

STATE, MULTIPARTY ELECTIONS AND ETHNIC VIOLENCE IN KENYA

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ABSTRACT

Kenya has undergone three cycles of electoral violence since the resurgence of multi-party elections in 1992 that have raised serious questions not only as to the consolidation of democracy, but also as to whether the disintegration of the Kenyan state was more likely than before. It has been demonstrated that the periodic violence in Kenya has been engendered by a complex interplay of multiple factors, principally the centralized nature of the Kenyan state, winners-take-all electoral system, and ethnicity.

The central argument in this paper has been that ethnic violence is likely during multiparty elections in Kenya when groups compete spiritedly to secure control of the highly centralized state under an electoral system that dangerously raises the political stakes in a zero-sum way and in a manner that threatens to deny a significant part of the population from accessing public resources and opportunities. Therefore, electoral violence is perceived, sometimes mistakenly, by both winners and losers, as legitimate means to fight for their entitlement and to deal with the threat of political exclusion.

Arising from this analysis is a conclusion that the future of democracy in Kenya lies not only in the restructuring the centralized state, divesting the “imperial presidency” of its current powers but also in the devolution of political power and authority away from Nairobi to sub-national levels in order to create alternative state arenas for complementing the central government in its quest to meet the expectations of the populace and to deliver effectively the public services. In this way, equitable distribution of public resources will improve and the general marginalization of some major ethnic groups by the successive regimes will end. The initiatives must also be accompanied by a reform of the electoral system in an ingenious manner in order to ensure that the distribution of parliamentary seats is equitable amongst the political parties; every vote counts during the general elections; divisive territoriality and ethnic polarization are minimized; and the political exclusion and marginalization of minority groups are remedied.

INTRODUCTION

The Kenyan post-election crisis in early 2008 has already been a subject of several studies that have analyzed what took place, and why. The scholarly efforts have been mainly of two opposite strands. On the one hand, there are those for whom the crisis exemplified “democracy in dangerous places,” (to borrow Paul Collier’s phrase) and provided the sceptics of the ongoing democratization in Kenya and elsewhere in Africa with a reason to sustain their pessimism (Collier, 2009:15-60; Mansfield and Snyder, 2007: 5-10; Carothers, 2007: 12-27; Chua, 2004:259-278). For these scholars, the preconditions for liberal democracy in Africa do not exist yet, and unless this reality is appreciated and addressed, the entire efforts to consolidate democracy in the continent may be an exercise in futility, and perhaps, the ongoing advocacy for democratization should be rolled back. On the other hand, there is the optimistic view that sees the current challenges to democratization as manageable when the root causes of occurrences like the post-election violence in Kenya are properly understood, contextualized and remedied. The proponents of this view postulate that the efforts to democratize the continent must continue as measures to mitigate the existing weaknesses are implemented concurrently rather than later (Branch and Cheeseman, 2009:23-24).

This paper continues the debate with a narrow focus on how to create effective institutional mechanisms in Kenya that would reduce ethno-regional tensions during and after the multi-party elections whilst simultaneously, pursuing the consolidation of democracy in the country. Of course, some of the recent studies on the post-election crisis in Kenya have highlighted the need to focus on the institutional dimension as “the best way forward” (Branch and Cheeseman, 2009:24). Yet how exactly it should be done to redress the current institutional weaknesses is often couched in platitudes and general propositions that may not meaningfully inform the initiatives towards the consolidation of democracy. For instance, it is not enough to diagnose institutional deficiencies and even suggest the nature of reforms required such as independent electoral commission and judiciary, dismantling of the bureaucratic-executive state, strengthening of parliament, and respect of rule of law (Branch and Cheeseman, 2009:24-25). The need for these arrangements is not only widely known even by those who perpetrate electoral malpractice but also there are statutes and other formal rules for political competition already in place. However, why they are not adhered to or enforced effectively remains the crux of the matter in some contexts. This may have to do with the socio-political constraints that render conventional approaches to institution-building inappropriate and irrelevant.

The electoral violence in Kenya has been periodic since the resurgence of multi-party elections in 1992 caused by a complex interplay of multiple factors, principally the centralized nature of the Kenyan state, winner-takes-all electoral system, and ethnicity. The central argument in this

paper is that ethnic violence is likely during multiparty elections in Kenya when groups compete spiritedly to secure control of the highly centralized state under an electoral system that dangerously raises the political stakes in a zero-sum way, and in a manner that threatens to deny a significant part of the population the opportunity to access public resources. Thus, electoral violence on ethno-regional lines becomes a means, by both winners and losers, to fight for their entitlement and to deal with the threat of political exclusion if elections fail to settle peacefully the political contest.

The paper is divided into four parts in order to explore the central questions and issues systematically, namely, the framework of analysis, the cycle of ethnic violence in Kenya since 1992, the nature of the postcolonial state in Kenya since independence, the salience of the electoral systems, and the way forward in terms of the essential reforms to mitigate persistent electoral violence along ethno-regional lines.

A FRAMEWORK OF ANALYSIS

The causal link between a centralized state, electoral systems and ethnic violence needs to be analysed to provide a theoretical basis for the subsequent discussion. Whilst these variables may be interconnected multi-dimensionally, in this analysis the primary premise is that the causal relationship between a centralized state and ethnic violence is mediated by the type of electoral systems in place. Thus, a centralized state need not necessarily predispose ethnic groups to violence but elections could trigger ethnic violence when particular electoral systems are used during elections. To understand this complex dynamics, it is important to explore the link between centralization of the state and the choice of electoral systems and their effect on ethnic relations.

States can be centralized either governmentally or extra-governmentally or both. Studies on centralization and decentralization are replete with evidence on the dynamics of the two opposite processes (Anangwe, 1990:1-77). In governmental contexts, the state is centralized when power and authority are concentrated vertically in few actors at the centre of the political system in a manner that renders lower level units as mere appendages that are devoid of autonomous existence. As it were, the periphery is physically and mentally subordinated to the whims and influence of central authorities with regard to decisions on the distribution of public resources and access to opportunities. Such subordinate units include sub-national governmental units, including states/regions, local government and field administration. The extra-governmental dimension of centralization of the state is distinctly different as it relates to extensive regulation and intervention by the government in socio-economic affairs, including support to the private sector, and, in extreme cases, it also denotes central planning and state-led economic system.

Centralization of the state is costly in political terms. As Smith (1985:4) notes, a centralized state is “both psychologically and physically remote” even in an industrial state like Britain. Perhaps, it is even worse in Africa, where the state tends to concentrate resources in priority areas or crisis points, usually in the urban areas, whilst the rest of the rural domains where the bulk of the population lives are left to their own devices and have symbolic governmental presence (Zolberg, 1966:66; Bienen, 1967: 1967:134; Anangwe, 1995:105-106). The delivery of services to rural poor in Africa is further hampered by widespread weak markets and reliance on inefficient, corrupt, and inadequate governmental systems that exacerbate problems of access to services. Faced with such a bleak reality, the rural populations despair or may have recourse to ascriptive considerations such as family ties, ethnicity or political patronage to ameliorate the situation. These are conditions that heighten political tensions amongst groups that are desperate to access the few available state resources and opportunities.

Furthermore, centralization of the state in Africa exacerbates ethnic conflicts because it renders the central government as the only meaningful arena for political competition by groups interested in staking out their claims for the public resources and opportunities, and whose control inevitably becomes a matter of life and death (Barongo. 1989:81; Anangwe, 1994:88). Consequently, the sub-national units are rendered impotent and unable to meet appreciably public demands by the populace for basic services. Even more critical is the fact that the overall governmental capacity to fulfil the core mandate is undermined when local level units fail to complement the central government because they have expediently been neutralized so that they do not pose a political challenge to central authorities. All the structural arrangements that would otherwise provide a firm foundation for effective territorial dispersion of power and good governance are missing; this may partially explain the lack of legitimacy for the state system in the continent. What is crucial here is to examine later whether the postcolonial state in Kenya is indeed centralized, in what ways, and the underlying root causes.

The link between electoral systems and the propensity for violence needs also to be examined critically. An electoral system, defined as a method for translating votes into seats, is a key mechanism in resolving or exacerbating conflicts in a divided societies in so far as it not only serves to set the rules for political competition but also to determine for political parties whether or not to engage in hostile and exclusionary political discourse (Rae, 1971; Bogdanor, 1991:197). Based on analyses of some of the electoral systems, it has been argued, for instance, that the plurality or majority methods are ill-suited in a heterogeneous and divided societies such as the highly polarized and ethnicised environments in Africa. Drawing from the European experience with electoral systems, it has been postulated that “a national culture unified both ideologically and ethnically may be a precondition for successfully working of the plurality and majority methods (Bogdanor, 1991:195).” Thus, when plurality or majority methods are applied indiscriminately in ethnically divided or plural societies, dysfunctional outcomes should be

anticipated because some social groups that lose out in the electoral competition are likely to respond unfavourably to their predicament. It is these circumstances that caused the earliest moves in the mid-19th century and early 20th century toward proportional representation in Denmark, Germany, Belgium and Finland in order to accommodate the minorities in the political process. Therefore, the fact that a majority of the world's democracies use the proportional representation system underscores an attempt to minimize the emergence of antagonistic political cleavages in such societies.

Electoral systems are of different types. For the purpose of this analysis, an attempt is made to identify the types that exacerbate electoral conflict and how they affect inter-group relations. Of immediate relevance are four types, namely, plurality, majority, proportional representation and mixed-member representation. These need to be explained for clarity and deeper understanding of their political consequences.

The plurality method, used in Britain and former British colonies, is derived from a medieval idea of representation of communities and has been strongly linked to the notion of territorial representation especially where single-member electoral constituencies exist. The method offers a voter a single choice amongst names on the ballot paper, and, thus, it produces a zero-sum situation that alienates losers and their supporters; it also favours the large parties that have wide-spread support amongst the constituencies at the expense of the small parties whose support is not territorially spread and outcome that also alienates small parties and their supporters.

The majority method is of two forms. As used in Australia, voters rank the candidates on the ballot in their order of preference to determine the winner after the tally. The other form is the second-ballot option as practised in France, Austria, Finland and Portugal, in which the winning candidate in an election garners absolute majority votes. These two approaches minimize alienation amongst the losers, be they individuals or political parties, in a number of ways. Firstly, each political party or a bloc of parties is allowed to present multiple candidates without fear of splitting the vote and the voters consider all candidates and all parties in a less adversarial manner. Secondly, the method ensures that there is no doubt on the popular verdict by the electorate as to who their leaders are. Thirdly, the second-ballot option encourages parties and groups sometimes to bargain between the two rounds of balloting when the contest is left to fewer candidates than in the first round. Thus, it would not be far-fetched to suggest that the majority method causes fewer electoral conflicts and leaves the populace less scarred by the electoral process.

The proportional representation electoral system shifts emphasis to representation of voters in proportion to their numbers as opposed to representation of political parties on the basis of single-member constituencies. In other words, territorial representation is not a major

consideration. Proportional representation can be approached through a number of ways but most common are the party lists and the single transferable vote (STV). Under the party list approach, the premise is that the electoral preference should primarily be expressed through parties which may also formulate, prior to the election, prioritized lists of candidates to be considered to carry the party's banner in parliament. The STV approach is applicable in multi-member constituencies and does not use of prioritized party lists; the voter is free to express preference amongst the candidates and to instruct the vote to be transferred from one candidate to another in order to help elect particular candidate (Bogdanor, 1984). Thus, proportional representation is principally to ensure representation of the individual voters rather than communities or political parties.

The proportional representation has also several political implications. In the first place, the system minimizes the importance of territorial representation, and therefore groups are not obviously balkanized into ethno-regional zones. Secondly, representation of minorities is enhanced when groups that would otherwise be left out through the other electoral systems. Thus, the electoral process is rendered more inclusive and less antagonistic. Thirdly, it ensures that social cleavages are represented more faithfully when social groups are able invariably to secure their rightful stake in the political process. Finally, polarization amongst parties is minimized because of the intra-party dynamics. Whether it is the formulation of party lists or the STV, there is intra-party competition and factionalism, and, thus, the parties are not able to become strong and homogeneous entities capable of polarizing the larger society. However, as Shugart argues, proportional representation has also a shortcoming of resulting in the creation of coalition governments that tend to compromise party platforms when governments are formed through bargaining amongst the parties after the elections. The system also denies the electorate the opportunity to choose parties on the basis of competing possible policy alternatives.

The mixed-member electoral system combines the positive aspects of the other electoral systems by having a proportion of legislators elected through proportional representation and others through plurality or majority methods. Although mixed member system appears in many forms in different countries, the political consequences are the same: the elected rulers are relatively more legitimate, whether by a single-party or a coalition of parties; the governments are able to exercise adequate political authority and to act decisively; and resultant coalition governments may be fractious but the larger society is at least peaceful because the governments are broadly representative of the electorate, and are not systematically biased against any particular groups or interests.

The prevalent use of mixed member system in an African setting would alter the voting behaviour away from the rampant ethnic voting blocs and winner-take-all politics in a number

of ways. Firstly, control of majority single-member constituency seats alone would not enable a political party to secure power unless its proportionate share of the vote was also high. Secondly, various ethnic groups would tend to seek to accommodate and cooperate with one another in order to secure power and share the spoils. Thirdly, the presidential candidates who would wish to secure power would have to seek multi-ethnic political bases to be able to win elections and form a stable government. Lastly, the zoning of territories along party lines would also be less pronounced as the single-member constituency seats would just be a portion of overall party tally that would be determined based on the proportionality of the votes.

THE CYCLE OF ETHNIC VIOLENCE IN KENYA SINCE 1992

Election-related violence is the norm in Africa. An election hardly passes in the continent without a few people getting maimed or killed. However, electoral violence becomes phenomenal when it takes the ethnic dimension and, at the very worst, it may escalate into a civil war as witnessed in Ivory Coast, Uganda in the 1980s, Angola, Algeria, Tanzania, and recently Kenya.

The resurgence of multiparty politics in Kenya took place in 1991 when the constitution was changed by parliament to end the one-party state. Since then, multiparty elections have been held in 1992 and thereafter every 5 years against a background of a cycle of ethnic violence with changing of parties to the conflict in every election, depending on the ethnic alliances in place.

Ethnic violence in Kenya began with the return of multiparty politics, signifying that the two are interrelated. Although electoral contests under one-party system were not entirely violence free, nonetheless this was on a minor scale and did not take ethnic lines. Ethnic violence started when multiparty elections returned and caused fault-lines that mirrored the ethnic divide at that time between the then ruling party, Kenya African National Union (KANU), and the opposition parties, namely, the Forum for Restoration of Democracy-Asili (FORD-Asili), Forum for Restoration of Democracy-Kenya (FORD-Kenya), Democratic Party of Kenya (DP). On the one hand, there was the incumbent President Moi's KANU backed by his ethnic community, Kalenjin, their pastoralist allies amongst the Maasai, Turkana, Somali, Borana and others such as the Kamba and Mijikenda. On the other hand, the opposition parties were backed principally by Kikuyu, Luhya, Luo, and Kisii. Thus, when violence flared on 29th October, 1991 in Nandi District and later sporadically spread to other parts of Rift Valley until 1993, it was the opposition-leaning ethnic groups that were on the receiving end of the state-backed ethnic violence. The political objective then was to silence or drive the opposition ethnic groups out of the Rift Valley province so that they could not vote during the elections against the ruling party, KANU (Republic of Kenya, 1999:59-190). A report of the Kenyan Parliament on ethnic clashes in Western and other parts of Kenya in 1992 revealed that a total of 779 deaths and 54,000

people were internally displaced (Kenya National Assembly, 1992:78). There were also clan-based skirmishes in North Eastern Provinces that were caused by local competition over parliamentary and civic seats, amongst other causes, but these have been intermittent for different reasons over a long period that predates the multiparty era.

A similar orgy of ethnic violence also took place prior to multiparty elections in 1997, again largely in Rift Valley and this time round in the Coast and Nyanza Provinces for reasons that had to do with political rivalry amongst the ethnic groups during the general elections. One ethnic group would attempt to evict their opponents in order to deny them a chance to vote for their preferred political parties, resulting in wanton destruction of property and life. In the Rift valley, the ethnic violence in 1997 was less severe than in 1992 and it came after the actual general elections when the Kalenjins and their allies Samburu took to violence against the Kikuyu to avenge either the defeat of their party's parliamentary candidates or a threat by the opposition presidential candidate, Mwai Kibaki, to lodge a petition to challenge the re-election of President Daniel arap Moi. This was so in Laikipia and Nakuru Districts in January 1998 with fatalities on both sides. Elsewhere in Coast Province state-instigated violence erupted in August 1997, to drive out the opposition-leaning upcountry ethnic groups in Likoni area of Mombasa District in order to enhance KANU's chances of winning parliamentary and presidential votes and to turn tables on the opposition parties that had humiliated the party in 1992, when it won only one seat in Mombasa District while the other two went to FORD-Kenya and DP. Similarly, in Nyanza Province, the Luo ethnic group supported their presidential candidate, Raila Odinga, who had stood on the National Democratic Party. To prevent the "spoiling" of Odinga's presidential vote, the Luo attempted to violently drive the KANU-leaning Kuria and Kisii from their common border areas and the latter in turn did the same to Luo settlers in their midst with fatal consequences.

The general elections in 2002, were different and most peaceful since the resurgence of multiparty politics. Unlike in the past, none of the presidential candidates was an incumbent president, as Moi was retiring due to a constitutional term limit that barred him from contesting. However, Moi backed Uhuru Kenyatta, a Kikuyu, as a KANU presidential candidate against a coalition of opposition parties under the umbrella, National Rainbow Coalition (NARC), and whose presidential candidate, Mwai Kibaki, was also Kikuyu. This time round the ethnic divide disappeared and the major protagonists in Rift Valley Province in the last two consecutive multiparty elections, Kalenjin and Kikuyu, were for the first time voting on the same side and in a de-ethnicised manner, as it were, for a "Kikuyu president," albeit through two different parties. NARC won the elections and ended KANU's 40-year rule. The rare convergence of interests among the various ethnic groups supporting NARC was codified in the famous Memorandum of Understanding (MOU) amongst the key leaders of the Kikuyu, Luhya, Luo, Kamba on how to share power and the spoils but which Kibaki later reneged once in

power. This time round the Kalenjin were politically isolated and in the cold when their KANU candidate, Kenyatta, lost the contest. It was a very bitter experience for the Kalenjin who had previously enjoyed unlimited access to state resources and opportunities for 24 years under Moi's rule and had hoped to continue doing so under their Kikuyu protégé, Kenyatta.

The NARC victory underscored several points, but three are most important. Firstly, electoral contests amongst parties need not cause ethnic violence as long as there is mutual assurance that a critical mass of ethnic groups will secure access to the state and the public resources and opportunities it controls. Secondly, political parties are stalking horses inside which are hidden foot soldiers committed to potentially antagonistic ethnic agenda, but could cooperate in the short term in order to share power. Thirdly, the ethnic alliances are temporary, and the configuration changes in subsequent elections based on how ethnic groups perceive their options and vantage points and how to maximize on the opportunities. Finally, control of the state is central to political calculations that ethnic groups make during the general elections.

The 2007 general elections took place in a different political scenario that contrasted sharply with what had been witnessed in 2002 when NARC won. This time round, the alliance that had catapulted Kibaki's NARC to power broke down, as Luo, Luhya, Kalenjin, Maasai ganged up, under a new election outfit called the Orange Democratic Movement (ODM), against the Kikuyu and their allies from the Mt Kenya region. The Kamba took their turn to be politically isolated when one of their own, Kalonzo Musyoka, broke ranks with ODM to seek the presidency on a party that was a replica of ODM called the Orange Democratic Movement-Kenya (ODM-Kenya). The electoral outcome was bitterly contested when Kibaki was controversially and fraudulently declared re-elected by the Electoral Commission of Kenya. In the wake of the electoral outcome, ethnic violence broke out in the entire country in an unprecedented manner in terms of fatalities and destruction of property. Again the epicentre was Rift Valley where the Kalenjin and Maasai unleashed violence on the Kikuyu settlers, and, in turn, Kibaki unleashed the police and Kikuyu militia called Mungiki on ODM supporters in Rift Valley, Western, Nyanza, and Coast provinces in order to retaliate and silence them by brute force. A total of 1,133 people lost their lives of which 405 were shot by police. The ethnic distribution of fatalities and cause of death varied province by province. In Nyanza and Western Provinces, inhabited by Luo and Luhya respectively, over 70% of fatalities were shot by police whilst in Rift Valley, which accounted for 66% of all total deaths, 74% of the deaths were perpetrated by a Kalenjin and Kikuyu militias. The actual deaths by ethnic group are summarized in Table 1 below. Over 15 ethnic groups bore the brunt of ethnic violence, with Luo, Kikuyu, Luhya and Kalenjin being most affected. Perhaps, it is important to note that it is the police brutalities that became a major factor in the total deaths in 2008 unlike 1992 when the police merely turned a blind eye on the ethnic violence.

Table 1: Summary of Deaths in 2008 by Ethnic Group

ETHNIC GROUP	NUMBER OF DEATHS
Luo	278
Kikuyu	268
Luhya	163
Kalenjin	158
Kisii	57
Kamba	11
Maasai	7
Turkana	6
Teso	4
Taita	2
Tanzanian	2
Kuria	2
Pokot	1
Meru	1
Unknown	165
Others	8
Total	1,133

Source: Republic of Kenya, Report of Commission of Inquiry into Post Election Violence (CIPEV) (Nairobi: Government Printer, October, 2008), p. 344.

THE NATURE OF THE POST-COLONIAL STATE IN KENYA

The mere fact that ethnic violence has been centred on the control of the state raises an important question as to why the Kenyan state, particularly the presidency, should be a perpetual point of violent contention amongst ethnic groups to the extent of seeking to exterminate one another. This has to do with the nature of the post-colonial state in Kenya.

Like most African states that underwent colonial rule, the postcolonial state in Kenya has retained some of the traits of the colonial state. In spite of independence in 1963, the political logic that had underpinned the colonial state was reincarnated and perpetuated. Colonial Kenya had been a white settler territory in many ways similar to pre-independence Zimbabwe and Apartheid South Africa. Therefore, the colonial state became an instrument at the disposal the white settlers and a means to ensure the subjugation of the African majority. Its *modus operandi* was inherently discriminatory, resulting in racial polarization and opposite perceptions of the same institution between Europeans and Africans. Because it was supported by a minority European population, the colonial state was centralized and authoritarian in character in order to be able to suppress the African majority. Thus, colonial rule was never based on democracy, and attempts to bequeath the hurriedly created democratic apparatus on the eve of independence in 1963 to the new Kenyan rulers proved to be an act in political dishonesty by

the British who had never practised democratic governance during the 70 years of their rule in Kenya. It is, therefore, not a surprise when the experiment at independence with the Westminster model failed miserably as Kenya reverted to the colonial-type of rule characterized by centralized, authoritarian, and discriminatory tendencies.

At independence, Jomo Kenyatta took the reins of power initially as Prime Minister for year, with the British monarch (through the Governor-General) as the formal Head of State and also the Head of Government under a structure of government that attempted to depart from the colonial state. The new arrangement, known as the “Dominion Government”, had a bicameral legislature, multiparty elections by universal suffrage, and devolved structures comprising seven regional governments. This continued for awhile with the concurrence of Kenyatta and his political associates in order not only to secure their hold on power in the short run under the British tutelage and patronage but also to reassure the European and Indian capital in order to pre-empt the flight of capital. There was even a more fundamental reason for the retention of the British due to the rising ethnic and racial tensions on the eve of independence. The prospects of independence exacerbated mutual mistrust amongst the races and ethnic groups due to competition over public resources, and economic opportunities especially land and employment. As a matter of fact, the negotiations between Europeans and Africans, as well as amongst the leaders of the various ethnic communities that had taken place earlier during the three Lancaster House Conferences between 18th January, 1960 and 19th October 1963, about the structure of the future government in independent Kenya, underscored the complexity and scale of conflict of racial and ethnic interests that the Kenyatta regime had to face *ab initio*. In other words, independence was received with euphoria by a few people but there was trepidation for many. Fears had been expressed by a majority of Kenyans in the early 1960s about the risk of Kikuyu and Luo domination, and some ethnic groups had even expressed a preference for the continuation of colonialism (Ghai and McAuslan, 1970:189; Odinga, 1967:228; Anangwe, 1990:217).

With limited options, Kenyatta regime systematically dismantled the dominion government within one year; regional governments and the Governor-General were abolished, legislature became unicameral, and the opposition party, Kenya African Democratic Union, was absorbed by the ruling party, KANU. The general upshot of these constitutional changes soon after independence was to create a centralized state that was sanctified on 12th December, 1964, when Kenya became a republic and Kenyatta became the President with powers no more different from those previously exercised by the Governor-General on behalf of the British monarch during colonial rule. Monarchical tendencies that have characterised African political life have been ably elucidated by Mazrui, but, of course, their colonial inspiration needs to be emphasized. For those who inherited the reins of power from the departing colonialists, rulership signified being imperial, and authoritarian as well as treating the territorial

jurisdictions as royal possessions to be ruled without encumbrances in a fashion the British monarchs had done over their colonies (Mazrui,1967; Anangwe, 1990:229). Towards this end, Kenyatta crossed the rubicon in 1964 when he donned the imperial mantle and began to govern Kenya the way the British had done for 70 years.

The organization of the post-colonial state under the Kenyatta regime has been a subject of a number of interpretations. Relying largely on the constitution and other anecdotal evidence, Ghai and McAuslan (1970) and Gertzel (1966), had concluded that the earlier phase of the Kenyan state had been a variant of a parliamentary system of government. However, constitutional or formal arrangements of the Kenyan state have certainly been deceptive as there was a discrepancy between the formal arrangements and the actual practice in government. Since independence, there had been a steady attrition of checks and weakening of effective controls on arbitrary and capricious abuse of presidential powers. Clearly, the presidential system of government had flourished with few apparent checks in Kenya as it had been elsewhere.

Although the government was formally organized into three branches in the conventional Western model, the president and the entire executive held sway over the legislature and judiciary. The president possessed extensive constitutional, extra-constitutional and political means to manipulate the entire political system. Apart from being the Head of State, the president was the commander-in-chief of the armed forces, including the police, the leader of the then ruling party, KANU, and also the “Father of the Nation”. All those in the public service, be they ministers, members of parliament, military officers, civil servants and judicial officers had to be loyal to the president in order to retain their positions.

To ensure firm grip on state resources and opportunities, Kenyatta’s regime went a step further to centralize the management of public finance and personnel matters. Decision making over the allocation of public resources was not only centralized in Nairobi but also was further reposed in the Ministry of Finance whose stewardship was always under Kikuyu ministers and permanent secretaries throughout the Kenyatta era. This afforded the regime the opportunity to control the budgetary process and accounting system to ensure the effective channelling of a large portion of public resources to the regime’s major political base amongst the Kikuyu in Central Province. The intricate nature of the financial control systems under the Kenyatta regime can be understood when the budgetary and accounting processes are analysed not just on the basis of formal arrangements but what the practice was at that time. For instance, the constitution, the exchequer and audit law as well as related operational regulations and manuals, officially vested major taxation and expenditure of public resources in parliament. Yet in practice, it is the Ministry of Finance that tightly controlled the processes and had to approve the annual budgets of all ministries and departments before they were submitted to

parliament. Similarly, the Ministry of Finance had a pervasive role in the control of actual expenditure of public funds through the ministries and departments after parliament had approved the public budget. For accounting purposes, all government entities were subordinate to the Ministry of Finance, and each newly appointed permanent secretary or head of department was also appointed personally, not by office, by the Ministry of Finance to become the 'accounting officer' of his unit and was informed of personal liability in the event of financial mismanagement. The personal nature of accounting responsibilities made the permanent secretaries and heads of departments to personalize financial decision making in their units; these also made the officials amenable to manipulation by their Kikuyu superiors, regardless of their ethnic origin.

The pattern was the same with respect to personnel administration. Although, the Public Service Commission, the Judicial Service Commission and the Directorate of Personnel Management and permanent secretaries were supposed to act independently on personnel functions under their purview, the practice was different. Key decisions on recruitment, promotion and sacking especially of higher level civil servants was influenced through remote control by the Office of the President (Hyden, 1970:131).

CENTRAL CONTROL OVER THE PERIPHERY

The President also exercised control invariably over the periphery through field administration. The entire country was divided into seven provinces that were in turn subdivided into districts, divisions, locations and sub-locations. Two features of field administration in Kenya are worth noting to understand the centralist tendencies under Kenyatta's regime. Firstly, the creation of government departments always began in Nairobi and grew thinly in a top-down manner to provinces and districts and infrequently to lower levels. Thus, the central government was remote from the point of view of the rural communities that needed government services in most parts of Kenya. Secondly, the coordination of field administration at the various levels was weak as most field agencies were vertically answerable to their superiors in parent ministries and departments in Nairobi. The attempts by the provincial administration department to assume the role of the principal coordinating agency had always been thwarted because the officers in the department – provincial commissioners, district commissioners, district officers, chiefs and their assistants - lacked the requisite administrative authority and sanctions to be able to do so, and hence, provincial administration had to rely on good will of the field departments to be able to coordinate the field services, however mildly. Thus, the government presence at the periphery had remained relatively weak and uncoordinated as compared to Nairobi where government authority was unduly centralized and omnipotent.

The centralized government machinery was, however, put to effective use to the advantage of those from whom Kenyatta enjoyed political support and to the detriment of those opposed to

whom, be they individuals or ethnic groups. Indeed, the discriminatory tendencies that had been the hallmark of the colonial state took an ethnic dimension after independence. Whereas, there was a determined effort to generally centralize state authority in the executive branch, attempts were made to provide opportunities for access to and influence within the state arena through the backdoor to Kenyatta's political base amongst the Kikuyu of Central Province. The unequal agrarian chances since colonial days coupled with the privileged access to state resources and dominance in government under Kenyatta's regime, gave Kikuyu a head-start in indigenous accumulation in agriculture, commerce and industry in the 1970s and 1980s whereas the other communities lagged behind, a fact that engendered anti-Kikuyu feelings and jealousy amongst the other ethnic groups up to this day.

POLITICS OF POST-COLONIAL DEVELOPMENT PLANNING

Against the backdrop of the centralist tendencies of Kenyatta's regime, the politics of development planning in Kenya can be clearly understood. In some literature, development planning is treated as a technocratic and apolitical exercise for which politics is deemed to be a major constraint. Some literature tends to suggest uncritically that for development planning to be correctly and professionally done, politicians have a duty to heed the professional advice from development planners in order, as Waterston (1966:3) puts it, "to give substance to the government's claim or belief that it was" seriously engaged in development planning. According to this view, professional planners should guide the development process without regard for political considerations, and politicians should adhere to such dictates. In practice, such a technocratic development process takes place in few societies, as argued by Leys (1969:247-275) and Minogue (1988: 234-235). Drawing from the Kenyan experience, it is tempting to argue that the decision to plan or not to plan, and the broad range of attendant decisions that must be made as to how to allocate public resources among government priorities are largely political matters for which persuasive economic arguments whichever a development trajectory is preferred by those in power. Indeed, development planning in Kenya since Kenyatta era has been a process to justify the flow of public resources in a discriminatory manner in order to reward the regime's ethno-regional base and to deny hostile ethnic groups their rightful share.

From 1963 to 1978, the Kenyatta regime subscribed to the development planning ideology that exacerbated regional disparities when emphasis was placed on maximizing the potential contributions of the more developed areas and eschewed redistributive policies that would have meant a shift of resources from the rich and Kikuyu-inhabited parts of Central and Rift Valley provinces to other less developed areas inhabited by the major tribes of Kenya such as the Luhya, Luo, Kalenjin, Kamba and Mijikenda. Kenyatta (1966:ii) was categorical when he asserted in the introduction to the Development Plan, 1966-1970,

The door to prosperity is open for those who are willing to work hard and regularly, and follow the advice given by Government officers. For those who prefer to work two or three hours a day, the Government cannot promise anything.

He went on to castigate the less developed areas for their anti-developmental and negative attitudes that were also opposed to his regime when he further stated,

I must underline that in some areas the process of economic and social development is held back by the unwillingness of the people to accept new ways and the necessary discipline of planned and coordinated development. Needless to say, no real development will take place unless the people want it and are prepared to work for that development and accept the necessary changes. While we must maintain and promote our valuable traditions, mutual social responsibility and unfettered political democracy, we must also fight those prejudices and suspicions whose removal is a precondition for development.

In other words, in Kenyatta's mind, the poor areas comprised lazy people and would not be catered for in development plans until they changed their attitudes. The same message was echoed in the two subsequent development plans for 1970-1974, and 1974-1978. It is this kind of thinking by Kenyatta's regime that deepened the anti-kikuyu feelings and stoked opposition to Kenyatta's regime amongst the Luo, Luhya, Kalenjin, and Kambas.

Kenyatta died in 1978 and was succeeded by Daniel arap Moi, a Kalenjin, who promised to follow Kenyatta's footsteps in governing the country. Moi's political base would become Kalenjin and allied ethnic groups who sought to settle scores with the Kikuyu for past exclusion from state resources. When Moi prevaricated on this, the Luo staged an abortive coup in 1982; the coup plotters later confessed that theirs was a pre-emptive strike against another coup by the Kikuyu against Moi's regime (Badejo, 2006:111-112; Anangwe, 1990:167). These two coup initiatives forced Moi's hand down and he made a decision to anchor his regime amongst the non-Kikuyu, and would turn the state machinery against the Kikuyu for the next 24 years of his rule. Following Kenyatta's footsteps acquired a new political meaning: it was Moi's turn to use public resources and centralized state machinery he had inherited from Kenyatta to benefit his own ethnic group and those allied to him in ways no more different than the way Kenyatta had done to benefit the Kikuyu. Moi's regime embraced redistributive policies and equitable development as the primary planning strategies and negated the Kenyatta's development planning philosophy. The fourth and fifth development plans for the periods 1979-1983, and 1984-1988 respectively that were formulated during Moi's rule reflected concerns relevant to Moi's political priorities. As Moi (1986:20-29) would repeatedly pontificate about national ethos geared towards collective social responsibility and for each one to be mindful of the welfare of others. If there was any doubt as to where Moi stood on redistribution and equity, he

categorically affirmed the philosophy of his regime to be: “We share the little we have so that we can work together to produce more.” Within this spirit, public resources were systematically channelled in a discriminatory manner at the expense of the Kikuyu. The latter would in turn express their chagrin about the change of fortune through vocal opposition and to which Moi’s regime responded repressively. It is against this backdrop, that the Kikuyu and Luo spearheaded the return of multiparty politics in 1992 in order to get rid off Moi’s regime. Although Moi retained the presidency in two successive multiparty elections in 1992 and 1997, his precarious survival was due to the disunity of the opposition parties which failed to offer effective electoral challenge. However, the scenario changed in 2002 when Moi retired and a coalition of opposition parties succeeded to oust the then ruling party, KANU.

The successor regime under Mwai Kibaki, a Kikuyu, was a reincarnation of Kenyatta’s regime, although political circumstances had changed to the extent that there was more democratic space for opposition parties and, therefore, Kibaki did not enjoy much leeway like Kenyatta had done under the one-party rule. Although Kibaki attempted to put to use the centralized state he had inherited from Moi in order to shift the flow of resources back to the Kikuyu and their allies in Mt. Kenya region, he faced stiff resistance that obliged him to begrudgingly accommodate in government a motley of other ethnic groups but in a manner the latter perceived as unsatisfactory and still biased in favour of the Kikuyu. Anxious to remedy the situation during the general elections in 2007, the Luo, Luhya, Kalenjin, Maasai and coastal ethnic groups ganged up against the Kikuyu and polarised the electoral contest in which Kibaki was pitted against Raila in the explosive presidential race that ended in a political crisis that was only eased when an all-inclusive grand coalition government was formed in March 2008.

In short, although the regimes in Kenya have changed since the end of colonial rule, the postcolonial state remains as centralized as before. The ethnic groups that have had a chance to be at the helm of power and to control the state machinery have sought to exploit their vantage positions to access public resources in an exclusionary manner and to the detriment of the ethnic communities that were perceived to be invariably opposed to the successive regimes. Development planning has been the primary mechanism for rationalizing and justifying the distribution of public resources in a discriminatory manner based on political and ethnic considerations.

SALIENCE OF THE ELECTORAL SYSTEM IN KENYA

The fact that ethnic violence in Kenya takes place during the general elections or soon thereafter suggests that there is something intrinsically wrong with the current electoral system. It is important to investigate and establish whether the current electoral system in Kenya is the type that predisposes ethnic communities to violence. At the outset, it is important to note that the electoral systems have evolved over a long time since the colonial days in

Kenya. All along, they have been used primarily to buttress authoritarian rule and discriminative use of state power as well as to neutralize those perceived to be opposed to the regimes in power rather than for democratic ends. This has been achieved through selective suffrage, rigging out the unwanted parliamentary candidates, and ensuring a pliant parliament. The effect of these machinations has been to render a large segment of the population not to achieve effective representation in government since the colonial era. The advent of independence in Kenya did not signify a change in the kinds of electoral malpractice but rather it was a question of the degree to which they were perpetrated by the successive regimes.

PRELUDE TO RESURGENCE OF MULTIPARTY ELECTIONS IN KENYA

To appreciate the salience of elections in the contemporary Kenya's politics, it is important to place the current electoral system in a historical perspective in order to fathom its colonial origins and the political rationale for it. An analysis that is ahistorical would miss an important point that elections in Kenya were not introduced to serve the ends of democracy, and should, therefore, remain suspect even today as attempts are made to democratize the polity.

Efforts to achieve political representation in the governance structures in Kenya started in 1906 when the colonial legislative council was set up because of the pressure by the European settlers for the "ancient liberties" (Ogot, 1973:254). However, membership of the council was initially not elective; the British monarch appointed the members and had also the power to dismiss them. As Ogot further elucidates, elections, as a process for choosing political leadership in colonial Kenya, were introduced on a limited adult white franchise that saw the election of 11 representatives to the legislative council. However, the representation of Indians, Arabs and Africans came gradually and in stages over decades. Two Indians were first elected in 1924 but the Arabs were represented by a European who was appointed to do so. A year later, representation of Indians was increased to four seats that were filled also through an electoral system based on a communal voting roll while the Arabs too secured a representative of their own, albeit a selected one. In the same year, it was the turn for the Africans to be represented in the legislative council by an appointed European and an additional one was to follow in 1934 to make it two European representatives for the Africans, a trend that continued for nearly two decades. It was not until 1944 when Africans secured representation by one of their own, Eliud Mathu, although he too was appointed by the British monarch to do so. The Africans secured elected representatives a decade later – eight in 1957 and fourteen in 1958 – through limited franchise. This was followed by multiparty elections in May 1963 just prior to independence when adult universal adult suffrage came into use for the first time in Kenya although the elections were still supervised by the departing colonial master when KANU, KADU and other smaller parties competed to replace the British. The elections were held in a staggered manner under the simple plurality method to fill the seats for regional assemblies, senate and House of

Representatives. KANU won, enabling Kenyatta to become the first prime minister to head the first internal self-government, six months before independence. Thus, the electoral process under colonialism had a chequered and tortuous record that was characterized by selective enfranchisement along racial lines that was designed to discriminate particularly against the Africa population. The colonial legacy of using electoral systems to disenfranchise many, to manipulate the electoral outcomes and to generally undermine democracy has persisted in Kenya throughout the post-independence era.

The first multiparty elections after independence were held in 1966 when Oginga Odinga and other Members of Parliament broke away from the then ruling party, KANU, and formed the Kenya People's Union. This fallout occasioned a change of law spearheaded by KANU - under the so-called 'turn coat' rule - that required sitting members of parliament who switched parties to seek a fresh mandate on their new parties. The ensuing election, dubbed the 'Little General Election', saw a showdown between KANU and KADU using the simple plurality method (Bennet, 1966). Although the playing ground was tilted in favour of the ruling party, KPU got more votes than KANU but still lost the fight because of the electoral system that still gave KANU two-thirds of the contested seats (IED, 1997:31). This particular election was an eye-opener on how the ruling parties would conduct themselves when faced with rival parties in an election. In this particular election, the ruling party, KANU, used the carrot-and-stick style and this was to typify the election process when multiparty politics returned 26 years later. The ruling party exploited the incumbency by unfairly mobilizing state resources to its advantage as well as creating hurdles against KPU candidates such as denial of licenses to hold campaign rallies, their passports were confiscated, opposition supporters were harassed by security agencies, and the state-owned radio service gave a news blackout to KPU (Goldsworthy, 1982:245-246). Soon after, the constitution was changed to provide for detention without trial, to abolish the senate, and to extend the life of parliament by two years for KANU to buy time to vanquish the opposition. These measures were put to use when KPU was banned in 1969 and its leaders were incarcerated without trial for years. Thereafter, Kenya became a one-party state for more than two decades during which period there were no other political parties but elections continued to be held.

Under a one-party state, elections regularly staged in 1969, 1974, 1979, 1983 and 1988 using the simple plurality method. This era witnessed the debasement of electoral process and institutionalization of malpractice that has now become integral part of Kenya's election culture. Since there were no other parties to compete against the ruling party, general elections were reduced essentially to 'primary elections within KANU' (Mulei, 1996:33). The top seat of president was hardly contested by any body else other than the incumbent president who was always the sole presidential candidate. Although the race for parliamentary seats may have appeared competitive, this was a contest about personalities rather than pertinent issues

affecting the electorate. The parliamentary candidates had to be vetted by the party and many were often locked out of the race for being opposed to the regime, as was the case with former KPU leaders. This resulted in a parliament that comprised members that were loyal to the president and to the party hierarchy and the institution inevitably became a mere rubberstamp of bad laws and policies that were geared towards perpetuating misrule and a stranglehold on power under the two successive regimes of Kenyatta and Moi.

The key features of the electoral process during the one-party rule underscored how elections can be effective mechanisms for misrule. Firstly, the regimes' opponents and their supporters were systematically excluded and neutralized, obliging them either to submit to the wishes of the rulers or to seek unconstitutional means to bring about political change. Such was the dilemma that faced Odinga and ex-KPU associates who were shut out of electoral politics for over two decades. A similar fate befell the Kikuyu leaders when Moi orchestrated moves to exclude them from the state arena through the electoral process. Whereas some succumbed to the ignominy of having to become loyalists, others resorted to formation of underground movements to oust Moi (Anangwe, 1990:196). Secondly, there was a general loss of interest by the populace in the election process that led to a decline in voter turnout during the general elections. The average voter turnout during general elections under one-party rule was 50% with the lowest point being in 1988 when only 38% of the registered voters participated in the last general elections before the resurgence of multipartyism (IED, 1997: 36-179). Thirdly, the general elections were generally lacklustre and peaceful as the electoral outcomes did not make much difference to the electorate as the same party continued to be in power notwithstanding the elections. Finally, the ethnic dimension was not pronounced during the general elections because the presidential seat was not being contested as both Kenyatta and Moi were sole candidates in succession whilst all the parliamentary candidates competed on the same party, KANU; so to speak, ethnicity was frozen during the general elections under one-party rule.

RETURN TO MULTIPARTY GENERAL ELECTIONS

The return to multiparty general elections in 1992 changed fundamentally the political atmosphere. The electoral contest involved not only many parties but also several candidates for the presidential race for the first time ever in the history of the country; the parliamentary and civic seats were also contested on party lines. The electoral system remained the same: simple plurality method inherited from the British. However, several parameters had changed that rendered the simple plurality method a dangerous tool in the multiparty era. Firstly, the return of many parties changed the equation because these organizational entities sought to mobilize support and the easiest way to do so was to stoke ethnic sentiments. Although ethnic animosities had existed throughout the period after independence, ethnic groups became more

susceptible to political manipulation by ethnic-based parties whose fixation was to have one of their own as president to facilitate privileged access to public resources as Kikuyu and Kalenjin had done previously. Without political parties, ethnic groups could not have been able to organize themselves effectively, and to exert political pressure. Now that was possible by forming parties along ethnic lines. Secondly, at the helm of these parties were key figures who at one time or another had been fired, incarcerated, tortured, driven into exile or barred from electoral politics under Moi's rule. For many, the transition to multipartyism was an opportunity to be personal and to turn tables on Moi who was equally too wary to let power slip away to such embittered men and women in what appeared to be a zero-sum political contest. Thirdly, an independent and impartial mechanism to supervise free and fair elections had not been nurtured and institutionalized since independence. Whereas, the first multiparty elections, held on the eve of independence, were supervised by the departing colonial masters keen to demonstrate their impartiality, the same did not obtain this time round. For the first time multiparty elections were supervised by indigenous election officials who had also a stake in the electoral outcome and, thus, their impartiality was doubtful. Under one-party rule, the purpose of general elections was to secure the incumbent authoritarian regimes and there was little pretence that the electoral outcome should comprise loyal members of parliament. Therefore throughout the period, the elections were supervised by a junior functionary in the Attorney-General's office who was backstopped by provincial administration. Thus, when multiparty elections returned, Kenya had no tradition of an independent electoral commission and attempts to create one since then have always foundered due to machinations by the political parties that sought to influence the appointment of commissioners. In 1992, Moi appointed commissioners favourable to him; in 1997 and 2002, the parties shared the slots and nominated commissioners who were allied to their respective parties under an accord popularly known as the Inter-Party Parliamentary Group (IPPG). In 2007, the incumbent president, Mwai Kibaki, who was also running for re-election reneged on this arrangement and appointed unilaterally a majority of commissioners that were loyal to him just as Moi had done earlier. All through the successive multiparty elections in Kenya, the electoral commission has always underperformed, as well documented by the various election monitors, with the 2007 general elections being the worst record when the results for the presidential race were brazenly doctored in Kibaki's favour.

Fourthly, the transition from one-party rule to multipartyism not only aroused the enthusiasm of the voters but also raised expectations amongst most Kenyans that fundamental change in governance to usher in a new political dispensation would be realized. Consequently, the voter turnout during the general elections that had gradually declined under one-party rule dramatically changed. It rose from 38% in 1988 to 68% in 1992 and the percentages remained relatively high in the subsequent two general elections in 1997 and 2002 before hitting an all-time high of 70% in 2007. The high voter turnout raised the stakes and heightened election

fever to a level that predisposed the populace to collective anger whenever any electoral malpractice was perceived. Fifthly, there arose a spectre of election violence unlike the peace that had prevailed during the general elections under a one-party rule. This may partly be accounted for by the sudden air of political freedom, the rise of private militia bankrolled by prominent politicians as well as increased reluctance by state security agencies to curb public disorder or, in some cases, and they actually abetted ethnic violence.

Thus, the simple plurality method in a multiparty context had become part of the problem. As argued by Bogdanor (1991), a national culture unified both ideologically and ethnically is a precondition for the successful application of such a system. The Kenyan political environment was, thus, certainly not conducive for the plurality method given the ethnic heterogeneity that had polarized the country with the advent of competitive multiparty politics. To underscore this point, an attempt is made to examine the dysfunctional consequences of the plurality method when applied in a multiparty setting especially the unfair electoral outcomes, exacerbation of ethnic cleavages, and the tendency to undermine political inclusion and accommodation of competing groups in the political arena.

UNFAIR ELECTORAL OUTCOMES

The simple plurality method has engendered dysfunctional multiparty elections in Kenya. With the exception of 2002 general elections, the other three multiparty elections under the simple plurality method have resulted in the formation of minority and illegitimate governments. The system has also favoured the successive ruling parties, namely, KANU, and NARC as well as the partners in the current Grand Coalition, namely, ODM and PNU.

Under the simple plurality method, KANU secured majority parliamentary seats, despite the fact that it had garnered only 26.6% and 38.6% of the total parliamentary vote in 1992 and 1997 respectively. Moi had also won the presidential vote in 1992 and 1997 in a similar fashion: 36.8% in 1992 and 30% in 1997. Thus, the KANU-led governments under the multiparty era could hardly be deemed to have been legitimately elected and their rule should, therefore, be viewed as a continuation of the previous authoritarianism by other means; the only difference being that KANU's narrow support base was now known in percentage terms.

In the 2002 general elections, there was a fundamental change. NARC won 51% of the parliamentary vote and majority seats whilst its presidential candidate, Kibaki, garnered 62% of the presidential vote. Although the 2002 general elections were conducted under a simple plurality method, a combination of factors mitigated the dysfunctional aspects of the method, namely, the anti-KANU and pro-change sentiments amongst the electorate were overwhelming, opposition parties became united under the NARC umbrella, whilst the majority of the Electoral Commissioners were pro-NARC, and thus, created a level-playing field to facilitate the NARC

victory by conducting free and fair elections. These factors circumscribed Moi's propensity to rig the polls in favour of KANU.

However, the democratic gains made in 2002 were squandered in 2007 when, Kibaki and his party, PNU, resorted to the previous KANU tactics of rigging elections. Although, the Electoral Commission of Kenya rigged the presidential vote in Kibaki's favour, however, it failed to do so for Kibaki's party, PNU, that won a paltry 20% of the parliamentary seats. To overcome this hurdle after the elections, Kibaki hurriedly marshalled together PNU-allied parliamentary parties in order to enhance his parliamentary strength and which he used as a basis to constitute his portion of the cabinet and to share power with Raila's ODM that had won 47% of the parliamentary seats. In many ways, the 2007 general elections produced a stalemate and neither PNU nor ODM would have formed a legitimate government on its own and without recourse to coalition building as the two parties ultimately did in May 2008 after a violent post-election crisis. For instance, ODM had garnered only 30.1% of the parliamentary vote, and was only able to gain more seats in excess of its fair share of the parliamentary vote because the party had inherited Moi's erstwhile ethno-regional base, Rift Valley. The region had inordinately a large number of seats because Moi had previously engaged in rampant gerrymandering in favour of Rift Valley and other pro-KANU zones in order to gain an unfair electoral advantage and to manage multiparty politics returned.

Things would have been significantly different under an alternative electoral system, particularly proportional representation system. Table 2 below shows the alternative scenarios under the simple plurality method and proportional representation since the advent of multiparty elections in 1992. Under the latter, KANU would not have attained majority seats in parliament the way it was able to do in 1992 and 1997 to enable it form the government on its own and without having to share power with the other parties. Similarly, the parliamentary strengths of the large parties such NARC and ODM would have shrunk considerably under proportional representation. For instance, in 2002, NARC got more than its fair share of parliamentary seats; it secured 125 seats under simple plurality method but these would have been less by 26 seats under proportional representation that would have made its win narrower than the plurality method made it appear. The same outcome would have befallen ODM if the 2007 general elections would have been conducted under proportional representation method; the party gained 35 more seats, bringing its tally to 99 under the simple plurality method instead of 64 seats had the elections been held under the proportional representation system. Thus, it would be cogent to conclude that the victories in multiparty elections by KANU, NARC and ODM were legal but politically fraudulent since they had proportionately fewer parliamentary votes.

Table 2: Distribution of Parliamentary Seats under Simple Plurality, and Proportional Representation Systems based on General Election Results, 1992-2007.

PARTIES	1992				1997				2002				2007			
	% of votes	SP	PR	Variance	% of votes	SP	PR	Variance	% of votes	SP	PR	Variance	%of votes	SP	PR	Variance
KANU	26.6	100	50	+50	38.6	107	81	+26	28.1	64	59	+5	4.9	14	10	+4
FORD-Asili	22	31	41	-10	1.5	1	3	-2	1.4	2	3	-1	0.6	1	1	-
FORD- Kenya	18.4	31	35	-4	10.3	17	22	-5	-	-	-	-	0.4	1	1	-
DP	20	23	38	-15	21.7	39	46	-7	-	-	-	-	2.1	2	4	-2
KNC	1.6	1	3	-2	0.33	1	1	0	-	-	-	-	-	-	-	-
PICK	0.8	1	2	-1	-	-	-	-	-	-	-	-	0.7	2	2	-
KSC	0.1	1	0	-1	0.35	1	1	0	-	-	-	-	-	-	-	-
NDP	-	-	-	-	11.3	22	24	-2	-	-	-	-	-	-	-	-
SDP	-	-	-	-	8.3	15	17	-2	3.2	0	7	-7	-	-	-	-
NARC	-	-	-	-	-	-	-	-	50.9	125	107	+18	2.8	3	6	-3
FORD-P	-	-	-	-	1.9	3	4	-1	8.4	14	18	-4	1.8	3	4	-1
SAFINA	-	-	-	-	4	5	9	-4	3.6	2	8	-6	3.1	5	7	-2
SPK	-	-	-	-	0.39	1	1	-	0.3	1	1	-	-	-	-	-
SISI KWA SISI	-	-	-	-	-	-	-	-	0.7	2	2	-	0.8	2	2	-
ODM	-	-	-	-	-	-	-	-	-	-	-	-	30.7	99	64	+35
PNU	-	-	-	-	-	-	-	-	-	-	-	-	21	43	44	-1
ODM-K	-	-	-	-	-	-	-	-	-	-	-	-	6.6	16	14	+2
NARC-KENYA	-	-	-	-	-	-	-	-	-	-	-	-	1.5	4	3	+1
NEW FORD KENYA	-	-	-	-	-	-	-	-	-	-	-	-	-0.7	2	2	-
CCU	-	-	-	-	-	-	-	-	-	-	-	-	0.9	2	2	-
KADU-ASILI	-	-	-	-	-	-	-	-	-	-	-	-	0.3	1	1	-
UDM	-	-	-	-	-	-	-	-	-	-	-	-	1.1	1	2	-1
PDP	-	-	-	-	-	-	-	-	-	-	-	-	0.1	1	0	+1
MGPK	-	-	-	-	-	-	-	-	-	-	-	-	0.8	1	2	-1
PPK	-	-	-	-	-	-	-	-	-	-	-	-	0.2	1	0	+1
NLP	-	-	-	-	-	-	-	-	-	-	-	-	0.4	1	1	-
KADDU	-	-	-	-	-	-	-	-	-	-	-	-	1.5	1	3	-2
KENDA	-	-	-	-	-	-	-	-	-	-	-	-	1.2	1	3	-2
OTHERS	-	-	-	-	1.5	0	3	-3	6.6	0	14	-14	12.7	0	27	-27

EXACERBATION OF ETHNICITY

The impact of simple plurality method on ethnic relations in Kenya is a key issue that needs to be critically examined in so far as it tends to promote political competition along an ethnically defined trajectory. The fact that the electoral system has been applied within single-member constituency arrangement, the demarcation of electoral constituencies encourages divisive territoriality at local, regional and national levels. For instance, a group of members of parliament elected in their respective member constituencies within their particular regions not only acquire ethno-regional identities for political purposes but also tend to caucus amongst themselves over issues that affect their regions in order to pursue them in the national arena. Thus, a constituency is the hatchery for regional politicians, and the elected Member of Parliament becomes also a legitimate political representative of his region. In other words, a member of parliament is elected not just to represent a constituency but also the person is also expected to team up with the other members of parliament from the same region to articulate and champion ethnic agenda in the national arena. In this regard, an election under the current electoral system in Kenya is a mechanism for ethnic groups to recruit their ethnic leadership. It is this kind of environment that makes ethnic parties to thrive in Kenya, or even when large parties are formed, the ethnic dimension remains alive. For example, large parties like KANU, NARC, ODM and PNU may appear national, but strictly speaking, they are a coalition of particular ethnic groups that have come together in their collective quest to capture the state and share the spoils amongst themselves to the exclusion of the rival ethnic groups. In short, ethnic leadership in Kenya is hatched in single-member constituencies, and without the latter Kenyan politics would probably be different as ethno-regional identities would be less pronounced like they are today if there was a change in the electoral system.

Therefore, simple plurality method reinforces ethnic solidarity, and polarization, particularly when elections become a process for ethnic groups to elect their own regional representatives through their ethnic parties. Candidates running on rival parties deemed to be undesirable in the respective regions are highly disadvantaged as the votes they garner go to waste since they do not count except in a few cases when they manage to win outright the parliamentary race at the constituency level. It is a fact that some parties have lost out to winning parties in many regions because of the current electoral system that considers only “the first past the post.” Such parties may have performed relatively well when their candidates come second, third or fourth with parliamentary votes sizeable enough to warrant parliamentary seats under an alternative electoral arrangement such as proportional representation or even mixed member representation. If the parties’ vote tallies in the respective regions would count, the beneficiaries would probably be the same individuals that had contributed the votes from the respective regions.

Table 3 below shows the parliamentary votes and seats garnered by the major parties on a provincial basis in 2007 on the basis of which several observations may be made. Although, the parliamentary seats were won largely by the dominant parties in the various regions under the simple plurality method, the electoral challenge posed by the rival parties was significant and would have made a difference under proportional representation or mixed member representation. In this way, the simple plurality method exacerbated ethnicity by denying rival parties additional seats on the basis of the parliamentary votes obtained in the regions deemed to be exclusive to major parties: Mt. Kenya region for PNU and West of Rift Valley for ODM. From the available evidence, it would appear that the simple plurality method has tended to exaggerate the strength of the dominant parties in their respective regions when the actual reality is different, since the rival parties have also significant votes in the same regions. For instance, ODM and ODM-K obtained 10,636 and 42,793 parliamentary votes respectively in 2007 in Central Province but won no single seat in the province under the plurality method.

Another shortcoming of the simple plurality method is the frustrations it engenders to voters when seats are awarded unequally and illogically in the various regions. For instance, KANU obtained 4 seats in North Eastern by garnering 23,697 votes but won only 1 seat in Rift Valley for the 238,803 votes it secured in region. Similarly, ODM-K won 14 seats and 381,602 parliamentary votes in Eastern province whilst PNU got only 7 seats in the same region in spite of securing comparably 353,116 votes. The same pattern can contribute to ethnic tensions when such parliamentary votes by rival parties in the exclusive zones are deemed by the dominant ethnic groups in the respective regions to be an act of betrayal in their midst. Such was the perception by Kalenjin, Luo, Luhya and Maasai when they viewed support for PNU in their regions as unacceptable and such PNU supporters were identified and targeted for violent retribution during the post-election crisis in 2008. Perhaps under proportional representation or mixed member representation such a situation would be less likely as votes obtained by major parties in every region would contribute to the overall vote tallies and determine the distribution of seats for the various parties across the board.

TENDENCIES TOWARDS ZERO-SUM ELECTORAL CONTEST AND POLITICAL EXCLUSION

The simple majority method encourages a zero-sum electoral contest in stead of making electoral competition to be like an Olympic race in which there are awards for all those who compete and qualify to be within the medals bracket. This is particularly relevant in an election where the electorate expresses variously their preferences amongst the competing political parties and candidates. When their choices are totally disregarded because of an inequitable electoral system that recognizes only the first- past-the-post winner, this should raise serious and obvious doubts about the legitimacy of such a political system. The contrary electoral arrangement, in which more political parties and their supporters have proportionate slices of

Table 3: Parliamentary Votes and Seats won by the Major Political Parties on Provincial basis in 2007

PARTIES	NAIROBI		COAST		NORTH EASTERN		EASTERN		CENTRAL		WESTERN		NYANZA		RIFT VALLEY	
	VOTES	SEATS	VOTES	SEATS	VOTES	SEATS	VOTES	SEATS	VOTES	SEATS	VOTES	SEATS	VOTES	SEATS	VOTES	SEATS
ODM	254,110	5	199,562	12	66,644	5	47,798	2	10,636	0	424,821	18	876,399	25	1,076,076	32
PNU	174,462	2	91,566	3	11,798	0	353,116	7	757,036	18	169,916	2	22,264	0	380,527	11
ODM-K	32,832	0	51,966	1	10,275	0	381,602	14	42,793	0	16,722	0	12,380	0	83,354	1
FORD-P	37,256		9,514	1	0	0	12,537	0	43,671	1	1,808	0	74,389	1	0	0
NEW FORD-K	0	0	0	0	0	0	0	0	0	0	44,719	2	5,848	0	18,735	0
SAFINA	2,080	0	0	0	14,398	1	53,880	1	153,965	3	0	0	2,070	0	57,270	0
KANU	0	0	13,332	1	23,697	4	93,054	4	68,003	2	2,992	0	39,094	2	238,803	1
KADDU	4,243	0	5,584	0	81	0	0	0	0	0	55,403	1	16,510	0	58,734	0
NARC	7,943	0	1,632	0	2,920	0	37,477	2	0	0	20,231		122,832	1	20,160	1
FORD-A	6,180	0	0	0	2,124	0	10,987	0	35,897	1	0	0	0	0	0	0
SKSPK	5,203	0	2,400	0	0	0	10,731	0	43,374	2	0	0	0	0	18,677	0
DP	35,557	0	10,530	0	4,087	0	84,838	1	45,941	0	0	0	16,035	1	3,927	0
MGPK	0	0	0	0	0	0	36,426	1	26,736	0	0	0	10,209	0	2,527	0
KENDA	4,875	0	5,881	0	1,813	0	13,148	0	28,404	0	1,893	0	9,026	0	45,373	1
FORD-K	0	0	3,651	0	3,226	0	7,465	0	16,531	0	25,840	1	7,291	0	2,921	0
NARC-K	0	0	19,565	2	1,585	0	34,099	1	50,459	0	25,840	0	14,235	0	26,477	1
KADU-A	0	0	24,718	1	0	0	0	0	0	0	0	0	0	0	3,987	0
PICK	0	0	0	0	0	0	38,316	1	26,464	1	0	0	0	0	0	0
CCU	0	0	0	0	0	0	43,897	2	3,553	0	18,876	0	17,389	0	3,709	0
PDP	0	0	0	0	0	0	0	0	0	0	0	0	13,281	1	0	0
UDM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	103,394	1
PPK	0	0	0	0	0	0	0	0	11,855	1	4,313	0	0	0	0	0
NLP	0	0	0	0	0	0	31,537	0	0	0	0	0	4,789	0	0	0
OTHERS	41,383	0	107,504	0	24,280	0	223,277	0	226,816	0	97,162	0	128,054	0	153,015	0

Source: Compiled from Toni Weis, "The Results of the 2007 Kenyan General Election," *Journal of Eastern African Studies*, Vol. 2, No. 2, 1-41, July 2008.

the electoral outcome, though unequal, would create a win-win situation and mitigate against a sense of political exclusion for some groups that lose out when elections are conducted under the simple plurality method.

The Kenyan experience since the advent of multiparty elections in 1992 demonstrates also how the simple plurality method has resulted in exclusionary and winners-take-all outcomes. The four multiparty elections held so far have witnessed negative trends in which power has mostly been won by minority parties that did not command the overwhelming support of the majority of the electorate; the combined parliamentary votes of the rival parties have been more than those of the party in government, except in 2002. Yet the minority governments have gone about ruling the country without meaningfully accommodating political demands of the bulk of the population that did not vote for them. Obviously, this has undermined the faith of the populace in the political process and created a groundswell of opposition that has had to be expressed through a cycle of electoral violence. Thus, the repeated ethnic violence amongst rival ethnic groups in Kenya has been caused by the disdain for unpopular minority governments, fear of political exclusion and the electoral system that tends towards zero-sum electoral outcomes.

TOWARDS FUNDAMENTAL REFORMS IN KENYA

The major premise in this paper has been that the current challenges to the democratization process in Kenya could be overcome. However, this will depend on how the root causes of the institutional weaknesses that precipitate a cycle of ethnic violence are understood in precise terms, rather than the platitudes one encounters in some recent literature on demo, and redressed through pertinent reforms. As it has been demonstrated, two major areas need fundamental reforms, namely, the current set up of the post-colonial state as well as the legacy of a flawed electoral system since colonial days. These issues are synthesized in order to propose the way forward.

RESTRUCTURING THE POST-COLONIAL STATE

The development of the reform agenda with respect to the post-colonial state in Kenya should focus on the colonial legacy of a centralized state, imperial presidency, inequitable distribution of public resources, and the general marginalization of the bulk of the periphery by successive regimes. Without resolving effectively these issues, the reform efforts may not yield the requisite institutional changes to put to an end to the cycle of ethnic violence every five years.

The centralized nature of the state with its susceptibility to manipulation for the benefit of select few groups may be overcome by dispersing power functionally and territorially to obviate the concentration of governmental authority and responsibility in few institutions in Nairobi. In this way, the risk of a centralized state being abused to benefit certain ethnic groups in

succession would be removed and the capacity of the government to respond to public demands would also be decentralized to other levels of government both at the centre and sub-national levels. Consequently the overall governmental capacity in Kenya would be enhanced when the sub-national levels are able to complement the central government to fulfil its core mandate to deliver public services. Decentralization would create meaningful and alternative political arenas at the sub-national levels for groups keen to participate and compete for access to public resources and opportunities at these levels; this would divert attention from the central arena as presently the case.

The institution of president of Kenya should be drastically restructured. As elucidated earlier, the president assumed the mantle of the former colonial governor-general and acquired an imperial character despite the fact that the political circumstances had changed when the British left. The institution has been abused by all the presidents that have ruled Kenya as they sought to direct public resources to their respective ethnic groups. Thus, this tendency has made the seat to be coveted by ethnic groups that would wish to have their turn to access public resources and opportunities to an extent that a presidential race in Kenya has been fought spiritedly by the groups that sought to see one of their own capture it.

For the long-term stability of the country, the institution should be divested of the excessive powers which should be shared by other offices and organs of government whether these are vice-president, prime minister and deputy prime ministers, cabinet, or parliament and judiciary under a system of enhanced checks and balances to ensure that the president is rendered less potent than it is the case currently. From another perspective, the method of electing president should also be changed to avoid polarizing the country along ethnic lines. In stead of the current system of direct election through universal suffrage, the President should be elected by an electoral college, comprising members of parliament, in order render the institution to be constantly accountable and beholden to parliament the South African or Botswana way. Such an arrangement would be beneficial in two ways. First, it would strengthen parliament in so far as it is the organ empowered to elect and hold the president to account for his actions, and, secondly, ethno-regional tensions would be eased because there would be no more explosive presidential races for the rival ethnic groups to determine through universal suffrage.

Public resources should be allocated equitably as determined by the national priorities rather ethnic considerations. It would require that the development planning process is less ethnicised and due emphasis is placed on redistributive policies, poverty reduction strategies, and rural development. To this end, the bulk of public resources as well as the development planning and implementation processes should be devolved to sub-national levels in the rural areas where the majority of Kenyans reside.

For too long, local-level structures for self-government in Kenya have generally been weakened and subjected to unfettered control by the central authorities. The rest of the country has been ruled like a colony of Nairobi; this has undermined the legitimacy of the entire state system. To overcome this structural weakness, viable devolved structures should be created as part of the efforts to enhance democracy and good governance as well as to institutionalize enduring mechanism for sustainable peace and stability. Such devolution would give rise to autonomous sub-national entities that are capable of complementing other organs of the state especially if it is underpinned by an appropriate conception of central-local relations that seeks to maximize interdependency amongst the different levels of government and to end the marginalization of the bulk of the periphery.

REFORMING THE ELECTORAL SYSTEM

It has been demonstrated that the current simple plurality method in Kenya is flawed because it engenders unfair electoral outcomes, exacerbates ethnicity and the causes zero-sum electoral contests and political exclusion. Reforms are, therefore, needed to remedy the shortcomings in the current electoral system that triggers a cycle of ethnic violence during the general elections every 5 years. Such reform initiatives should be guided by a number of relevant considerations geared towards ensuring that the distribution of parliamentary seats is equitable amongst the political parties; every vote cast by the electorate during the general elections counts in the ultimate vote tallies for the respective parties; the divisive territoriality and ethnic polarization associated with single-member constituencies is minimized; and inclusion of minority groups is catered for. These are examined in detail for clarity.

Equitable distribution of parliamentary seats amongst political parties is realized when this is done proportionally based on the votes received by each party. To do so, a system should be in place to facilitate the distribution of seats is undertaken when all the parliamentary votes have been counted and tallied nationally, unlike presently when winners are declared at the constituency level.

The electoral system must also be designed to ensure that no vote is wasted and every vote counts in order to avoid the frustrations that sometimes arise amongst the electorate when their efforts appear to have been in vain in spite of the votes they cast for their preferred candidates. A perception of this nature may demoralize potential voters who may opt not to vote in the subsequent elections because they perceive their vote to be an exercise in futility. When such frustrations involve many and become so widespread, the electoral process is rendered irrelevant and the legitimacy of the entire political system is undermined.

Divisive territoriality on ethno-regional basis during general elections in Kenya has always been hatched in the single-member constituencies when parliamentary candidates seeking to be

elected poison the air with territorial consciousness and ethnic vitriol that tends to spill over to the regional level. The candidates are known to whip up ethnic sentiments, amongst other stratagems, in order to endear themselves to the electorate in their respective constituencies and those who get elected strive to defend more their respective ethnic groups than their parties at the national level. Under a different electoral system centred on political parties, the emphasis would be on the party platforms and what they would do if they were to get elected. Of course, there would still be polarization along party lines rather than ethnicity but the spewing out of ethnic vitriol by candidates against other groups in the same party would certainly be counterproductive and divisive. To the extent that the major parties would be seeking to secure votes throughout the country to boost their overall vote tallies, there would be less temptation by political parties to brazenly polarize the electoral contest along ethnic lines.

The winners-take-all outcome is the hallmark of the simple plurality method. Thus, minority groups and small parties tend to lose out in the contest because they lack the numbers to win electoral contests in the various single-member constituencies during elections. However, under an electoral system in which parties matter and every vote counts, it would be possible for minority groups to be accommodated by political parties through affirmative action.

CONCLUSION

The main objective of this paper has been to explain the periodic electoral violence that has occurred in Kenya since the resurgence of multiparty elections in 1992 by examining the interplay of the centralized state, the electoral system and ethnicity. An attempt has been made to demonstrate that ethnic violence is likely during multiparty elections in Kenya when groups compete spiritedly to secure control of the highly centralized state under an electoral system that dangerously raises the political stakes in a zero-sum way and in a manner that threatens to deny a significant part of the population from accessing public resources.

The causal link between a centralized state, the electoral systems and ethnic violence has been theoretically established in a multidimensional way underscoring the argument that the relationship between a centralized state and ethnic violence is mediated by the type of electoral systems in place. In other words, the centralized state need not precipitate ethnic violence unless this is triggered by a type of electoral system – simple plurality method – which has a tendency to exacerbate ethnic tensions. Guided by these theoretical considerations, the cycle of violence in Kenya since the resurgence of multiparty politics has been analysed in order to understand its ethnic character. The centralized nature of the Kenyan state has also been traced from the colonial days and how the successive regimes in the post-independence have abused it in order to provide their respective ethnic bases privileged access to public resources whilst denying the same to rival ethnic groups. The major consequence has been to exacerbate

ethnic relations and to make the struggle for the control of the state by the various groups particularly during the general elections a matter of life and death.

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