit. In regard to this, Kenya had a poor performance on human rights frowned upon both locally and globally. This depicted that the Kenyan condition of human rights was below expectations. In many parts of the country, human rights were in crisis. Further to the crisis was a lack of commitment to the provision; the protection was weak and easily challenged by authority.

> "Governance in Kenya has had a provision on rights with shortcomings and below expected universal standards"[23].

Kenya lacked enforcement, regulations and vital institutions in regard to human rights. The available institutions were State controlled and hence subject to "error." In addition was the non-grass root level advocacy for human rights.

Kenyans were discriminated against, sidelined and uninformed on the issue of human rights. In regard to rights and law, there was arbitrariness. Such accusations were met with denial by the then governments. Often the defences of its human rights records

were based on the limitation of the Constitution in Chapter five, namely '*Maintenance of Public Order*.' Furthermore, its defence was based on the Government's perception of what it referred to as the *Security of the State*. According to the Constitution, 'Nothing contained in or done under the authority of any law shall be held to be consistent with or in contravention to various fundamental rights and freedoms of the individual to the extent that the law in question makes provision that is reasonably in the interest of defence, public safety, public order, public morality or public health or rights and freedoms of other persons':

> " And except so far as that provision, or the case may be, the thing done under authority thereof is shown not to be reasonably justifiable in a democratic society"[24].

In sum then:

> "It may be said in the scenario of human rights scholarship and activity, the dramatic personae on the human rights stage are competent jurists and skilful diplomats whereas --- people pale into periphery as helpless victims, while the curtains remains drawn on imperialism (which is known to call the shots from behind the stage) as the African States and classes play the master of ceremonies"[25].

4.4 CONCLUSION

When Kenya acquired independence, it's leaders saw development as more vital than good governance. Progress and hence development occupied the ruler's agenda, which was a myth perpetrated by the colonial master. Kenya, at the expense of good governance and political accountability, embraced this myth. In such a State, the concept of 'The primacy of the human person in society' was negated and at best was not included in the vocabulary of Kenyan politics. In this analysis the outcome was that governance was of a perverted form, which led to massive abuses of human rights. Many basic human rights were denied. The Government was not of service to the Kenyans' common good.

From a Human Rights perspective, the Kenyatta and Moi regimes performed poorly. Dissenters in opinion to them were quickly hounded into exile, jail, or submission. Human rights, though guaranteed by the Constitution, became a matter of patronage and loyalty. Repression against intellectuals at the Universities was prevalent.

Academic freedom was not spared. Patronage and ethnicity were factors that contributed to human rights abuse. Corruption negated and violated the socio-economic rights. The language of human rights was useless in forms of governance in which exploitation and dominance were the 'virtues'.

Politically, the Kenyans were put into the periphery, hence best as viewers of the political scenario. They had no direct political participation. Elections were not free and fair. Democracy was but a word with no reflection in the realm of practice. The rulers were non-performing in their duties and obligations.

The country slid into a pit of political dominations and economic exploitation. The outcome was a lack of policies for socio-economic growth. Each of the two regimes had similar trends of administration, which as the analysis reflects was but bad governance.

After these regimes, there is a call for good governance and the protection of human rights in Kenya. This is vital since Kenyans have suffered under Colonial and post Colonial rule. There is a need for liberation, a second liberation. The first was the liberation from the colonial master. After its attainment, the truth of the matter is that the self-rule yearned for has turned out only to be a new form of oppression. Hence the call for a second liberation this time from the African and, for that matter, the Kenyan colonialists. The second liberation calls for good governance and the protection of human rights.

3 END NOTES

[1] Fred Jonyo, Ethnicity in **Multiparty Electoral Politics in Kenya** ed. Ludeki Chweya (Nairobi: Claripress, 2002), 90
[2] H. Odera Oruka, **The Philosophy of Liberty**, (Nairobi: Standard Textbooks Graphics and Publishing, 1996), 87
[3] Martin Nkafu Nkemnkia, **African Vitalogy: A step forward in African thinking** (Nairobi: Paulines Publications Africa, 1999), 61
[4] Kenneth Ingham, **Politics in Modern Africa: The Uneven Tribal Dimension** (London: Routledge Publishers,1990), 96
[5] Peter Wanyande, Democracy and the One – party state: the African experience in **Democratic theory and practice in Africa** ed. W.O. Oyugi and A. Gitonga (Nairobi: Heinemann Kenya Ltd, 1987), 76.
[6] Claude Ake, Rethinking African democracy in **the global resurgence of democracy** (London: The Johns Hopkins University Press, 1993), 70
[7] Angelique Haugerud, The **Culture of Politics in Modern Kenya**, (Great Britain: Cambridge University Press Ltd, 1994), 173
[8] Pope John Paul 2, **on the Human Person at the Centre of Society** (Nairobi: St. Pauls Publications Africa, 1991), 9
[9] F.Ochieng'-Odhiambo, **Handbook on Some Social Political Philosophers** (Nairobi: Consolata Institute of Philosophy Press, 1998), 101
[10] Ibid., 102
[11] DavidThroup and Charles Hornsby, **Multi-party Politics in Kenya: The Kenyatta and Moi States and The Triumph of the System in the 1992 Elections** (Athens: Ohio University Press, 1998), 7
[12] Jonyo, op. cit, 86
[13] Ingham. op. cit., 109
[14] Ingham, op. cit., 99
[15] ibid., 107
[16] Ibid., 108
[17] Ibid., 109
[18] Paulin J. Hountonji, **African Philosophy: Myth and reality**, (Bloomington: Indiana University Press, 1983), 69
[19] See the Kenyan Constitution chapter five
[20] John Mitchell Finnis, The **foundation of human rights,** (Oxford University Press, 1992), 3
[21] ibid., 4
[22] Pope John Paul 2
[23] **Country Reports on Human Rights Practices for 1990**, (U.S. Government Printing Office, 1991), 9
[24] See the Kenyan Constitution Chapter five.
[25] Issa G. Shinji, **The Concept of Human Rights in African**, (London: Codeseria Book Series,1988), 63

5 CHAPTER FIVE: TOWARDS A VIABLE AND VALUE BASED POLITICAL CULTURE FOR KENYA

5.1 INTRODUCTION

In our first chapter, an analysis was presented highlighting the Kenyan situation in regard to governance and human rights. The focus was to demonstrate that due to poor governance, many Kenyan were impoverished by the status quo. Not only the people, but also the infrastructure, the judiciary the executive and the legislative among other key institutions no longer performing effectively and efficiently. The second and third chapters focused on developing a genuine and authentic political philosophy of human integration. The running thread was the ultimate truth of the primacy of the human person. It is thus proper for any society from the word go to be in a position to incorporate this fundamental principle of the primacy of the human person:

> " Inevitable is the genuine relationship between the State and the human being as an individual"[1].

But the important aspect so far developed from the notion of the primacy of the human person is the concept of human rights. Any State must, as earlier analysed, respect the human rights of its people.

It is against this development that this chapter attempts a philosophical application into the Kenyan political culture. Just as Aristotle and Plato reminded us many centuries ago that ethics and politics are indispensable[2], so too in this chapter, the same call is echoed. The State should be moral and its citizens should be morally obliged to obey the State. However, that State does not impose moral principles.

The system has to be moral and in this regard there is agreement with Plato and Aristotle. But the system being moral is just not the same as the State imposing morality.

5.2 THE NEED FOR A VISION

As pointed out earlier, Kenyan political culture has suffered a deficiency in regard to vision. The policies advocated have not been well thought out and hence have failed. The political leaders, guided by a philosophy of ethnocentrism and patronage, have been visionless in fundamental ideas on governance and hence plundered the country into chaos. Opportunism and lack of vision has characterised the political culture for decades. These visionless mentalities need to be corrected by placing the person at the centre of governance. The leaders, whose major concerns have been preserving and retaining power amongst themselves, have had no genuine political vision. The leaders in Kenya need to realise that they represent the people who elect them into office. The Kenyans, via voting, elect and entrust authority as a right to certain people for the common good. The State should realise that there is no authority where there is injustice. The justice in question has to do with the needs, rights and obligations of the human person in society. Each one has the responsibility to act towards others in a way that ensures what they need for their life, reward good actions and respect basic rights and in turn to see that each individual receives what is necessary for his own existence from the State. Such a noble task lies in the realm of vision.

The two regimes were not the voice of the people but rather the defence of the interests of various political parties and their economic interests. The governing party and the opposition spent more time in the struggle to maintain power than in seeking the national common good.

The representatives of the person:

> " —should be conscious that when they themselves lose the sense of their inherent majesty, and behave like a throng of irresponsible school boys or clan fighters at feud, this is a bad sign of democracy" [3].

The vision then is the reasonable autonomy of self-direction and guided by reason in regard to the primacy of the human person in the State. Finally this vision should understand the finality of the person, the individual and the State itself. Only a vision derived from morals, based on the person, ought to be the goal.

5.3 PROVIDING A CULTURE WITHIN WHICH RESPONSIBLE FREEDOM MAY DEVELOP

The quest for freedom is one of the greatest dynamics of human history. Such a quest, with no geographical boundary, confirms that there are indeed universal human rights rooted in the nature of the human person, rights that reflect the objective and inviolable demands of a universal moral law. Good governance and freedom are not machines of a universal (Spinoza) that will operate on their own. The free society will only remain free if the virtues necessary for freedom are alive and well, in the State. It takes a certain kind of person to make political freedom serve the ends of justice.

Without the moral precepts that link freedom to truth and goodness, democracy will decay into new forms of manipulation and oppression. Rousseau failed to see this.

Freedom is not a matter of doing what we like but rather of having the right to do what we ought. Lonergan distinguishes between essential freedom and effective freedom:

> "The difference between essential freedom and effective freedom is the difference between a dynamic structure and its operational range. Man is free essentially inasmuch as possible courses of action are grasped by practical insight, motivated by reflection, and executed by decision. But man is free effectively to a greater or less extent as this dynamic structure is open to grasping, motivating, and executing a broad or a narrow range of otherwise possible courses of action"[4].

Further, Lonergan's method of knowing, and the actual doing, pivots on the notion of freedom. The project of good governance identified with freedom itself is under internal assault, politically, philosophically and technologically. The political threat to good governance in the future involves the increasing role of biased judicial, executive, and legislative in handling basic issues of public policy. This practice diminishes and demeans good governance. The wrongs are proclaimed rights and the law deployed to do evil, to justify evil and to compel cooperation with evil. Hence good governance deteriorates into thinly disguised totalitarian systems. This political threat is closely linked to the philosophical threat to good governance project that is the prevalence of a soft utilitarianism married to a concept of freedom as radical autonomy. But freedom as personal wilfulness, coupled with radical scepticism about the possibility of our knowing the moral truth of things, is ultimately incompatible with good governance.

The philosophy of social and political human integration has a vision; a vision based on the primacy of the human person. The dignity of the human person is therefore the criteria by which every institution or policy is tested. The governments that treat the human being as only economic units or reduce them to a passive state of dependency on "handouts" do injustice to the dignity of the human person. The persons as earlier noted, 'join' the society:

> "It is a distortion of the human person therefore, to suppose that individuals can exist independently of society, as if it had no demand on them"[5].

An individual outside the State is neither perfect nor independent. Just as members of society are individually subject to moral principles in their own lives, and these implicit moral demand are not their own invention, so too with the State. They too have demands and those demands ought not to be arbitrary. The human person has been regarded in the State as being subject to inevitable economic laws, the consequence of which were very harsh as expounded by Karl Marx. The subordination of human wellbeing to economic principles is due to a distortion of reality.

From the above, the dignity of the human person as autonomous is perverted. This is corrected by the principle of subsidiarity and the principle of solidarity. The principle of subsidiarity is the passing "powers downwards" and "upwards" for the service of the common good. The subsidiarity principle means that the State should not usurp the functions of subordinate groups. Subsidiarity supports a disposal of authority as close to the grassroots as good government allows, and it prefers local central decision-making. Subsidiarity also implies the existence of a range of institutions below the level of the State.

So it cannot be seen as an ally of those who favour the maximisation of State power or centralisation of the State at the expense of more local institutions. All layers of the State are ordered as a whole towards the common good.

For that to be achieved successfully, the principle of solidarity must be observed. Solidarity means the willingness to see others as another self and so to regard injustice committed against another as no less that an injustice against oneself. With the principles of subsidiarity and solidarity, a culture within which responsible freedom develops is provided. Subsidiarity should never be made an excuse for selfishness nor promoted neither at the expense of the common good nor to the detriment of the poorest and most vulnerable sections of the community. Solidarity means that all are responsible for each other. The person's dignity requires besides that he enjoys freedom and is able to make up his own mind when he acts. Person's valuational choice is vital. The human political culture thrives on freedom, namely, on the use of means that are consistent with the dignity of its individual members with reason to assume responsibility for their own actions.

5.4 HUMAN RIGHTS AS THE ABSOLUTE BASIS FOR A POLITICAL CULTURE

The society that serves rights will be a society in which true human growth and responsible freedom is encouraged and developed. However, this is an epoch of human rights, rights as observed, protected and rights horribly violated. For the State to achieve a political maturity, the doctrine of human rights is vital as a tool for charting the course of the journey. As highlighted in our first chapter, human rights have been in crisis. The Kenyan condition in regard to human rights has been so critical, and philosophically limited.

> "Peace flourishes when these rights are fully respected, but when they are violated what comes is war, which causes other still graver violations"[6].
>
> "When the promotion of the dignity of the person as the guiding principle, and when the search for the common good is the overriding commitment, the solid and lasting foundations for building peace are laid[7]."

Ignorance, scorn and individualistic tendencies unjustly prevail over the common good, instability, revolution and violence are inevitable. As expounded in the second chapter, the dignity of the human person is a transcendent value and therefore not determined by temporal ends. The human person is endowed with rights that are founded on his nature. Further, we pointed out that human rights are founded on the needs that have their roots in the dignity of the human person. These rights are only acknowledged and not conferred by the State since they are in-built in the human person and in human dignity. Such a conception proves illegitimate any attempts to deprive rights, for in so doing this would violate the nature of the human person:

> "As a human person he is entitled to the legal protection of his rights; such protection must be effective, unbiased and strictly just"[8].

5.5 THE TRIPOD OF RIGHTS, DUTIES AND OBLIGATION AS THE BASIS OF AUTHENTIC GOVERNANCE

The excessive concentration on rights to the detriment of duties could undermine people's confidence in the philosophy of rights to the point where it can no longer offer protection to the vulnerable:

> "Thoughtless or undifferentiated extension of claimed rights into new areas risks eventually rendering the language of human right unusable"[9].

The relationship between rights, duties and obligations is viewed as a conceptual muddle. The argument has been that duties and obligation imply one and the same thing. But to this, the study refutes and offers a proper relationship between rights, duties and obligations. One has the right, and the duty corresponding to that same right. But the basis of that duty to the right is obligation.

There is the need for further debate about the content and meaning of human rights. The use of 'rights' terminology needs discipline and care especially since rights sometimes come into collision or competition with one another, so that some rights must give way to others with a higher status or priority. Some ordering of rights becomes essential, unless every right is deemed absolute and beyond question:

> "To promote the good of the individual is thus to serve the common good, which is that point where rights and duties converge and reinforce one another"[10].

The rights are inextricably linked with the corresponding duties, all applied to one and the same person. These rights and duties have their origin, their sustenance and their indestructibility from the nature of the human person, which in conferring the one imposes the other:

> "Thus, for example, the right to live involves the duty to preserve one's life, the right to be free to seek out the truth, the duty to devote oneself to an ever deeper and wider search for it"[11].

In the society, the right gives rise to a corresponding duty to others i.e. of recognising and respecting that right.

> The extent of my right is determined by the extent of the other's duty[12].

To claim one's rights and ignore one's duties or only half fulfil them is illogical. In any authentic society, the individuals in their cooperating should recognise and perform their respective rights and duties. Such is an imperative to good governance. The State must provide the individuals with the resources necessary for the well-ordered society to be realised. This is the mutual recognition and fulfilment of rights and duties, involvement and cooperation of persons. Each human being acknowledges rights and duties towards others. The Kenyan society pictured, demands that individuals be guided by justice. respect the rights of the others and do their duty.

It demands, too, that they be animated by such love as will make them feel the need of the other as their own, and induce them to share their goods with others, and to strive in the world to make all people alike heirs to the noblest intellectual and spiritual values.

5.6 UNITY AND DIVERSITY IN A HEALTHY POLITICAL CULTURE

The Kenyan society is generally pluralistic in that it is ethnically, politically and religiously diversified. Such a diversification requires an analysis which points out that pluralism is not a vice. This should gear the society to be judged worthwhile, promoting self-esteem and enriching mutual growth. This we term as moral pluralism:

> "Moral pluralism implies both a genuine self acceptance and an acceptance of others"[13].

> "What ultimately defines people is neither ethnic groupings nor national citizenship nor even religious affiliations but that as human beings they are shares in the human family"[14].

As an aspect of the morality of human integration, moral pluralism is vital to solve the ethnicity problem, ideologies and belief systems. The cultural aspect, though limiting, is not a vice to political culture but ought to be a source of social integration:

> "A society, for example, may be at a level of census politically, compromise socially, competition economically, confrontation religiously while in its face–to-face interaction members may experience features of genuine co-operation"[15].

The maturity in question entails peaceful coexistence, a tolerance based on open-mindedness and active commitment to push the person to his finality. The philosophy of moral pluralism is based on the acceptance of each individual as an individual being in one's own right and therefore one's otherness. This must not only be respected but must be affirmed and it's potential recognised and allowed within due limits, permitting free expression.

Moral pluralism realises the significance of the fact that no man is an island, that a human being is a dependent being as earlier analysed. Moral pluralism endorses, and values highly, differences while promoting social integration. As a function of the morality of human integration moral pluralism has a distinct scale of values in its philosophy of social and political integration. The political society is the final analysis and not the collectivity in the philosophy of human integration.

The reflections for the society can be summarised:

> " They concern the patrimony of moral values that can be exercised to ensure that the pluralistic society remains in truly a human society and the distinctive moral education that is necessary in order to cope in such a society"[16].

Finally, moral pluralism requires moral and political maturity for it to be accepted in a society.

5.7 SOCIAL AND POLITICAL EQUILIBRIUM

The political culture of Kenya has been flawed because the dignity of all citizens has not been recognised, that is, their equality. The challenge to this essay is to provide an understanding of equality in virtue of which certain ways of behaving may be endorsed as promoting the welfare of all citizens. By the same token certain ways of behaving must be rejected as contrary to the fundamental equality of all citizens.

Two principles in particular come into mind here. These are (a) the principle of relevant similarities as determining equality of treatment and (b) the principle of relevant dissimilarities as determining difference of treatment either regarding individuals or groups. The implication here is that mere similarities or differences do not provide a justification for social cum political policy. The similarities and differences are themselves the reasons for different types of treatment[17]. Thus for example colour, tribe, belief as such are not grounds determining political policy whereas merit or ethnic balance may be relevant reasons. Likewise at the level of various institutions there has to be certain equilibrium.

The two extremes of abolishing all differences between groups and allowing the specialities of one group to masquerade, as common law of the land, must be avoided. Nevertheless there must be recognition both of all *specialities* and *universals*. There are universal norms that are binding on all members of a society. There are alternative norms that allow options in complying with them. Finally there are *specialities* norms that are restricted to and are distinctive of a group within the larger political society[18]. The land principle is that the *specialities* of no one group should override the *universal* and the *universals* should in no way level to the demolition of *specialities*. Ethnic balancing is a legitimate principle of public policy but when it becomes the principle of ethnocentrism it is faulty.

Balance between legitimate principle and the wellbeing of all members of the society ought to be the aim of the leaders. Freedoms of the masses should not be sacrificed at the altar of special needs like ethnicity. There has to be a balance between the *universal* and alternatives and *specialities* on the one other hand. Over emphasis of *universals* degenerates to authoritarianism. *Specialities*, when given an upper hand, would lead to anatomistic society. Therefore one of the essential assets of the political leader especially today is to be a master in the management of diversity.

5.8 CONCLUSION: TOWARDS A NEW PARADIGM

A new system of values is a precondition for change in the political system. During the past 40 years, it has become increasingly clear that all political systems need to be in terms of whether and to what extent they put the person at the centre of governance process, and do so as subjects, not as merely objects, of the process. This concluding chapter has given values of criteria namely: meeting the basic human needs. justice and participation, human rights and freedom. Also we have seen that the moral values exert a guiding influence on culture, economic, social institutions and precisely politics and the rule of law.

Human rights indeed have come to represent that striving for freedom from tyranny and despotism. In practice, the individual and the State will always have claims against each other, and their rights often are in tension. Nevertheless, their fulfilment goes together. Neither an individualism that denies the claims of community, nor a corporate prosperity that excludes the wellbeing or dignity of the individual is ultimately tolerable.

The individuals have a claim on each other and on society for the basic minimum conditions without which the value of human life is diminished or even negated. It is vital to understand properly the notions of human rights and public legislation, a vital conflict in regard to natural law and human rights.

Finally every member of the society has a duty to the common good in order that the rights of others can be satisfied and their freedoms respected.

4 END NOTES

[1] See Plato, **The Republic** (Middlesex: Penguin Books, 1987), 218- 222
[2] F.Ochieng'-Odhiambo. **Handbook on some Social and Political Philosophers.** (Nairobi: Consolata Institute of Philosophy Press, 1998), 97.
[3] Jacques Maritain, **Integral Humanism**, trans. by M.R. Adamson (London: Geoffrey Press, 1956), 114.
[4] Bernard Lonergan. **Insight: A Study of Human Understanding.** (London: Longmans, Green and Co.1957), 620
[5] See Aristotle. **The Politics** (Middlesex: Penguin Books, 1988). 389-476.
[6] John Paul, **Respect for Human Rights: The Secret of True Peace** (Nairobi: Paulines Publications Africa, 1998). 3
[7] ibid., 4
[8] Cf. **Pope John XXIII, Pacem in Terris** (Rome: Vatican City Press, 11th April 1963.
[9] John Mitchell Finnis, **The Foundation of Human Rights,** (England: Oxford University Press,1992), 3
[10] Paul, op. cit., 8
[11] Cf. **Pacem in Terris,** op. cit.,
[12] Finnis, op. Cit.. 4
[13] Denis Mason. **The Morality of the Pluralistic Society** (Ireland: Miltown Studies, 1989). 78
[14] ibid., 79
[15] Ali Mazrui, Pluralism and National Integration in Kuper & N.G Smith, Eds. **Pluralism in Africa** (Berkeley: University of California Press, 1971). 339
[16] ibid., 85
[17] Bernard Williams. "The idea of Equality" in J. Feinberg, **Moral concepts** (London: O.U. Press, 1969). 153
[18] F. O'Connor. Pluralism: Justice or Interest of the Strong in A. Flannery, ed. **Abortion and Law** (Dublin: Dominican Publications, 1963), 168

6 GENERAL CONCLUSION

One consequence of this study is that it favours a democratic and liberal view of the State and argues for a political society that is both personalist, pluralist and above all, authentic. Authority is derived from the people, for the people have the right to govern themselves. It is liberal in the sense that it advocates for a freedom rooted in rights and as protected and promoted. Furthermore, freedom or liberty to be in the State is close to that which is now generally called positive freedom that is, it reflects a view of the person as sharing a common good. As a polity that attempts to provide the conditions for the realisation of the human person as an individual who is thereby a member of a State, it recognises the use of goods for all and that individuals can be required to serve the community.

In such a State, leaders are more than spokespersons of the people. The aim of the leaders and the State is always towards the common good. In such a polity, the study imagines that a leadership role would be played by a multiplying of fraternities founded on freedoms and inspired by human rights, reflecting a moral discipline and fundamentally democratic and hence leads to good governance. The groups that make the society pluralistic would not necessarily exercise political powers. The society as a whole would reflect moral values not for a privileged group but because they are necessary to the State.

The State should address the needs of the human person. It is perhaps, evident that such a polity may survive within a single Nation-State that exists among a pluralistic structure of people with different ideals and this is the challenge of our thesis. The breadth of this philosophical work, its deemed influence on social and political spheres and its ardent defences of human rights makes it relevant to the Kenyan situation.

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