

**THE QUEST FOR HEGEMONY: KENYA, KANU
AND THE 1997 ELECTIONS WITHIN THE CONTEXT OF
AFRICAN STATEHOOD, DEMOCRATIZATION AND
CIVIL SOCIETY IN EMBRYOSIS**

By

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DECLARATION

I declare this thesis to be entirely my own work except where otherwise stated in the text.



S. L. Kearney

“The writing is on the wall. It is either reforms or anarchy. That is the loud and clear message that Kenyans have been beaming to Moi the last couple of weeks, but, like the mean-spirited and stone-hearted Pharaoh of ancient Egypt, he is unwilling to let the People go.”¹

“The old is dying and the new cannot be born. In this interregnum there arises a great diversity of morbid symptoms.”²

¹ *The People*, July 11-17, 1997, p.1.

² Antonio Gramsci, *Prison Notebooks*.

DEDICATION

I dedicate this thesis to my beloved daughter, Kamania Utathi³ and to her Father, Peter Mulinge Talava and to the people of Tawa Village, Makueni District, Kenya.

³ Kamania is Swahili for “like the moon”, and Utathi is kiKamba for “Rainbow”.

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INTRODUCTION

This thesis includes an analysis of the KANU (Kenyan African National Union) regime's modus operandus in Kenya, with specific reference to the unfolding of events since the inauguration of multi-party elections in 1992. The focus of the thesis is on the events preceding the elections held in Kenya in 1997, the election itself and the aftermath of that election. It is an attempt to grapple with the 'diversity of morbid symptoms' plaguing the Kenyan nation today within a broader context of Africa as a continent, and to probe the prospects for democratization within these two arenas.

FIRST COMPONENT

The thesis is divided into two components: the first deals with theoretical and conceptual issues, while the second provides a detailed analysis of the Kenyan situation. In the first component the following fundamental concepts will be discussed: conceptual clarifications as to what constitutes a state, government and regimes (Chapter 1.1); a detailed analysis of the state in Africa which includes the legacy of colonialism, neo-colonialism and neo-patrimonialism (Chapter 1.2) ; the concepts of ethnicity and the tribal factor (Chapter 2) ; hegemony and its associated counterparts: civil society and counter hegemony (Chapter 3) ; democracy and a discussion of the related concepts of 'good governance' and 'constitutionalism', as well as the notions of liberalization and democratization, together with those of regime transitions and democratic consolidation (Chapter 4). Finally, the debate about one - party versus multi-party democracies is discussed (Chapter 5).

Because the core theme is the KANU regime's attempted quest for hegemony , together with an analysis of the potential for authentic democratization in Kenya, the terms, hegemony and democracy, are the pivotal themes around which my hypothesis is based. Although they may seem to be

analytically incompatible terms, I wish to argue that the quest for hegemony and for democracy ought to and could be intertwined. I will argue that KANU failed in the quest for hegemony. In other words it failed to implement an accord between state relations and societal ones, whereby citizens would regard themselves as an embodiment of the civic order, and the state would be regarded as legitimate. I will argue that, as with other states particularly in the African continent, which are in essence weak (though bureaucratically bloated), and which dominate by coercion rather than good governance, there is a failed quest for hegemony. As a result, the democratisation process cannot be realized.

The holding of multi-party elections can and often does serve merely to bolster the alleged legitimacy of the ruling regime. The detailed historical sections on the nature of African states are necessary for providing a "longue duree" analysis of the failure to implement authentic hegemony. The legacy of colonialism, while not wholly responsible, cannot be ignored. For this reason I give significant attention to the State in Africa (Chapter Two). It provides an important analytical grid within which the dilemmas facing Kenya can be ascertained and understood. It will thus become possible to see that the failed quest for hegemony, undertaken by the Moi/KANU regime, has historical precedents and also follows a certain African trend. When attempting to answer questions related to Kenyan issues, a broad contextual perspective assists in the clarification of both questions and answers.

I will reveal that, despite the KANU regime's reluctance for democratization to occur, multi-party elections have allowed, paradoxically, for the creation of certain "democratic spaces", and the emergence of an - albeit, embryonic, - civil society. Counter-hegemonic forces have become more pervasive and there is increasing evidence, certainly at the time of writing (October 1999), that a veritable revolution is in the offing.

SECOND COMPONENT

In the second component of this thesis, historical and political features pertaining to the KANU regime in Kenya will be discussed. After a brief Introduction (Chapter Six), I will explore the rise to power of President Daniel Arap Moi and the subsequent 'Kalenjinisation' of the Kenyan state (Chapter 7); the 1992 elections within the context of an African shift from one-party states to multi-party ones and the role and nature of the Opposition parties (Chapter 8) - and how they have been both antithetical to the realization of democracy as well as to that of authentic hegemony (state/social accord).

Thereafter, I highlight the two core dimensions of the regime's survival tactics: the coercive dimension and the non-coercive or 'soft-glove' dimension. These two "carrot and stick" policies form the major component of my research. Under the heading of coercive tactics I will explore the state's reaction to the National Convention Executive Council (NCEC)'s protests with particular reference to the events of *Saba Saba* day (Swahili for seventh of the seventh) on July 7, 1997 (Chapter 9). This evidence of an intensely coercive and para-military style leadership will then be complemented by a more thoroughly in-depth analysis of the Kenyan state's resort to prolonged campaigns of ethnic violence (Chapter 10) – strategies of divide and rule which have historical precedence, and which reveal the capacity of the KANU regime to muster military might to bolster the 'status quo'. Once again my aim is to provide evidence of a weak state ruling, not by hegemony⁵, but rather by might.

The second core dimension of the KANU regime's tactics used to 'soften the blow' of their coercive practices - is then discussed. It should be emphasised that the "carrot and stick" strategy implemented

⁵ By which I mean state-societal accord. The use of ideology and ideas to cement power relations between ruler and ruled.

by illegitimate and incumbent regimes is well known throughout the Third World, in particular Latin America and Africa. The three pivotal tools of the “carrot” or “soft glove” dimension in Kenya included: the reforms of the IPPG (Interparliamentary Parties’ Group) (Chapter 11), which attempted to take the punch out of the NCEC (National Convention Executive Council) agenda, and revealed the co-optation of regime and opposition elites; the use of rigging and electoral gerrymandering (Chapter 12), (which had a historical precedent) and thus contributed to the ability of the KANU regime to win both the 1992 and more particularly the 1997 elections; and finally but most importantly: the use of Propaganda as the major tool in the attempted quest for hegemony (Chapter 13). Through the use of print and broadcast media propaganda, KANU tried to win the hearts and minds of Kenyans, particularly prior to the 1997 elections. A substantial section of the thesis is devoted to this analysis of the use of the broadcast media, with a history of the KBC and the cleverly orchestrated manipulation of airspace by the KANU regime, especially before and after the 1997 elections. This attempt to win legitimacy can be interpreted as a quest for hegemony, because if the KANU regime could indeed win the Kenyan citizens’ hearts and minds, then in essence, hegemony would have been secured.

Paradoxically however, it will be revealed that the media also played a role in highlighting the illegitimacy of the regime and thus offered a vital tool for the counter-hegemonic and potentially democratic forces in Kenyan society.

Another feature employed by the regime, which does not fall into the strict parameters of either coercive or “soft glove” techniques, yet which serves to bolster and maintain its quest for power, but certainly not for hegemony (being inversely proportional to legitimacy), is the use of corruption and fraud, in particular by the regime’s henchmen (Chapter 14). A discussion of this feature of Kenyan life (which is

argued to be prevalent throughout the African continent), will thus be pursued so as to highlight how it has contributed to the undermining of the hegemonic ideal and of a democratic society.

After looking at the regime's quest for hegemony, I explore some of the evidence relating to the development of counter-hegemonic forces in Kenya. I provide a detailed discussion of the National Convention Executive Council (NCEC), together with the Constitutional Review Commission because my hypothesis includes the notion that it is these two organs which are the quintessential site of a counter-hegemonic and authentically democratic struggle (Chapter 15). Thereafter I explore the existence of an embryonic civil society in Kenya today (Chapter 16). In addition, I explore the dual modes in the (NGO) non-governmental sphere: one mode supportive of the regime's quest for hegemony, and the other posing as a constructive channel for counter-hegemonic forces (Chapter 17).

In the final sections I will give a brief analysis of the 1997 elections themselves: the holding of them; the conclusions made by observers as to their "freeness and fairness"; and some of the events which have occurred subsequently (Chapter 18). I will conclude with propositions as to how and why the KANU regime failed in the quest for hegemony and thus what potential there is for a new hegemonic quest based on the consolidation of an authentically democratic transition (Chapter 19). An Appendix

Section will give a brief, but lively interpretation of my personal view of Makueni District politics, and the lessons in grassroots democracy which village life offered to me.

Why is this thesis of relevance to South Africans?

My hope is that the lessons to be gleaned from a Kenyan case study will be invaluable to students interested in African politics, and more specifically, to South African political scientists who can attain crucial insights from a comparative analysis of post-transition phases and the problematic of neopatrimonialism, corruption and clientelism which besets Africa's politics today.

It is in the interests of South Africans to acquaint themselves with the politics of other states in Africa in order to understand what factors have led to their failures to flourish in the post-Independence era. This would equip them with analytical tools to promote South Africa's development and efforts towards consolidating democracy, and prevent what is viewed by pessimists as the inevitable slide to economic and political mismanagement which has plagued so much of the Continent.

It should be noted that this thesis was being completed at the very moment South Africa was holding her second National Elections (2 June 1999), a moment for her fledgling democracy to be tested. It is my sincere belief that South Africa's transition to democracy has been far more successful than in many of the other African states, especially with regard to the implementation of a National Government of Unity, a thoroughly restructured and dynamic Constitution, a Reconstruction and Development Programme and a Truth and Reconciliation Commission. Thabo Mbeki's inauguration speech in which he embraced the notion of reconciliation between all races in South Africa followed the

example imparted by Nelson Mandela, who (together with the countless activists and freedom fighters as well as ordinary South Africans interested in change) forged the path to this reconciliation. South Africa's current history is an exciting and dynamic process which I believe bodes well for a revival of democratic norms in the African continent. However, according to media reports, there is already worrying evidence of the politics of corruption; the elimination or sidelining of moderate democrats within the ANC in favourance of hardliners (or hawks); the perversion of public office for personal gain (patrimonialism), as well as the prevalent trend of market-capitalism and the alliance between South African elites and the International global system.

Nigerian politics, as with South Africa, also featured predominantly in mid-1999. With the election and inauguration of President Olusegun Obasanjo, civilian rule was restored for the first time in 20 years. These two countries, South Africa and Nigeria, one may argue, are the major forces within the Continent, and the driving engines of an African Renaissance. If South Africa and Nigeria succeed in their attempts to consolidate democracy and create sustainable, self-innovative economies (independent to some extent from the stranglehold of the international economy), there is hope for the continent. I would like to emphasise however, that there are many other examples of hope, emanating from each state, in perhaps small but certainly evident ways. The growth in popular movements across the continent is merely one factor which attests to this fact.

I believe that, while Africa in recent years, has been malappropriated as the lost, poor, dark continent, there is more than enough evidence to claim that Africa is also a place for renewal and rebirth (despite

the catastrophes of Rwanda/Burundi/Congo etc). The West could regain some humanity and soul and glean important lessons in non-capitalistic philosophy/spirituality.

From the outset, I wish to emphasise that my approach is a synthetic one, in that, while acknowledging the undeniable influence of colonialism and the problems which it bequeathed to the African continent, I consider it equally important to stress the responsibilities bestowed on modern African leaders, both of the ruling regimes and within the opposition parties. It is they who ought to provide genuine, democratic modes of leadership; to acquire and impart wisdom from both Western options of democracy as well as traditional African leadership styles, (in particular those which had democratic characteristics).⁶

I adopt neither a dependency nor modernization analysis of African politics. There is a myriad, complex mixture of determinants making up each state today: external and internal factors; particular historical factors ('historicity') and particular characteristics of each leader and ruling regime. The latter is based on elite theory which emphasises the role of the elites, rather than class or external factors as being the predominant themes resonating throughout the political arena. Although there is no doubt that certain similarities can be ascertained, Africa is too diverse to be studied in one monolithic block - sweeping generalizations can only be made without recourse to hard empirical data.⁷ From the outset I

⁶ See for example, Ayittey, George B, *Africa Betrayed*, p.37, refer to the quote by Nelson Mandela: "Then our people lived peacefully, under the democratic right of their kings Then the country was ours, in our name and right ... the council of elders was so completely democratic that all members of the tribe could participate in its deliberations. Chief and subject, warrior and medicine man, all took part and endeavoured to influence its decisions", but also to the whole chapter on Indigenous African Political Institutions, which analyses the history of different types of traditional African leadership, showing how potentially autocratic chiefdoms, were usually tempered with a respect for the notion of accountability, albeit without written constitutions.

⁷ See for example, Bratton and Van de Walles', *Democratic Experiments in Africa*.

stress the need to blend an awareness of certain common features characteristic of the African continent such as the legacy of colonialism, whether British, French Portuguese or Belgian with the uniqueness of each state (with particular ethnic groups and different leaders' individual styles). The Kenyan state, for example can be analysed both in terms of a comparative continental perspective, but also in terms of its particular characteristics.

Politics in Africa: an analytical and theoretical background

While the core focus of the thesis is the quest for hegemony made by the KANU (Kenyan African National Union) regime in Kenya (in particular since 1992 and specifically in 1997) and the success of counter-hegemonic forces in quelling this, it is of vital importance to understand the dynamics of Kenyan politics within a broad structure of African politics: the nature of the African state; its historical dimensions and the peculiarities which distinguish the continent from other global regions.

The parameters for this research are therefore set within the context of a theoretical exploration of Africa's politics; the characteristic features of African states and the history of multiparty politics and moves to democratization (regime transitions) within the continent as a whole. The terms democracy and democratization which are pivotal to my analysis as well as concepts of the state, civil society, hegemony and counter hegemony must be thoroughly explored in order to provide conceptual tools for understanding the Kenyan scenario, and in particular the political dynamics occurring there prior to and after the 1997 elections.

I believe that Kenya provides a perfect example not only of the kinds of dilemmas facing African states, but also of the defects or serious limitations, and yet, simultaneously, the potentially redeeming aspects of multi-party democracy. Throughout the thesis my emphasis will be on the fact that the notion of multi-party democracy needs to be constantly analysed, critiqued and rigorously re-assessed in the

interests of promoting a democracy that is equivalent to the quest for a mass-based, participatory and genuinely transformative system, which has its roots in Africa itself and in the ordinary people's vision of justice. My contention is that there is hope for the consolidation of democracy in Kenya, but that it is unlikely to occur within the current global political and economic system which is built on an unjust division between the "centre" and the "periphery". While acknowledging the flaws within the African states themselves, it can be argued that mismanaged leadership is often condoned and indeed sustained by foreign powers.

Kenyan Specificity

What is it that makes Kenya stand apart from its continental counterparts?. One of the most fundamental points of concern, is the fact that Kenya is the economic and political hub of East Africa, and is thus strategically placed between Tanzania and Uganda, while bordering Ethiopia. It is near to the war-torn Rwanda and Burundi, as well as to the conflict - ridden Eritrea and Somalia. It is therefore an important venue for international political and humanitarian missions, throughout the African continent.

Historically, Kenya has been a vital avenue for trade between the Arab countries and the African continent, via the port at Mombasa - hence the development of the Swahili language which is a blend of African and Arabian dialects.

Kenya is one of the more developed countries in Africa, and has, in the urban areas, (in particular, Nairobi) many of the features characteristic of industrialized and modern states.. Educational levels are high and there are many Universities (such as Nairobi University, Kenyatta University; Daystar and others). Kenya used to be regarded as the jewel of Africa, by writers and travellogues (because of its natural beauty and tourist potential) with Nairobi being termed the *City in the Sun* or the *City of Jacarandas*. The country was renowned for its advanced communications and infrastructural capabilities, certainly in the 1960's and 1970's.

It is the possible reasons for the decline in this once precious jewel that this thesis will address. The political techniques employed by the Moi/KANU regime eroded the stability of the Kenyan state. Kenyatta's post-Independence government, formed after a protracted struggle with the British colonials (via the *Mau Mau* guerilla war), appears to have had greater success than his successor's in maintaining the jewel of East-Africa. Joel Barkan illuminates this point when he argues that: "Although never a pluralist democracy in the Western sense, Kenya established a 'governance realm' during the Kenyatta era that linked state and society together in a manner that legitimized the exercise of political authority. Yet, in the thirteen years since the death of his predecessor, Daniel arap Moi has consistently sought to fragment and capture all independent bases of authority to reduce his dependence on ethnoregional interests that were never part of his political coalition".⁸

Kenyatta's regime, while favouring the Kikuyu group, from which he came, also encouraged professionalism in politics, law and the civil service, a professionalism which was complemented by the notion of "*Harambee*" or self-help groups, which encouraged state-societal networks.⁹ Under Moi's

⁸Hyden and Bratton, Governance and Politics in Africa p. 190

⁹ As in patron-client networks

“*Nyayo*” regime, Professionalism was eroded and the concept of “*Harambee*” became corrupted so as to serve the interests of the President’s men, rather than the Kenyan society at large. In essence, what Barkan is arguing is that, under Kenyatta there was a semblance of a hegemonic regime (state-societal accord), albeit an authoritarian hegemony. However, Moi’s regime destroyed this accord and replaced it with Presidential whims. This will become more than apparent in the Kenyan Focus.

Another important feature of Kenya is that, while all the ex-British colonies, have a history of British colonialism and Missionary work, it is Kenya (which is the only settler colony in East Africa) which has been more pervaded than other African states by this phenomenon. The impact of British administration and the Christian infiltration across all regions has had, and continues to have, a profound impact on the nature of the Kenyan state.

The core hypothesis

The essence of my thesis is an exploration of the extent to which procedural democracy in Kenya has allowed for an ushering in of a process of substantive democracy. In other words, I ask to what extent the holding of multi-party elections has enabled more substantive democratization of society. The theme which undergirds this exploration is the notion of hegemony and what tactics the KANU regime has resorted to in its attempted quest for hegemony. Did the regime succeed in achieving hegemony which is in essence a situation whereby there is accord between the state and society, or did they fail to do so? My hypothesis is that the regime failed dismally in the hegemonic quest because they ruled by

illegitimate and coercive means, which rendered the state impotent to secure genuine hegemony. In this way the KANU regime typified other regimes throughout the African continent which, due to a variety of historical and current factors are typified as:

- weak
- corrupt
- sprawling but ineffective
- authoritarian
- patrimonial and
- despite the advent of multiparty politics, deeply undemocratic in the substantive sense.

The KANU regime, particularly under Moi, ruled with coercion and intimidation rather than using legitimate avenues. Despite attempts to minimise the impact of these coercive and illegitimate measures through the use of “soft glove” techniques, including propaganda, electoral gerrymandering and cooptation of the elites, the discord between elements of Kenyan society and the state/regime became even deeper. Especially since the holding of the 1997 Elections, there has been increasing evidence of the lack of authentic hegemony existent in Kenya today, with vociferous criticism of the regime coming from both opposition and popular protest movements, as well as most importantly from elements within the ruling regime itself.

Despite the argument by some writers that civil society does not exist in the African context, my hypothesis is that it is indeed beginning to flourish even if only at an embryonic level.¹⁰ I will argue that it is this revival in civil society together with a thorough restrengthening of state structures such that they are able to implement policies for the people in accordance with the notion of good governance, which are necessary in Kenya.

From personal experience and according to the literature consulted, Kenya is currently (1999) a quagmire of corruption and infrastructural breakdown. It is a country that is reaping the rewards of neopatrimonial modes of governance, inept leadership, pervasive disorder, and entrenched ethnic cleavages. Furthermore, there are devastating levels of poverty and unemployment, and a fragmented and discordant opposition. Yet, there are important and relevant signs that portend a glimmer of hope for genuine democratization. Take for example, the versatility of the ordinary people to survive despite adversity; the continued and growing existence of counter-hegemonic forces as epitomised by the role of the National Convention Executive Council (NCEC), and elements within the Kenyan Law Society (KLS) and the National Council of Churches Kenya (NCCCK).

Furthermore, I wish to reveal that, despite the holding of multi-party elections, there are other certain conditions which impact upon the likelihood of Kenya becoming democratic. Where there is evidence of regime-initiated electoral rigging and gerrymandering; corruption; alleged government encouragement of ethnic warfare in addition to the placement of favoured ethnic personnel in key positions of power; the use of police violence (and indeed brutality); propaganda emanating from both

¹⁰ It is my hypothesis that the vigilance of journalists, writers, womens' groups and other organs of civil society (in particular popular protest movements), reveal that, despite arguments depicting civil society as being incoherent in the African context, it is existent, albeit in embryonic form.

print and broadcasting media; an outdated and biased Constitution which puts the President above the law of the land, an increasing gap between the elites and the masses, as well as obvious gender inequality, the Kenyan scenario is rendered inadequate for real democratization. Bluntly put, multi-party elections are a necessary but insufficient feature.

While the argument - that a multiparty system can be even less democratic than a single-party democracy - may hold some truth in the light of the Kenyan experience, (whereby a fragmented opposition played into the hands of the coercive and authoritarian regime), I wish to argue that the multi-party system has opened up channels for the current revolutionary fervour which is evident in the Kenya of 1999. The political atmosphere has been radically altered since 1992 with the eradication of Clause 2A of the Constitution and the subsequent demise of the one-party state, albeit as an unintended consequence thereof - certainly in the eyes of the KANU *status quo*.

The background to this research

My analysis of Kenya's politics is based not only on academic research, but also on personal experience (between August 1995 and September 1998). During that period I interacted with a variety of people including slum-dwellers, street children and hawkers, journalists, students, opposition politicians, musicians; Rastafarians, religious leaders, hotel managers, expatriate "Wazungu" (Europeans) and businessmen or women.

Fortunately I can speak Swahili and have lived in both the city context of Nairobi (Kenya's capital city) and the rural context of Makueni District (part of Ukambani). I have played in upmarket bands in Nairobi and ploughed and cultivated fields in Makueni. These experiences which I have lived over a

four-year period, have been beneficial to my research, especially with regard to gathering of primary data.

I refer in particular to the knowledge gained firsthand by knowing what it is like to be an ordinary Kenyan, living on 'the margins', excluded from real sources of power, experiencing the effects of corruption and nepotism and of what it means to struggle against incompetence, inefficiency and propaganda. I have also suffered from malaria, typhoid and dysentery, diseases which impact seriously on African lives, livelihoods and economic prospects. I have thus shared the people's frustration with dilapidated health services, transport facilities, general infrastructure and communications' systems.

I argue that the scholarly discourse of political scientists represents one facet of political knowledge. Although my opinion may be controversial, I believe that it is ordinary life (talking to people, reading papers, travelling in local transport, listening to the radio - mundane as they may seem - in both the city and the village) which perhaps provides the most worthwhile text for learning about Kenyan political/social/economic life.

The lived experience forms a contextual, primary-source background to the academic research which I have embarked upon from a South African perspective. While books may indeed shed light on important conceptual tools and historical incidents, it is the creative interaction of lived experience with that of theoretical knowledge, whose value cannot be underestimated.

The reality of Kenyan life for the majority of citizens is, in my personal experience and according to documented sources, one of extreme hardship and adversity. Poverty and unemployment are rampant

(65%); the gap between the haves and have nots is abundantly clear (80% of the National income held by only 8% of the population)^{11, 12} Infrastructural breakdown is endemic: roads and “matatus” (taxis), are in utter disrepair; service delivery in Nairobi’s poorer suburbs is almost non-existent while medical facilities are expensive and often unattainable for the majority. It is apparent that many Nairobians live in informal shantytowns.¹³ Furthermore, Kenya ranks as the third most corrupt country in the world (next to Nigeria and Pakistan), according to the *Comparative Survey of Freedom*.¹⁴ I would argue

¹¹ *Daily Nation*, June 1, 1999.

¹² If the currently being discussed (June 1999) Poverty Eradication Plan, is implemented and goes beyond being merely a forum for discussion, to provide vigorous and practical programmes to eradicate poverty in Kenya, it will indeed be a crucial component in the implementation of democratization. As will be discussed in the chapter on democracy, without a sound economy, there will be no flourishing or consolidation of the democratic ideal. In my opinion, the eradication of poverty is possibly the major goal for Kenya. Until poverty is redressed (obviously this will occur in direct tandem with the eradication of corruption), it is impossible for a transformation to occur. At the time of writing 80% of the country’s wealth lay in the hands of 8% of the population. Such class disparities point to the exacerbation of the divide between the rich and the poor, and indeed the elimination of the middle class. This polarization does not bode well for democratization. Globally, it has generally been proven that democracy thrives when there is a large middle class.

¹³ From personal travels around the suburbs of Nairobi, including Kibera, Mathare, Kawangware, Korogoshe, Maikisaba and Mukuru (in Industrial area), between 1995 and 1998.

Ramas, Ian: “Nairobi: City in Sewage”, *Mail and Guardian*, February 26, 1998.
Ramas argues that no residential houses have been built by the Nairobi City Council in the past 15 years, yet there are 2,500,000 houses needed to be built each year in order to accommodate the growing population (the population growth rate is 300%).

¹⁴ Bratton and de Walle, *Democratic Experiments in Africa*, p.160.
The Comparative Survey of Freedom, Freedom House 1989-1995: reports scores for a country’s compliance with standard lists of civil liberties (13 items) and political rights (9) as estimated by a panel of expert reviewers.

that corruption pervades life in Kenya today and is a major cause of the corrosion of social and ethical values in the society.

In Nairobi, street children and beggars; ailing people with urine bags attached to them and destitute drug addicts are as prevalent as the pot-holes in the roads. There is a sense of desperation; of the need to push and shove to fight for your survival. And yet, simultaneously, there is a degree of cosmopolitanism.: the vibrancy and excitement emanating from the hub of East Africa.. Somalians, Eritreans and Ethiopians, Rwandese and other African nationalities mingle in the streets. Pajeros and BMW's are common while expensive hotels and upmarket restaurants and clubs cater for the needs of wealthy Kenyans and expatriates. There is also the tenacity, endurance and spirit found amongst many people, especially those in the rural areas, a spirit which is itself a form of wealth no money can buy.

I have witnessed in person, protest rallies and police violence, particularly prior to the 1997 elections. I have read newspapers and journals in the streets of Nairobi and been chased by the Nairobi City Council for trying to sell books as a way of earning a living. I have had the experience of being accused of robbery when I was innocent and thus felt in person the rough-hand of the Kenyan police.

The weight of neopatrimonial and nepotic modes of behaviour upon ordinary people's lives in both Nairobi and Makueni District where I lived is well known to me; with regard to the latter it became evident how ordinary subsistence farmers easily succumb to handouts of flour or shillings in exchange for their promise to vote for some KANU incumbent. I witnessed the relish with which the people of Makueni District rejoiced when Charity Ngilu (of the opposition *Social Democratic Party*), visited the area, and how both women and men alike (but especially the women) voted for her because they were

tired of Kanu's failed promises to deliver better development resources to the area.¹⁵ And Charity as a "mathe" (mother) herself, would surely know best how to nurture her people, it was often claimed to me by residents of Makueni District. Furthermore, I became familiar with the *Social Democratic Party* (SDP) and *Democratic Party* (DP) offices and workers in Machakos town and the village of Tawa where I lived intermittently between 1995 and 1998. By talking to them I became aware of the kind of problems the opposition was facing in the run-up to the 1997 elections. It was also interesting to note that in this rural area, the opposition had relative freedom from the arm of the state and little intimidation occurred. In the village of Tawa, democracy was evident at the level of village debate, whereby people openly discussed their viewpoints. The majority of villagers I spoke to had decided for a blend of 'realpolitik', thus voting for Kanu at the National level and the SDP or DP at the local level. They believed that this was the best way to secure their development needs.¹⁶

Any visitor to Kenya cannot but notice that Moi's photograph appears in every shop, café and work place - if it is not to be seen, one is regarded as an unpatriotic traitor. The KBC News Broadcasts begin with the oft stated words "President Daniel arap Moi today said ..." (Reis Daniel arap Moi, leo and sema ati"). This practice will be discussed at length in the thesis when I explore the elevation of Africa's leaders to positions of supreme power, and the type of repercussions which this has had on their societies.

¹⁵ From speaking to residents and from reading the newspapers. Also, it was quite clear that services which were being promised by Central government were not being delivered. I saw with my own eyes that roads were not re-tarred, water services were not improved, electricity was not installed, phones were not made operational, schools were not upgraded and provided with better facilities and famine relief was not made available in times of drought.

¹⁶ Refer to Appendix: "Micro-Politics: Tawa Village, Makueni District, Ukambani"

What I hope to achieve is both an exploration of the diversity of problems facing the Kenyan nation today, but equally to explore the positive, hopeful and challenging features. My wish is to avoid the general trend towards Afro-pessimism which has become prevalent, in political science discourse. To focus purely on hard political and economic facts or dwell extensively on the miseries of corruption and poverty which are indeed endemic, while ignoring the truly enlightening, warm and positive experiences to be gained from experiencing Kenyan reality, would severely diminish and distort one's understanding of Africa. My days in Makueni District, and the friends and family whom I have met there will be treasured forever. In my Appendix I will relate some experience of Kenyan community life as a way of offering an original insight into Kenyan politics.

CHAPTER ONE

THE AFRICAN STATE : HISTORICAL AND CURRENT CHARACTERISTICS

1.1 The State, Regime and Government : Broad Definitions

What exactly do we mean when we refer to the concepts of the state, regime or government in general political usage and specifically in the African context? In ordinary parlance they are often glibly interchanged as if they were one and the same thing, however, it is crucial to distinguish their exact terms of reference in order to attain political and analytical clarity.

It is for this reason that I explore these terms in this introductory section, so that their usage in the second component (the Kenyan case-study) of the thesis will be understood.

The definitions which are given in Chazan's *Politics and Society in Contemporary Africa* offer a most succinct version which will be assumed in my thesis. According to Chazan, *the State, Regime and Government are three conceptually distinct terms, although empirically they often overlap: The state is that set of instruments of domination in a society, "sprawling organizations" with coercive powers over citizens. "The precondition for effective functioning of state organs is military control of a given territory, and some recognition of sovereignty. At the local level state authority then is measured by their supremacy over other societal organisations, whilst in the International arena, states are the major players. A Regime refers to the rules, principles, norms and modes of interaction between social groups and state organs. Specifically it refers to how the power invested in the State is exercised and*

legitimated. Government refers to the specific occupants of public office who are in a position to make binding decisions which affect the citizens of a given society.¹⁷

Having briefly depicted the important differentiation of the state, regime and governments for the sake of some analytical clarity, it is worthwhile to reassess more fully the concept of the state. Clapham's definition of the latter proves insightful and worth elaborating upon. He clearly demarcates between what the state is as a theoretical ideal, and what it has come to be in the African context. Clapham contends that the state is "an instrument for exercising power. It consists in a hierarchy of control with its top political leadership, its agencies for bureaucratic regulation, its tax gatherers, its army and police. It has a territory, with defined frontiers beyond which it gives way to other states, and a population over whom it claims dominion". He continues - and it is this distinction which is of utmost relevance in the African (and Kenyan) context: "On the one hand, the most positive view of the state sees it as supplying the essential foundation for the pursuit of public benefits while a negative view on the other hand, sees it as merely providing the opportunity for some individuals or groups to pursue their own happiness. The ambivalence between these functions of the state is inherent in the very nature of politics itself."¹⁸

Chazan, Mortimer, Ravenhill and Rothchild, in *Politics and Society in Contemporary Africa* also offer an analysis of the state which provides a useful paradigm for the study of Kenya. What they emphasise is that the main component of the state are threefold, namely: the decision making structures (executives, parties and parliaments), decision-enforcing institutions (bureaucracies, parastatal organizations and security forces), and decision-mediating bodies (primary courts, tribunals, and

¹⁷ Chazan, *Politics and Society in Contemporary Africa*, p. 37/8.

¹⁸ Clapham, Christopher, *Africa 30 Years On*, p.35.

investigatory commissions). As they argue: “The character of the state in any particular country is determined by the pattern of organization of these institutions at specific points in time”.¹⁹ This definition of the state is quite limited in its approach, obviously focussing on the Institutional (and governmental) aspects comprising the state, but not looking at the broader more ideological conceptions which are proffered by other authors such as Fatton. His work, *The Predatory State*, reveals a profound awareness of the inextricable link between state and civil society. The organic ensemble which he believes they constitute, will be explored more fully in the section on Civil Society. But it is worthwhile emphasising at this juncture that concepts of the state, class, civil society and hegemony are inextricably connected.

1.2 The State in Africa

For certain authors such as Ayittey, the state does not exist in Africa (in the normal sense of the word, while for others such as Clapham, the state in Africa is existent but very weak.²⁰ In *Africa 30 Years On*, Clapham argues that, although the African state seems strong because of its large and bloated bureaucracies and civil-service, it is in fact weak, with “much of their strength derived from the

¹⁹ Chazan, *et al*, p.39.

²⁰ Clapham, *Africa 30 Years On*

feebleness of potential challengers²¹ than from the inherent capabilities of the state itself. Their human and economic resources are slight. Few of them have a population large enough to rank as middle-sized by the standards of Europe, Asia or North and South America. All are hard pressed to extract the economic resources needed for their maintenance from their inadequate economic base".²²

Chazan, et al (*Politics and Society in Contemporary Africa*) assert that the greatest achievement of African states is the fact that they have endured at all.²³ They clearly imply that, considering the problematics and dilemmas inherent within the very creation of these states, it is remarkable and surprising that they have survived intact (no matter how weak, divided, discordant and broken-down). These authors stress the need for an understanding of the state in Africa that is based on what they term the interactive approach. Two other approaches to understanding the State, the organic and the configurational, they regard as of limited use in the African context. The organic approach which views the state as the critical actor in society (as an organ of domination with autonomy from society); and the configurational approach which argues that the state provides a framework under which social groups form (but which has no direct impact on society), are both incomplete and limited tools of African state analysis.

²¹ By potential challengers Clapham refers in specific to the weakness of Opposition parties in the African context. In the Kenyan focus the inability of opposition parties in the African context will be made apparent, and the nature of the opposition in Kenya will be revealed. However, it will also be suggested that perhaps Clapham is no longer entirely correct, when one considers the recent and nascent revival of an embryonic civil-society in Africa and Kenya, and the challenges which these popular protest movements have played in challenging both political and economic hegemony, both the political and economic status quo.

²² *Africa 30 Years On*, p.95.

²³ *Politics and Society in Contemporary Africa*, p.13.

Scholars of the interactive approach resort to an eclectic and synthetic analysis of the state in Africa. They highlight the role both of state organs as well as those of society. As the proponents of this approach argue: "In order to understand the character of states, it is necessary to look at how transactions between social groups and state institutions are carried out and how these in turn, alter the nature of public institutions as well as social formations".²⁴ This interactive approach will thus form the methodology with which I will understand the Kenyan state - there exists a dialectical relationship between the Kenyan state and society. This also relates to the problem of hegemony and defining it which will be explored below. If the state is meant to be the paramount organ of hegemony and yet there exist other hegemonial elements apart from it one could argue that the state is not the sole source of hegemony, but merely a representor of one facet of it, in particular military and coercive might. Economic interests, though closely related to the state in many instances, may also appear clearly independently of it or even appear as a counterforce thereof. This is often the case with opposition politics both in the African continent in general and specifically in Kenyan politics.²⁵

Chabal and Daloz in their groundbreaking, *Africa Works: Disorder as Political Instrument*, grapple with the complexity of this dilemma as to what constitutes the state and what society. They, while also adopting a clearly interactive approach, argue their case even more succinctly than the authors mentioned above, stating that, in fact, the African state is a vacuous one: "it has not become structurally differentiated from society - its formal structure conceals the patrimonial and particularistic nature of

²⁴ Chazan, Mortimer, Rothchild, *Politics and Society in Contemporary Africa*, p.41.

²⁵ (Refer to Chapter 9).

power”.²⁶ Later they add that the state in Africa is “in some cases merely a mirage, in most others it is in productive symbiosis with society”. These quotations form the pivotal theme for my understanding of the nature of the state in Africa. It is an edifice that exists more in theory or at an ideological level, than in actual reality as some grand construct abiding over the citizens (a construct with vague anthropomorphic dimensions).

It is argued by scholars that in Africa, the ambivalence of state functions has immediate and practical consequences”.²⁷ In fact it was this very tendency ie. the abuse of public office which led to a widespread situation in which:

All the important institutions that are crucial for running countries have been debauched: the army, police, civil service, state media, parliament, judiciary, central bank and educational system. Parliament is either nonexistent or a charade. Each institution has been packed with the tyrant’s tribesmen²⁸ and sycophants. Professionalism and accountability have been destroyed. The result is the institutional breakdown evidenced in many African countries.²⁹

It is argued that the “African state’ fails to meet the philosophical requirements of statehood as defined in Western political-philosophy. Rather, African states are weak renditions thereof, the most

²⁶ Chabal and Daloz, p.2.

²⁷ Rimmer, D. *Africa 30 Years On*, p.91-2.

²⁸ I am aware of the problematics of using this word “tribesmen”, but such is the quote. A full explanation of the difference between tribe and ethnic group is explored in the section dealing with the concept of ethnicity and tribalism in the African context.

²⁹ In other words: patrimonialism, which is further elaborated in Chapter 1.5 and 1.6.

overriding feature being that they provide the parameters (borders), within which the people of a given territory define themselves. Nevertheless, while African states are defined as weak and lacking in genuine legitimacy, it is suggested that they nevertheless continue to survive for two reasons: firstly, that those who run the state benefit from the system itself, and secondly, because the International system itself sustains it. However, it should be pointed out that they are similar in many other respects, especially considering the fact that they were moulded upon the very Western concept of statehood from which they are allegedly so different - such that their Constitutional and Parliamentary systems were often adopted wholesale from the colonial powers (in Kenya the Westminster system was adopted at Independence). Consequently I would argue that broad generalizations such as the above should be treated with circumspection.

Returning to Chabal and Daloz: they argue that while one would expect the elites of African states, to seek to alter the prevalence of disorder and inefficiency which plague them and to install an ordered and efficient mode of governance, with strong, legitimate and accountable state structures, it appears that the contradictory is the case. According to their research, to do such would be inimical to their interests. In fact it is precisely this disorder from which the elites benefit. As emphasised by the above authors: "in contemporary Africa, politics *turns on the instrumentalization* of disorder".³⁰ One must take cognisance of the words: politics, instrumentalization and disorder.

The elites, it is argued, benefit precisely because the African state is disordered, inept and inefficient, and thus have minimal inclination to redress the situation. It is also of interest to note their

³⁰

Chabal and Doloz, *Africa Works*, p.155.

controversial argument that politics in Africa cannot be understood similarly to Western politics. The functions which the state assumes are fundamentally different in Africa than in the West because there are important cultural differences and a world view which blends political reality not only with religious reality but also with kinship and familial ties. The nature of the African state and African culture cannot be divorced from one another. The type of modernization and levels of development the African state may and have assumed are deeply related to these matters, while obviously not denying the external conditions which have and continue to impinge upon, the nature of the state. Chabal and Daloz maintain that: "it ought now to be possible to give attention to cultural factors without giving the slightest credence to those who believe in the innate inferiority of Africans. What we want to understand more concretely is the cultural matrix within which Africa's own distinct modernization is taking place. Instead of pillorying the continent's 'backwardness', we think it more profitable to analyse the anthropological evidence for existing, and clearly enduring mentalities which are relevant to the politics of Africa. Of these we would stress fatalism, understood as a rational response to the huge degree of uncertainty faced by most of the continent's population, and the primacy of the collective over the individual, itself the outcome of a realistic appraisal of what constitutes the best guarantee of survival in the face of a perennially threatening outside world".³¹

It is imperative for political scholars that such renditions of the cultural nuances affecting the political scenario's of African states be taken cognisance of, and in particular with regard to this thesis - when assessing the problem besetting Kenya today. However, I would contend that Chabal and Daloz's argument is severely distorted in its clear demarcation between Western and African politics and

³¹ Chabal and Daloz, *Africa Works*, p.130.

mentalities'. American pork-barrel politics³², as but one example, is no different to patron-client relations. Throughout the countries of the world, the philosophy of "who you know, rather than what you know" is to certain degrees existent. Perhaps, what is more relevant, is that Africa's infrastructures are underdeveloped, and hence the continuation of primordial, sometimes ethnic notions of identity. It is this which may distinguish Africa (in particular rural Africa), from the technological and developed West.

1.3 The legacy of Colonialism

The core characteristic feature of African states, according to the literature incorporated in this thesis, is the impact which colonial rule has had upon them³³ and the resulting authoritarian and neopatrimonial modes of rule which continue, despite democratization,³⁴ to be endemic to the continent.³⁵ However, while external factors cannot be overemphasised, recent literature also stresses the need to note the historicity of African states - that is their unique individuality and particularly the importance of pre-colonial, indigenous or autochthonous foundations of African states.³⁶ (This emphasis on the historicity of the African state, in particular the need to understand pre-colonial modes of African government accords well with the interactive approach used by Chazan *et al* in analysing the African state, as it

³² Pork-barrel politics refers to the kind of activities that politicians engage in during election campaigns. It involves using incentives to win votes from potential citizens.

³³ Refer to Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*.

³⁴ See Second Component

³⁵ Refer to Bratton & Van de Walle, (eds) (*Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*) and Chazan, et al (*Politics and Society in Contemporary Africa*).

³⁶ Bayart in his *The Politics of the Belly*, elaborates this point. See specifically his Conclusion, pp.260-1.

takes into account both state and societal features. The modern state is a historically recent construction, but the structures of African society long pre-date these recent inventions³⁷).

There are a number of authors who deal with the impact of colonialism on the African state, as well as the notion of historicity, the most useful being Chazan et al (*Politics and Society in Contemporary Africa*), Chabal et al (*Political Domination in Africa: reflections on the limits of power and Africa Works: Disorder as political instrument*), Bayart (*The State in Africa: The Politics of the Belly*), Mamdani et al (*African Studies in Social Movements and Democracy*), Mazrui (*The Africans: a triple heritage* and *The African Condition: the Reith lectures*), Bratton and Van de Walle (*Democratic Experiments in Africa: Regime Transitions in Comparative perspective*), Ayittey (*Africa betrayed and Africa in chaos*) and Fatton (*Predatory rule: state and civil-society in Africa*). I will refer to some of the core themes raised by these writers in order to lay the groundwork for a contextual understanding of African states in general.

My ultimate aim is to put the Kenyan state into a comparative and contemporary perspective. The most obvious effect of colonialism was the arbitrary creation of nation-states without regard to ethnic, linguistic and religious identities which resulted from the carving up of the Continent in 1884 under the auspices of Bismarck (then Chancellor of Germany), and with the interests of the various European countries dominating the agenda.

This theme is explored at length in most of the literature dealing with the African state but Christopher Clapham puts it most succinctly:

³⁷

See for example *Politics and Society in Contemporary Africa* (edited by Chazan, Mortimer, Ravenhill and Rothchild).

Far more than in any other parts of the Third World, the African state system as we know it today is the direct and obvious descendant of European colonialism. Its boundaries are the lines drawn on maps by colonial governments, generally with startling unconcern for the people whom they casually allocated to one territory or another.

Chazan contributes to this theme by arguing that:

The new boundaries not only divided existing political entities but, more significantly, frequently compelled groups that had no history of ongoing ties to relate to each other.³⁸

Clapham clarifies the consequence of this occurrence, thus:

As the years since independence lengthen, the aura of strength which the new states inherited from their predecessors fades, while the debilitating effects of their underlying fissures becomes more salient.³⁹

In a similar vein, Maxwell Owusu argues that the implications of international boundaries in Africa were disastrous for the development of democratic states and of coherent, viable and integrated economies".⁴⁰ This contributes in part to explaining the increase in ethnic conflict and civil war in Africa since the advent of colonial rule.

³⁸ Ibid, p.26.

³⁹ Clapman, Christopher, "The African State", in *Africa 30 Years One: The Record and the Outlook*.

⁴⁰ Nyang'oro, Julius. E., *Discourses on Democracy*, p.277.

Indeed, the primary motives of the colonial powers were economic and they therefore ensured that Africa's natural resources were plundered to serve their interests. It is for just this reason that the renowned Kenyan author, Ali Mazrui, in *The African Condition: the Reith Lectures*, argues that, paradoxically, Africa is well endowed with natural resources, yet includes some of the poorest nations in the world. "Against the background of mineral, agricultural and other resources in Africa, there is also the disconcerting fact that Africa has some of the least developed countries in the world".⁴¹

It should be noted that although Africa was conquered by Europe with relative ease militarily, and although there were indeed cases where indigenous leaders cooperated with the foreign powers for their mutual benefit, "in many parts of Africa, resistance was ferocious."⁴² It is this combination then, of the imposition of foreign rule and the parallel existence of both examples of succumbing to it and resistance to it, which have had repercussions on the nature of African politics and society. In Kenya for example, the groups who succumbed usually comprised traditional leaders who were coopted into the orbit of the British strategy of District Administrations, and who benefited from this alliance. Resistance consisted of armed guerilla struggle against the British (the *Mau Mau* movement), which culminated in Independence, Dec 12 1963, and the inauguration of Jomo Kenyatta as Prime Minister.

While the creation of arbitrary borders was a paramount feature of the colonial legacy, there were a number of others. These included African states' dependence on cash crops which had been instituted under colonialism as well as the weakness and dependence of their economies on the foreign powers. As argued by Chazan: "During the brief period of colonial domination, African territories were first

⁴¹ – Mazrui, Ali, *The African Condition*, p.80-1.

⁴² Ayittey, George, *Africa Betrayed*, p.84.

brought into the world economy and then systematically subordinated to the needs of the industrialized north. The colonial experience rendered African economies particularly open to external shocks".⁴³

Other factors included the creation of a small Western-educated elite who were distinct from the rest of their people; and the legacy of alien and undeveloped , colonial state institutions which were authoritarian, nonparticipatory and nonconsultative. It is of crucial importance to note these factors for they help to explain the complexity of problems and dilemmas facing modern African states.⁴⁴

Colonialism has left both its scars and its fruits - for example, modernization, technological advances, infrastructural developments - such that a holistic awareness of the pros and cons of this historical occurrence is worth striving for, rather than a complete rejection of colonialism as the 'raison de etre' for all the problems besetting modern African states.

Furthermore, African states cannot be studied in isolation from their historical background, nor from the situation within the international order in which they find themselves currently embedded. Their weakness in relation to the external economy has exacerbated their political problems and rendered them largely impotent in the face of IMF and World Bank conditionalities. While not solely responsible, market forces and capitalism have contributed to some of the problems facing African States, including Kenya.

⁴³ Chazan, Mortimer, Ravenhill *et al*, *Politics and Society in Contemporary Africa*, p.27.

⁴⁴ Obviously in this thesis the impact of colonialism upon the Kenyan nation in particular is the focus.

1.4 Bifurcated and authoritarian states

To explore this theme more fully I will refer to the writings of renowned Ugandan scholar, Mahmood Mamdani. In *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, he states that: "The African colonial experience came to be crystallized in the nature of the state forged through that encounter. Organized differently in urban areas from rural ones, that State was Janus - faced, bifurcated. It contained a duality: two forms of power under a single hegemonic authority. Urban power spoke the language of civil society and rights while rural power of community and culture".⁴⁵

What the colonial experience did was to provide a modern, rational and civil-society based system of equality and the right to vote (at the urban level), but this was severely distorted by a mode of "decentralized despotism", (also referred to as the *rhizome state* by Bayart in *The Politics of the Belly*), whereby the rule of the majority of people who live in the rural areas was based on the very opposite of such liberal notions, such that cultural and ethnic factors were emphasised and chiefs employed to rule the people. (This was briefly alluded to above with regard to Kenya and the District Administrations).

Essentially it comprised a system of overt exclusion - in the political arena - of the 'marginalised' rural majority. They were hardly individual citizens exercising free choice, so much as subjects under a despotic form of rule. Mamdani maintains that this mode of colonial despotism resonated beyond the years of independence and continues to have an impact on the political nature of modern African states. It also helps to explain (partially) the preponderance of ethnic problems in Africa, because ethnic

⁴⁵

Mamdani, p.18.

divisions were manipulated and exacerbated by the colonialists' "divide and rule" policies.⁴⁶ In a similar vein, French author, Bayart, refers to the notion of the "rhizome state" in Africa. By this Bayart means the widely dispersed networks of power which extend down to the local, village level, power which is evident in for example the practice of customary rule (chiefs and elders), and a power which was not eradicated under colonial rule but was in many cases reinforced and reconfigured.

To what extent such customary power maintains its level of influence in the late 20th Century, with the globalization of society is open to debate. One has only to note the continued dominance of chiefs in political activity in modern Africa, (in this case, Kenya specifically), where Chiefs and the ruling regime remain codependent. I have witnessed chiefs in Makueni District for example, continuing to wield influence over their people. However, youths who leave to find employment in Nairobi (but are later summoned by their district chief who wishes to find out what it is they are doing in Nairobi and whether they are abiding by traditional custom) can easily claim the right to think for themselves, according to the rights of urban, civil-society.⁴⁷

This points to the diminishing power of customary rule over elements of society. Nevertheless, the majority of Africans who live in the rural areas remain, on the whole, committed to traditional cultural values. In the village, persons educated enough to be able to read newspapers and other literature might be tempted to question the value of customary rule in certain cases, but from my experience of

⁴⁶ Refer to discussion on tribalism and ethnicity for more analysis of "divide and rule" practices of the colonial powers.

⁴⁷ See Appendix

Ukambani it appears that even educated people maintain respect for many waKamba customs. They are seen to provide the value system and ethical fabric of society.⁴⁸ One cannot clearly demarcate between the educated urbanite and the uneducated rural dweller. The categories are fluid and there is an intermingling of the two arenas. Suffice it to say that these factors are, in all likelihood, intrinsically related to the complex process of modernization. This paradigm helps us to better contemplate the nuanced relationship between rural and urban politics which has existed both in pre-colonial and the post-colonial eras. What this dilemma also highlights is the fact that culture may be less monolithic than one presumes. Amilcar Cabral noted this fact with regard to Africa, arguing that:

In Africa, the horizontal and vertical distribution of levels of culture is somewhat complex. In fact from the villages to the towns, from one ethnic group to another, from the peasant to the artisan or to the more or less assimilated indigenous intellectual, from one social class to another, and even, from individual to individual within the same social category, there are significant variations in the qualitative and quantitative level of culture.⁴⁹

Aside from this concept of a bifurcated state, other authors, such as Chazan et al (*Politics and Society in Contemporary Africa*) and Bayart (*The State in Africa: The politics of the belly*), illustrate the core feature of African states to be the colonial legacy of authoritarianism.

⁴⁸ This notion concurs with the concept of “mentalities”, and the importance of culture upon the workings of the modern African state. This is explored more thoroughly in Chapter 15 which deals with Corruption in Africa, and discusses the Chabal/Daloz argument that leaders are justifiably munificent, so that they are perceived to have the ability to ‘deliver the goods’ to their clients.

⁴⁹ Cabral, Amil *Unity and struggle: speeches and writings*, p.144

Colonial rule was, itself, intensely coercive and militaristic. The political culture bequeathed by colonialism therefore encouraged authoritarianism as an appropriate mode of rule.⁵⁰

As Owusu suggests, in a sardonic tone: “while the democratic reforms took place in Europe and America, ironically the whole of Africa was being conquered, subjugated and colonised in order to fulfil Western imperial ambitions”. Furthermore, he reveals the notion of a “civilizing democracy” as being rooted in specific historical and socio-economic conditions.

It is argued that democracy, imperialism and the growth of capitalism, were inextricably linked.⁵¹

Although the concept of democracy will be explored more fully in a subsequent section, it needs to be noted at this juncture that liberal democracy as a normative mode of governance had a particular historical origin. Indeed, it blossomed as a “hegemonic ideology and political form for the European bourgeoisie from the beginning of the Sixteenth Century and took well into the Twentieth Century to consolidate”.⁵² I will however argue later that it can become a Universal ideal, if stripped of this historical and class baggage and promoted as a normative political and economic system which is based on justice and participation.

⁵⁰ Chazan, et al *Politics and Society in Contemporary Africa* p.40.

⁵¹ Owusu, Maxwell, “Democracy and Africa - A view from the Village”, in *Discourses on Democracy*.

⁵² Post, Ken, “The State, Civil Society and Democracy”, in *Discourses on Democracy* (ed. J.E. Nyang'oro).

The hasty departure of the colonial powers added to the newly independent states' dilemmas. Indeed, "the preparation for independence, from the administrative point of view was, even in the best of circumstances, hasty and incomplete".⁵³ Basil Davidson provides one of the most incisive accounts⁵⁴, of the reality of this administration. As he argues: "many of the troubles of Africa after independence, followed on the breakdown of parliamentary and administrative institutions set in place, at the time of independence, which failed to meet the problems left by past history, especially that of colonial history".⁵⁵

As a way of coping with the legacy of colonialism, African statesmen tended to centralize the states so as to cultivate a chimeric sense of National unity (in other words to promote African Nationalism). This was one of the reasons for the proliferating number of one-party states. Instead of eradicating the colonial type of authoritarianism, this centralization served merely to exacerbate it, and the one-party "democracies" turned into monolithic watch dog organs, intolerant of dissent.⁵⁶ African Nationalism became a tool used by the elite to promote their interests at the expense of the ordinary people.

⁵³ Chazan, *Politics and Society in Contemporary Africa*, p.43.

⁵⁴ (in the literature on African politics)

⁵⁵ Davidson, Basil, *Modern Africa: A Social and Political History*, p.209.

⁵⁶ This fact also helps explain the preponderance of certain terms in the literature on African States, terms such as **The Predatory State**, the **Vampire State** and **Statism**, all terms which indicate the impact of the state with its tentacles extending into all organs of society, like a predator or a vampire, feeding off, sucking dry, the life blood of an independent and vibrant civil-society.

1.5 Neo-colonialism

The concept of neocolonialism is intertwined with the above discussion, but deserves independent analytic attention, for the sake of clarity. In essence, neocolonialism refers to the fact that, following the independence of African states in the 1960s, there was an inextricable connection between the politics and economics of the colonial regime and that of the new African leaders and the newly independent states. Discussion of neocolonialism is quite clearly related to the topic of the legacy of colonialism, as the two proceed in tandem and are part of an organic historical whole. Neo-colonialism refers specifically to the fact that although there were attempts to consolidate the new nations as autonomous agents, generally speaking the independent states followed suite and adopted the same manner of ruling as their previous masters. Ayittey argues that :

True freedom never came to much of Africa after independence. Despite the rhetoric and vituperations against colonialism, very little changed in the years immediately following independence. For many countries, independence meant only a change in the colour of the administrators; the new leaders began to act in the same manner as the colonialists; in many places they were worse.

And later, he adds that :

The political patronage system these new leaders adopted rewarded idleness and sycophancy. Those who protested most loudly against Western imperialism and praised the new tyrannical governments received ministerial appointments, sinecures, rapid promotions and emoluments.⁵⁷

⁵⁷ Ayittey, G.B., *Africa Betrayed*, p.100. (refer also to section on neopatrimonialism and Chapter 15 on Corruption.).

The post-independence states were politically related to the colonial regimes, having adopted their constitutions wholesale, (including colonial laws used to suppress indigenous peoples); and economically related in that the colonial powers retained their vested economic interests in their former colonies. As Basil Davidson surmises, neo-colonialism is: “a many-sided attempt by outside powers to tie the new nations closely to the interests and needs of those outside powers.”⁵⁸

Thus, when considering the African state, one needs to consider a wide array of factors: pre-colonial, indigenous factors (historicity and culture); the impact of colonialism; neo-colonial modes of governance (including the role of individual personalities in the leadership arena), and finally the international system. Furthermore, the diversity of African states needs to be acknowledged: there are the common factors, but simultaneously each state is unique.

In terms of my hypothesis about the quest for hegemony having failed under the Moi/KANU regime, it should thus be apparent that the precedent for this failure was laid down if by hegemony we understand a semblance of harmony between state and society: a united nation. The only source of perceived hegemony was that of the *colonial/imperial idea*, which was based on the notion of European superiority and African inferiority. This idea was never as thoroughly internalized by Africans as the would-be hegemonic colonial regimes wished it to be. Hence, colonial attempts to establish hegemony were perpetually fragile and endangered. This situation was reproduced in the postcolonial state.

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Davidson, Basil, *Modern Africa: A Social and Political History*, p.197.

1.6 Neopatrimonialism and associated concepts

Not only are African states defined as neo-colonial, but another word crops up frequently in the literature: that of the neopatrimonial nature of the modern African state. For authors Bratton and de Walle,⁵⁹ the key feature of African states is that they are neopatrimonial. This is due not only to the authoritarian nature of the colonial state as emphasised by Chazan and Bayart, but also to the African preference for community or family ties over the individual. The neopatrimonial state is thus clearly moulded by cultural factors, an argument which is eloquently explored by Chabal and Daloz in *Africa Works: Disorder as Political Instrument*.

Bratton and Van de Walle's work (*Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*) provides an incisive understanding of neopatrimonialism and emphasises the pivotal role which this concept plays in the African context. **Neopatrimonialism** is defined as 'the right to rule being ascribed to a person'. Thus, personal qualities, rather than merit or qualifications for the office are of paramountcy. In neopatrimonial regimes, rational-legal rules of the political game are transcended by the whims of the person in office.

A related feature is **Presidentialism** or the notion that the President has omnipotent powers. This is also described in Africanist discourse as the philosophy of "big men" or "**strongmen**".⁶⁰ (These notions are relevant to my analysis of Kenya because President Daniel arap Moi, has been repeatedly described as one of Africa's last remaining strongmen, in the same category as Mobutu, Amin and Kaunda).

⁵⁹ (In their excellent contribution to Africanist discourse which combines comparative research with empirical data over 40 sub-Saharan African states, *Democratic Experiments in Africa*).

⁶⁰ Ibid.

A useful working definition of “strongmen” is given by Njuguna Ng’ethe in Zartman’s *State Collapse* wherein he depicts the concept as a term which has been: “used in a fairly loose, journalistic fashion to refer to styles of leadership - divergent and varied - but which are meant to refer to institutional power relations in which power distribution is skewed in favour of the person who claims to head the state/ regime”.⁶¹

More frighteningly he argues that, in whatever form such strongmen appear, they have often contributed substantially to the collapse of the state⁶² because their rule is not based on legitimacy but

⁶¹ Zartman, p.251.

⁶² It is important to note the distinction between state and societal collapse that “state collapse, on one hand is the breakdown of good governance, law and order. The state as a decision making, executing and enforcing institution can no longer take and implement decisions.

Societal collapse on the other hand is the extended breakdown of social coherence: society as the generator of institutions of cohesion and maintenance, can no longer create, aggregate, and articulate these supports and demands that are the foundation of the state. These are two aspects of breakdown and between them the links and overlaps of state and society fall away”. Zartman, *State Collapse*, p.6.

I wish to argue that these explanations are of crucial relevance to the Kenyan scenario, and it will need to be asked to what extent Kenya is on the road to state and/or societal collapse. As Zartman emphasises, the phenomenon of state collapse is not a sudden rupture, but (as with revolution) it is a slow process: “a long-term degenerative disease”. I am of the opinion that the Kenya state is currently riddled with this ailment and is thoroughly on the road to state collapse, using Zartman’s 5 criteria for predicting such:

1. Power dissolves to the peripheries because the centre fights among itself.
2. Central government no longer pays attention to the needs of its social bases so they withdraw support and rely on their trusted inner circle (cf Moi and his coterie of supporters, in particular Biwott and Saitoti).
3. The government malfunctions by avoiding necessary but difficult choices.
4. A form of defensive politics is practiced by the incumbents to get the opposition off their backs.
5. The penultimate clue to potential state collapse: the centre loses control over its own state agents who operate on their own account (Cf a strong division within KANU itself between hardliners and

rather on the use of coercive methods to maintain power. Strongmen (such as Daniel arap Moi) resort to authoritarian methods of governance, repression and neglect and in this way “destroy the regulative and regenerative capacities of society”.⁶³ Thus, they do not succeed in asserting hegemony in the sense of convincing the population that their rule is legitimate. To the Contrary, by resorting to purely coercive power they fail to assert ideological legitimacy. By using propaganda, they may convince some of the citizens, that it is not the regime which is illegitimate, but rather the opposition parties. However this argument does not succeed in ‘fooling all the people all of the time’. This results in a failure of the state to assert hegemony and increasing protest from the populace demanding reform and democratization.^{64 65}

It is argued, that, in neo-patrimonial regimes, power is so “concentrated, that the disposition of the regime is synonymous with the personal fate of the supreme ruler”.⁶⁶ This has led to a situation whereby those opposed to the status quo see getting rid of the incumbent ‘**supremo**’ as the necessary feature for transformation, rather than a change of the entire system itself. What is important to consider is the fact that this is the *perception* of the people, but that in actual reality it may be a fallacy,

moderates).

⁶³ Zartman, p.7.

⁶⁴ Zartman, p.257.

⁶⁵ (Refer also to Chapter Four on Hegemony, civil society and the hegemonic drive because these concepts of strongmen, legitimacy and the notion of state collapse are analytically interwoven with concepts of hegemony and the relationship between state and society).

⁶⁶ Bratton and Van de Walle, p.84. In a similar vein, Bratton and Van de Walle argue that the **strongman** identifies the sustainability of the regime with his own political survival such that national and self interest become blurred.

for, while power may symbolically rest with the messianic figure of the President, it actually has tentacles in the various organs of the state, government and regime which surround that symbol and carry out the practical functions of governance. This accords well with the political interaction approach adopted as the framework for this thesis.

1.7 Patronage and Sycophancy

Two terms which are related to the notions of Neopatrimonialism, Presidentialism, and “Strongmen” and which deserve brief mention are that of patronage and sycophancy. The former refers to the “dispensation of spoils to cronies, loyal supporters and tribesmen (ethnic kin)”. Sycophancy refers to the rewarding by the ruler of those who toe his line within the organs of state and government. Thus:

To facilitate the dispensation of patronage and reduce any threat to his power, the strongman usurps control over all state institutions: the army, police, civil service, state media, parliament, judiciary, central bank and education system. Each of these must serve his dictates. To ensure this he packs these institutions with his own supporters or tribesmen (ethnic group). Professionalism is destroyed and replaced with sycophancy.

Sycophancy is a feature which has riddled Africa’s politics and will certainly become most evident in the Kenyan case-study. These terms are inevitably linked to the cultural factors which emphasise family and kinship ties as being of greater importance than individual rights. Patron-client relationships and the ease with which corruption flourishes in the African context, would also be related issues.

1.8 Summary of the African State

It can thus be reiterated that there are three broad historical trajectories (pre-colonialism, colonialism and post-colonialism), which have contributed towards forging the modern African state. History and modern politics should be assessed from the perspective of the 'longue duree',⁶⁷ and with a notion not of a linear progression in history but of a dialectical process whereby various historical components are either eroded or remain but take on new forms. This is not only an African phenomenon of course but rather provides a useful tool for understanding history in general. Fatton (*Predatory Rule*) argues this theory with particular reference to the African context, referring to the 'synchronic amalgamation' of old with new, of history with politics. He explains how powerful remnants of the old world order- ethnic allegiances, peasant lifestyles, ancient patriarchal relations, personal fidelity, and gerontocratic authority - have resisted the passage of time.⁶⁸ Thus, the colonial episode did not mark a distinct historical interruption, but was merely one phase of history which merged and overlapped with others. This notion concurs with Bayart's (*The politics of the belly*) reference to the historicity of African states and to Chabal and Daloz' (*Africa works: Disorder as Political Instrument*) quintessential argument that African cultural factors pervade the modern African state: its nature, mode of development and type of modernization.

In brief, the 'typical' African state is characterised as follows:

- A sovereign state in the International order of states .
- An 'arbitrarily' created formation; weak in terms of administrative capacities and within the context of global capitalism.
- Often disordered, inefficient and potentially able to collapse or disintegrate should it lose legitimacy.

⁶⁷ Following the historians of the Annales school

⁶⁸ Fatton, *Predatory Rule*, p.7.

- Many African states are authoritarian-bureaucratic in their mode of operation (with bloated, overextended civil-services),
- are deeply affected by pervasive corruption, neopatrimonial modes of rule (the elevation of one leader or Messiah/Redeemer figure to the pedestal of leadership) and cultural norms that encourage patron-clientelism.
- There is endemic poverty of the masses, a rural-urban divide and developmental cleavages.
- Finally, the ethnic factor whether in its existent form or negatively re-activated as 'tribalism', is regarded as having a profound impact on the nature of the African state.

These factors must be included in our analysis of why the Moi/KANU regime failed in the quest for hegemony. The deep-rooted historical and structural flaws in the Kenyan state, as but one example of the problems and flaws inherent within each of the African states, cannot be denied.

It is the seminal concept of ethnicity to which we will turn to in the second theoretical chapter.

CHAPTER TWO

ETHNICITY AND THE TRIBAL FACTOR

The concepts of ethnicity and tribalism are pivotal to an understanding of the nature of the African state. Furthermore, ethnicity and tribalism must be analysed in this thesis because they have played a crucial role in the undermining of a genuine democratization of African societies and have compromised the initial hegemonic quest of the African Nationalist leaders who sought to promote state unity and national solidarity above the vices of ethnic discord and division.

The concept of ethnicity has both a primordial nature that is, its natural existence prior to its activation for political purposes, as well as an activated nature. The use of ethnicity in diverse ways as a political tool during the period of colonial statehood and thereafter, during the modern, post-colonial African state, has played a significant role in the nature of the state which has emerged. As discussed above, it is evident that the patrimonial African state (with its deeply associated features of sycophancy and patronage) is intermeshed with the impact on it of the use of ethnicity as a political tool. What will become apparent in the Kenya focus is how ethnicity, or at least its' negatively activated mode: tribalism, has severely curtailed prospects both for a hegemonic quest and for democracy (if by the latter we understand a state whose constitution rests on the notion of inalienable, human rights). It will also be clear that tribalism inhibits the development of civil society or a civic order, because it is premised on parochial values and implies the implementation of sub-orders of power within the state structure.

While there is an abundance of literature dealing with the concept of ethnicity, it is not my prerogative to debate at length the philosophical debates revolving around this term. I will merely point to a few conceptual clarifications in order to make the distinction between tribalism and ethnicity clear.⁶⁹

South African academic and researcher, Laurence Piper, provides a useful rendition of the difference between tribe and ethnic group, in an article entitled: "Debunking Tribalism, Affirming Ethnicity". This distinction is, I believe, invaluable as a tool for understanding the Kenyan scenario. Piper posits the notion that the word 'tribe' has colonial connotations, given that it was used by the colonial powers as a strategy of divide and rule. Ethnic group on the other hand, he explains, is a modern phenomenon and is thus more appropriate for usage in this thesis. As Piper argues: "This distinction between tribalism as an ancient, pre-colonial or pre-modern polity, and ethnicity as a product of modern or contemporary experience bearing the tribal identity is quite widely argued in the literature. This realisation has been fuelled in part by the realisation of the historical complicity of anthropology and colonialism, in this case represented through the connotations and ideological resources offered to colonial ideology by notions of 'tribe' and 'detrified man' (however) the notion of ethnicity is more appropriate to the current African context."⁷⁰

⁶⁹ For a comprehensive account of ethnicity I suggest Horowitz' *Ethnic Groups in Conflict* and Smiths' *The Nation State*. I also refer to my unpublished Honours' thesis on the civil war in Yugoslavia which gives a succinct account of the politicization of ethnicity in modern politics, particularly in the former Yugoslavia.

⁷⁰ Piper, Laurence, University of Natal, Seminar paper : Political Studies Departmental Seminar Series, March 1999.

2.1 Ethnicity in the African Context

However, while Piper makes this distinction it should be noted that modern African politicians have and do use the words tribe and tribalism to describe other ethnic groups whom they perceive as threatening. Colin Leys for example has argued that “tribalism consists in the fact that people identify other exploited people as the source of their insecurity and frustrations, rather than their common exploiters”. It is for just this reason he explains, that accusations of tribalism increase in African parliaments as unemployment in white-collar sectors increases. He thus posits a direct link between economic misfortune and ethnic revival (tribalism) in the African context.⁷¹

With regard to ethnicity, Jean-Francois Bayart makes the valid assertion that: “In Africa, ethnicity is almost never absent from politics, yet at the same time it does not constitute its basic fabric. Rather it exists mainly as an agent for accumulation, both of wealth and political power”.⁷²

⁷¹ Widner, Jennifer, *The Rise of the One Party State*, p.45. It should be noted however, that accusations of tribalism are not merely a result of economic misfortune. They may also be activated for other reasons, pertaining to the desire for power or influence. See Horowitz' *Ethnic Groups in Conflict* for a full rendition of this argument.

⁷² Bayart, *The Politics of the Belly*, p.55. And later on page 235 he adds that, both “corruption and ethnic conflicts are no more than the simple manifestation of the *politics of the belly*”, by which he means that they are inextricably linked to the desire by leaders and the led alike to acquire resources of survival (and beyond survival-prestige) for themselves. “The strategies adopted by the great majority of the population for survival are identical to the ones adopted by the leaders to accumulate wealth and power” (p.237). Thus, corruption and ethnicity serve as survival strategies for the poor, while for the elites they serve as sources by which to plunder and exploit the nation for self-aggrandizement. See the Kenyan section dealing with corruption and fraud for further analysis of this important topic.

Funso Afolayan also provides a pertinent and comprehensive account of ethnicity in the African context. His argument captures the essence of the ethnic/tribal dilemma which is to be found within the Kenyan scenario. Afolayan posits the theory that:

Ethnic nationalism and tribalism are closely interrelated concepts. It is often quite difficult to differentiate them. Ethnic nationalism can be a positive commitment to the advancement of the interest of one's ethnic group without prejudice to the interests of others. But in its negative and extreme form it can become tribalism.

He further emphasises that:

Tribalism can be described as a kind of morbid loyalty and commitment to one's ethnic group at the expense of other ethnic groups. It is usually inward looking, ethnocentric and parochial in its exclusiveness. The ultimate objective is the survival, aggrandizement and supremacy of one's ethnic group, usually to the detriment of other groups. In its strategies it entails the appeal to and mobilization of ethnic consciousness and the use of ethnic favours and preferences as well as nepotism and corruption.⁷³

This is the major point for consideration. The mere existence of different ethnic groups is not necessarily cause for concern, in fact it merely adds to the richness and diversity of human cultures; but what is problematic is the manipulation of ethnic identities for political reasons, in which case ethnic loyalties and differences are used by politicians to ensure their continued dominance, (if they are from the ruling regime) or attempt to win the means by which they *may* dominate (if they are from the

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Afolayan, Funso, "Nigeria: A Political Entity and A Society" in *Dilemmas of Democracy in Nigeria* (eds Beckett and Young).

Opposition) and ordinary civilians attempt to gain access to resources to ensure their survival in a state that is characterised by scarcity of resources. (This point clearly relates to the argument portrayed earlier about the nature of “strongmen” and their usage of patronage and sycophancy to ensure their continued hegemonic advances despite the existence of inadequate sources). One can understand then, that it is *because* of such “morbid loyalties” that some regions of the world have been riven asunder by civil wars epitomised by ethnic chauvinism (tribalism), in both African (eg Rwanda, Congo, Sudan and Nigeria) and non-African countries (eg the former Yugoslavia, in particular Kosovo and Albania).

These succinct accounts (drawing from Piper, Bayart and Afolayan) will form the working definition of African ethnicity in this research. What is of importance is to note that ethnicity has instrumental relevance. While there is no doubt that different ethnic groups exist, and that there are anthropological and cultural roots behind the establishment thereof, it is their activation for instrumental purposes, namely gaining access to wealth or power or prestige which is of importance, especially in the African (and Kenyan) context. It is also clear that ethnicity, patron-client relations and corruption are inextricably linked and thus interwoven into the tapestry that makes up modern African politics, both of the ruling regime and the parties in opposition.⁷⁴

While the word ‘tribe’ is widely used in local African political discourse, as well as by some academics, it should be noted that on the whole, the word tribalism is regarded as racist and outdated. Where used in this thesis it will be quoted by other authors rather than by my own preference.

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(refer to Chapter Nine, which deals with the opposition parties in Kenya).

Chapter Three entails an analysis of the concepts of hegemony and civil society. It is thus fitting to mention at the closing of this Chapter, that ethnicity inhibits the development of civil society because it is based on collective identity rather than on a shared sense of accountability to the nation or of civic duty. As depicted by du Toit: “ethnic conflict threatens to dismantle civil society or to prevent its emergence”.⁷⁵ In other words, ethnicity negatively affects the potential for a hegemonic regime based on accord between the state and society. It also plays a part in preventing the democratization of society which is intrinsically related to notions of human dignity, respect for human rights, social justice and equity and a modern political order. The ethnic dimension in its politicized form can be a resort to pre-modern modes of governance. Ethnicity in itself is not a problem: cultural differences are to be celebrated for adding to the richness of diversity of a society, but when used for the purpose of diverting resources to a select favoured few, or to denigrate the rights of those who fall outside the realm of one group, they become the very perversions of a modern, accountable, hegemonic-democratic project.

75du Toit, *Civil Society, Democracy and State-Building in South Africa*, p.8.

CHAPTER THREE

HEGEMONY

The concept of hegemony is crucial to my hypothesis, in the main because, as the title suggests, I am seeking to show how the ruling regime in Kenya has sought to assert its hegemony, or at least has pursued it. I will reveal how the KANU regime failed to assert hegemony, because it did not rule by legitimate means and in fact its authoritarian and coercive *modus operandus* destroyed the potential for an authentic hegemonic project.

At a superficial level one would understand hegemony, to refer to strategies by which a regime attempts to ensure its continued survival and rule. However, hegemony at a strictly analytical (and philosophical) reading, is to be clearly distinguished from the notion of power. Power (in the political and state/regime/government sense), refers specifically to coercive might, whereas hegemony contains within it the notion of a non-coercive power: cultural and other normative modes of rule, which effuse throughout society and help to maintain the status quo. Cultural images, the role of language and the spread of ideas and information are thus profoundly associated with this broad notion of hegemony. More specifically, hegemony is related to the concept of “universalizing an idea”.

There are a variety of definitions of hegemony, the original term deriving from the writings of Italian philosopher, Antonio Gramsci, with the emphasis being on the role of intellectuals in distributing power relations within any given society. Gramsci’s definition of hegemony in his *Prison Notebooks* ,

refers to power as being deeply embedded in cultural and literary values, rather than in specific state institutions.

Hegemony consists of the ways by which the ruling class (and hence the status quo) are maintained, through the subtleties of language, ideas, values and norms which are distributed throughout a society.

The working definition which will be assumed in this thesis, taken from analyst Peter Gibbons, is that hegemony is *the capacity of rulers to secure compliance from the population through non-explicit coercive methods*.

The capacity of state authorities and ruling classes to establish hegemony in civil society depends on their record of political legitimisation and their ability to improve the quality of life of major sections of the population. Failures exacerbate the crisis of legitimisation, erode social hegemony and strengthen the forces pressing for democratisation.⁷⁶

Thus the key terms to bear in mind when thinking about hegemony are civil-society (non-state organs), delivery and legitimacy. What is also crucial for the pursuit of hegemony is a strong and effective state. The state must be the ultimate source of legitimate authority in the society. Because African states, together with other third world countries tend to be characterised as weak states with strong societies (also referred to as *weblike societies*)⁷⁷, there are myriad competitors for authority. In this context the weak state exists as but one source of political allegiance and loyalty and social control is fragmented between these rivals.

⁷⁶ Gibbons, Peter, p.48.

⁷⁷ This point was already made apparent in Chapter Two on the African state and the legacy of colonialism with the defining features being its weakness, overextended bureaucracy and ineffectiveness.

Compliance with the survival strategies of the state, instead of those advanced by competing social organisations, indicates effective social control and comprises the essence of the domestic hegemony of the state".⁷⁸

While on an intellectual and strictly philosophical level I would concur that the concept of hegemony is related to intellectual and super-structural factors, I wish to proffer my own hypothesis with which to analyse the Kenyan scenario: that the quest (rather than the realisation thereof) for hegemony by the KANU regime, consisted of coercive methods (including the use of military force, the fanning of ethnic violence, intimidation, and elimination of opponents), and non-coercive methods (the use of electoral rigging; refusals to restructure a colonial-inherited and anti-democratic Constitution; propaganda and the alliance of political and elite/business interests in the persual of dominance). The difficulty of pinpointing the source of the KANU regime's dominance is illustrated by the overlap and at times contradiction between class and ethnic factors.

It must be reiterated that while the KANU regime may have quested for hegemony, the quest failed dismally. By using illegitimate means to secure the *status quo* KANU created animosity between state and society. The failure to assert hegemony in Kenya is but one example of a problem which prevails throughout Africa. Fatton (*Predatory Rule*) illuminates this problem as follows:

The ruling classes exist in Africa but have yet to become hegemonic. They dominate more by threatening and using direct violence than by providing moral, material and intellectual leadership.

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Pierre du Toit, *Civil Society, Democracy and State-Building in South Africa*, p.3, with reference to Joel Migdal's (1988) *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World*.

Politics in Africa is not consensual but Hobbesian and the rule of the ruling class is not democratic but dictatorial. The absence of hegemonic ruling classes thus explains African despotism.⁷⁹

The key points then are that domination is not equivalent to hegemony and that coercive methods paradoxically undermine any potential hegemony, destroying genuine civil society which implies a notion of civic order.

I would also contend that there are three different quests for dominance at play in Kenya today: the political quest which constitutes the dominance of KANU in Parliament and over the Opposition parties as well as the predominance of Kalenjin in positions of political power, and on the other hand the quest for economic dominance, which is not necessarily linked to the ruling regime, but which is divided between elements within the regime and elements within the Opposition. This second dominant force then provides the potential for the incapacitation of the political system, but does not necessitate the establishment of a thoroughly reconstituted political and economic order. This will become very clear in my analysis of Opposition politics in Africa and in Kenya in particular. Ideally, for hegemony to be achieved, there would need to be a joint- operation between the questors of political and economic domination as well as leadership which (due to accountability, deliverance and effectiveness), is legitimate in the eyes of the people it is intended to represent.

Thus, class dominance may prevail despite the existence of regime transitions at a strictly political level. Of course it can be argued that the very fact that the opposition parties tend to seek to maintain the status quo, in other words merely to capture the state rather than to thoroughly transform it, implies a relationship between political and economic hegemony in terms of the state (rather than the regime or

⁷⁹

Fatton, Chapter Two "States, sites and hegemony". In *Predatory Rule*.

ruling party) and elite interests. This would imply some sort of hegemonic interface between the economic elite and state structures, but not particular regimes or government. In general, it is important to distinguish between the state as a structural edifice and government as the current leadership (in the case of Kenya - KANU). The force of anti-hegemonic movements, that is movements which seek not merely to enter the state but to radically transform it, would thus be constituted by organisations which emanate from civil society or which are popular protest movements. They are not necessarily related to elite interests but have the concern of the ordinary grassroots people at heart.

The complexity involved in ascertaining correctly where such organizations exist is not to be underestimated. One must analyse very carefully each organization in order to decipher agendas and decide whose interests they may be serving. It will become evident that while one might consider the non-governmental organisations to be genuinely counter-hegemonic in nature, they paradoxically, often work in partnership with the forces of hegemony. Then again it will become clear that within most organisations there exist parallel elements: hegemonic and counter hegemonic. The churches for example, epitomise this dilemma, whereby you will find certain categories such as the African Independent Churches being aligned with the KANU regime, and on the other hand the Catholic, Anglican and Presbyterian Churches playing a pivotal role in seeking to undermine it.

3.1 Civil Society

Because the concept of hegemony is inextricably related to that of the state and civil society, it is fitting that a discussion of civil society takes place at this juncture. The concept of hegemony and civil society are so much part and parcel of one another that it has been argued that:

A civil society can emerge only after the state has succeeded in drawing the entire population into a common jurisdiction, under a shared status of citizenship and a law which applies to all. Civil society thus presupposes the alliance of citizenship, which in turn pre-supposes the hegemony of the state.⁸⁰

The working definition of civil society which will be adopted in this thesis is taken from Fatton's *Predatory Rule*. Fatton's analysis of civil society cannot be divorced from his conceptualisation of both the state and hegemony. According to Fatton:

State and civil society in Africa form two ensembles of an organic totality, they are not distinct and opposite worlds but are dialectically integrated. This organic totality, furthermore, is comprised of three sites: ruling class formation, class disarticulation and subordinate class resistance. (A site constitutes an organizational space within which social actors mobilize their resources to exercise political power or protect themselves from the predatory reach of existing regimes).⁸¹

⁸⁰ du Toit, Pierre, *Civil Society, Democracy and State-Building in South Africa*, p.6.

⁸¹ Fatton, p.2.

He argues that while the state is the organ of public coercive force⁸² which organises the political domination of the ruling class and disarticulates the unity of the subordinate classes, civil society is contradictory; it is a contested space (which) simultaneously fortifies the upper classes dominance and yet offers some avenues for the collective expression of subordinate class grievances.⁸³ Civil society is thus interrelated with class, comprising both elements of the upper class (and hence with links to economic power, economic hegemony and attempts to maintain the status quo certainly in terms of the capitalist world order), and simultaneously (contradictorily) elements of the lower or subordinate classes who may have revolutionary and anti status-quo impulses.

Bratton and Van de Walle (*Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*) illuminate this dialectical interconnectedness between state and civil-society similarly, proposing that civil society is a useful concept for analysing political transitions in Africa.. "Civil society is a public sphere of collective action between the family and the state that coexists in a complex relationship of creative tension with the state." The essential argument is that:

Although political elites use the coercive apparatus of the state to dominate society, civil society manufactures the popular consent to legitimate the state's use of force. Most of the time, civil society plays the hegemonic role of providing an ideological justification for a given distribution of power; at other times, especially when political leaders neglect

⁸² Fatton, *Predatory Rule*, p.2 argues in relation to Poulantzas that: "While serving the interests of the ruling class, the state claims to embody the general interest, expressing particular corporate concerns as if they represented universal ones." However he adds that it is not a total fraud as it is finely grounded in society and reflects necessarily society's class relationship. These concepts are crucial to understanding Kenya's political situation in the 1990's, in particular the nature of the Opposition parties, the role of civil society and the nature of KANU's policies.

⁸³ Fatton, *Predatory Rule*, p.141.

to legitimate their rule, civil society can become a source of a counter-hegemonic social movements that occasionally are sufficiently strong to effect a regime transition.⁸⁴

Bratton and Van de Walle's contribution to one's understanding of state, civil society, hegemony and counterhegemony is undoubtedly powerful and incisive and complements Fatton's notions superbly.

Ayittey (*Africa in Chaos*), also offers a useful rendition of civil-society (although it is clearly American in orientation).

Civil society lies apart from the realm of government and market and possesses a different ethic. The market is dominated by the ethic of self-interest, while government is the domain of laws with all their coercive authority. Civil society, is on the other hand, the sphere of our most basic humanity. The ethic of civil society is defined by four C's: consensus, compromise, coexistence and cooperation.⁸⁵

Ayittey emphasises that the fundamental requirements for the existence of a thriving civil society are freedom of association and expression, freedoms which have clearly been sorely wanting on the African continent (and in Kenya). He also stresses the role of the middle classes in activating civil-society and acting as an important "catalyst of change". This relationship between civil society and the middle classes is important, because it relates to the notion of intellectuals as being important factors within civil society, but also inextricably related to the notion of hegemony (see below). This poses a philosophical dilemma whereby civil-society and the state may be autonomous yet may both share in aspects of hegemony in the state-society as a whole. Civil society is not merely a realm of the middle

⁸⁴ *State and Civil Society in Africa*, p.75.

⁸⁵ Ayittey, George, *Africa in Chaos*, p.309.

class but also includes the lower classes, the unemployed, the street children, the hawkers etc. They too can act as “catalysts for change” by bringing pressure to bear on the government of the day. Ayittey emphasises that the problem with the middle classes in Africa is that they have too often been keener on acquiring state benefits for themselves than acting as vibrant civil-society members, challenging the edifice of that state itself.⁸⁶

The problematic of civil-society in the African context is perhaps most pertinently alluded to in an article by Jeremiah Okoth Owiti. As he states:

A major challenge for African scholars for a long time has been to domesticate the notion of civil society so that it not only reflects African realities, but also rids itself of Western conceptions. Scholars readily admit that civil society in Africa is an arena of dynamism and cooperation and hence does not lend itself to designer concepts of civil society borrowed from liberal Western traditions.

This then adds another important point for discussion, whether there exists a universal notion of civil society or whether civil society in the African context is truly different from the Western medium? (One notes similarities here between the debate surrounding democracy/human rights as universally applicable or merely Western phenomenon?). Suffice it to say that civil society probably does exist in the African context as: “A wide range of associative, voluntary organisations - structured or unstructured which occupy the space interposed between the family and the state in which rules and

⁸⁶

This relates to Chapter Nine (Opposition politics and ethnicity in Kenya).

values are made and applied in society”.⁸⁷ However, this distinction may require some clarity, especially when one considers the dangers of supposing that any organisation which is not part of the state is automatically granted the status of civil-society. The term denotes specific characteristics, with an emphasis on the individual’s right to choose, on liberty and freedom. Cultural or religious organisations, may actually form lesser subsets of power and control over the individual, and may thus not be deemed fit to constitute (in the strict sense), civil society.

According to Gellner, in *Conditions of Liberty: Civil Society and its Rivals*, the concept of civil society was revived as a slogan as a direct result both of two factors. Firstly, the failure of Marxist/Stalinist ideologies (and together with the ideas, the collapse of the state systems constructed upon them) and secondly in the revival of liberal sentiments. With regard to the latter:

Now a new ideal or counter-vision, or at least a slogan-contrast was required, and appropriately enough it was found in civil-society, in the ideas of institutional and ideological pluralism, which prevents the establishment of monopoly of power and truth, and counterbalances those central institutions which might otherwise acquire such monopoly.

Later he adds the crucial observation that:

If we are to define our notion of civil society effectively, we must first of all distinguish it from something which may in itself be attractive or repulsive, or perhaps both, but which is radically distinct from it: the segmentary community which avoids central tyranny by firmly turning the individual into an integral part of the sub-unit.⁸⁸

⁸⁷ Owiti, Jeremiah Okoth, “Five African Countries in poverty review”, *Daily Nation on the Web*.

⁸⁸ Gellner, E., *Conditions of liberty: civil-society and its rivals*, pp .8-9.

Clearly what he wishes to emphasise is that civil society is not necessarily constituted of anything outside the strict parameters of the state; rather it is that region where modernity prevails, where parochial sub-set norms are foregone, for the notions of civic order, democracy, human rights, and equality. Thus, any organisations or values which emphasise ethnic or tribalistic value systems are not intrinsically related to the notion of civil society. It will become apparent in the Kenyan context, that until the prevalence of ethnic and tribal values subsides, the strength of the embryonic civil society will not assume a fully fledged counter-hegemonic position.

The argument put forward by Chabal and Daloz, (*Africa works; Disorder as Political Instrument*) mentioned above, deserves re-iterating: namely, that the distinction between state and civil society in the African context is very difficult to determine. Specifically, they have posited the argument that the notion of civil-society, strictly as an arena distinct from the state, does not exist in the African context. (Other scholars have, in like vein surmised that the 'state' does not exist in the African context. Alas for semantics and analytic clarifications). They insist: "There is very little scope for conceptualizing politics in Africa as a contest between a functionally strong state and a homogeneously coherent civil society". Furthermore, they insist that, only when there exists a strongly differentiated state, is it plausible to speak of a 'counterhegemonic' civil-society. They argue that this occurred in Europe, but that contemporary Africa is historically so different, it cannot evolve similarly. Their argument is not entirely convincing, because the rise of popular protest movements in Africa, similarly to those in Eastern Europe, (albeit on a lesser scale), does appear to signify the existence of a degree of civil-

society in the African context. There are organisations that are intrinsically independent of the state. In particular, I think of organisations such as the Greenbelt Movement in Kenya, Drama and Music Societies (that can promote dissent through artistic venues).

I believe that Chabal and Daloz fail to acknowledge the significance of the embryonic civil-society in Africa (and hence Kenya), today.

3.2 The Hegemonic Drive and Counter Hegemony

The notion of hegemony cannot be divorced from the dialectics of its counterpart and opposite force, counter - hegemony. The two are inextricably linked. In *Power in Africa*, Chabal argues that:

What is important for Africanists is Gramsci's emphasis on the notion of hegemonic drive as the attempt by elites and counter elites to link economic and political power ... such that the strategies for hegemonic drive take two forms: 1). Capturing and penetrating the state and 2). Establishing a counter or parallel hegemonic project to rival and challenge the state.⁸⁹

This is important for understanding how hegemony is not necessarily evidenced only at the state level, or that of the ruling regime, but has its manifestations in *networks of elite power* which may be evidenced within opposition parties, business organisations and other organisations. Specifically, hegemony is *inevitably related to the intellectuals* of society, that is, those who provide the norms, values and ideas by which the members of that society would (at least in theory) experience their

reality. Thus, intellectuals both from within the ruling regime and from without, may be equally involved in the maintenance of a hegemonic order. The class aspect to this understanding cannot be ignored for it implies that the elite classes have common interests despite their seemingly diverse goals.

This would make it clear why opposition politics in the African context has often failed to invest in the interests of the poor and marginalised so much as to merely promote a new agenda with similar class interests. As Chabal (*Power in Africa*) so aptly depicts it: "Involvement in counter-hegemonic politics is more often a campaign to return to power than a serious attempt to overturn the existing political order".⁹⁰

I contend however, that there are elements in the counter-hegemonic movement to whom this definition does not apply. For instance: groups that are not necessarily related to the elites in the society or organisations who work on a non-profit basis; ordinary civilians' protests; street theatre and musicians' protesting; students; rural women's groups; ordinary people protesting at government 's failure to implement changes so as to improve infra -structural conditions for the people (as in Kenya March 1999 with riots in some towns over the state of the roads and transport system). I believe these low scale protests are evidence of a counter-hegemonic drive, which does not have the aim of penetrating and overcoming the state, but rather of subtly gnawing away at the very power with that edifice upholds.⁹¹

Another important factor reiterated by Chabal, (*Power in Africa*) is the relationship between legitimacy and coercion, which are, in essence, diametrically opposed. This is highly relevant in the African (and

⁹⁰ Chabal, "the Dialectics of the Hegemonic Drive", in *Power in Africa*, p.228.

⁹¹ (Refer to case study Chapter on civil society and popular protest).

Kenyan context), where the ruling regimes have resorted to force because their power has been eroded. (Other authors, such as Chazan (*Politics and Society in Contemporary Africa*) and Mamdani (*African Studies in Social Movements and Democracy*) emphasise the weakness of the post-colonial African states).

Chabal (*Power in Africa*) argues that: "Since, when power is eroded it either dissipates altogether or turns to force, it is not altogether surprising that the level of coercion and violence should have increased in the post-colonial Africa." However, he also notes that, while "an increase in state coercion and violence may deter overt counter-hegemonic politics, it will not restore state power or regime legitimacy".⁹²

I believe that the perspectives of Gibbons and Chabal prove invaluable to an understanding of the political scenario in Kenya both before the 1997 elections and thereafter. It can clearly be seen that, despite the state's attempt to use coercion and violence to deter the anti-regime movement there is sufficient evidence that many people regard Moi and his coterie as completely illegitimate. This is how the vicious cycle continues: the state uses its strong arm to quell dissent or rebellion thus asserting its' power (in the strictly military sense), yet the unintended consequence is to destroy legitimacy and thus erode hegemony (in terms of social and intellectual power). It will be recalled that in the section dealing with patrimonialism and other associated concepts, I highlighted the potential relationship between "strongmen" and state collapse. Where a strongman resorts to coercive and illegitimate modes of rule, he is likely to play a pivotal role in contributing towards the collapse of the state.

CHAPTER FOUR

DEMOCRACY AND DEMOCRATIC ELECTIONS

Democracy: a tentative search for definitions.

Because the word democracy is a fundamental concept which is referred to throughout this thesis, it is clearly imperative that a thorough exploration of its normative and empirical roots be embarked upon. My hypothesis is such that I will try to associate the concept of hegemony with that of democracy. I will argue that what Kenya needs is a hegemony based on substantive democracy. The state needs to be democratic and the society needs to be democratized. When state and society work in tandem, hegemony will prevail, and although an authoritarian hegemony is possible, it is not ideal. Thus, a democratic hegemony is the ultimate goal.

From the outset of this chapter I would like to emphasise, as will already have been made apparent in my exploration of the nature and history of the African state (Chapter Two), and quoting from the renowned Nigerian writer, Claude Ake: "Looking at the post-colonial state we have seen that it must be *transformed* to make democracy possible. Electoral contests for the control of this state are not really exercises in democracy, for they merely determine who will run an *inherently undemocratic* political system".⁹³ This notion ought to be born in mind, while we discuss the analytical and empirical roots of the concept: 'democracy'. Again it will come up in the Kenyan Focus, where I will indicate that, until the Kenyan state itself is radically transformed, no regime change will succeed in ushering in democracy or authentic hegemony.⁹⁴

⁹³ Ake, Claude: "The Democratisation of Disempowerment in Africa", p.86.

⁹⁴ Hegemony = the realisation of an accord based on the concept of legitimacy between state and society.

Although there is an abundance of literature dealing with the concept of democracy, it is important to distinguish between its original meaning and the meanings it has acquired with time. This is due to the fact that the term has become a useful tool to a variety of political regimes who wish to legitimate their rule.

The word democracy was coined during the time of Greek city states and refers etymologically to *the rule of the people*, “demos” meaning the people, and “kratia”: rule of. It implied direct rule within the context of small, homogenous political groupings. In the modern era it refers to indirect rule, by elected representatives claiming to represent “the people”. In essence it “is a form of regime whose legitimacy derives from the principle of popular sovereignty”.⁹⁵ Abraham Lincoln defined it as “government of the people, by the people and for the people”.⁹⁶

Essentially a visionary ideal, democracy has become synonymous with the quest for freedom, justice, equality, and the liberation of humanity from all forms of servitude, injustices, discriminations and humiliations. However, in the modern era, not only is there no agreed definition for democracy at a *practical* level, but the attempt to make one is resisted from all sides, such that the defenders of any kind of regime claim that the regime is democratic. At the same time, the opponents of any given

⁹⁵ Bratton and Van deWalle, *ibid*, p.9.

⁹⁶ Oyugi and Odhiambo, *Democratic Theory and Practice in Africa*.

regime accuse *them* of being undemocratic.⁹⁷ A wide variety of political systems insist that they fall under the mantle of democracy. These include multi-party democracies, single party rule, direct or indirect elections, simple or absolute majority rule.

It is apparent then, that, democracy has become both a universally accepted ideal, and, at the same time, a useful ideological weapon in the hands of rulers wishing to legitimate their regimes.⁹⁸ To reiterate, although the concept has its clearly defined philosophical (metaphysical and idealistic) roots, it is difficult to locate democracy in the real world. How does one actually measure democracy, how does one argue that one state is democratic while another is not? Makinda has a useful theory that offers some respite from this terminological dilemma. He maintains that democratic or undemocratic states/regimes are a matter of degree and that between the two extremes, the reality is a continuum along which can be situated all the varieties of social, political and economic regimes".⁹⁹ Thus, one can argue that one state is more democratic than another, rather than that 'this is a democratic state or this is not'.

There are nevertheless fundamental characteristics necessary for a state to be deemed 'democratic' (to whatever degree, lesser or greater).¹⁰⁰ I will offer some tentative suggestions for such a framework as gleaned from some of the literature. According to Oyugi and Odhiambo in their *Democratic Theory*

⁹⁷ Oyugi and Odhiambo (Chapter on *The Meaning and Foundations of Democracy* by Afrifa K. Gitonga).

⁹⁸ Also of organizations, such as NGO's who wish to legitimate their existence with the 'holy mantle' of democracy. See section on NGO's under the case study.

⁹⁹ Makinda, *Democracy and Multi-party Politics in Africa*.

¹⁰⁰ See Oyugi and Odhiambo.

and *Practice in Africa*, the core factors which are necessary for a state to be deemed democratic include:

1. Infra structural/material factors

The above authors argue that in order for a country to be democratic, it must have a healthy economy which can meet the people's needs as well as their social and material well-being. This enables the governed to be governable. For democracy to be achieved, it is argued, a country needs a stable currency, low inflation, high employment and a growing Gross Domestic Product. By implication, a weak economy is disastrous for the prospects of a sustainable democracy.¹⁰¹ The key point here is sustainability. It is quite simple to have transition from an authoritarian regime to a democratic one - in the sense that one holds multi-party elections. But this is merely one step of the process and constitutes what is known as 'procedural democracy'. Substantive democracy implies sustained, long-term democracy which goes beyond the ballot box to the social and economic realities of the citizens.

The interrelatedness of economic and democratic factors in the quest for democracy is much debated in the literature on democratic states, democratic transitions and democratization. Although some authors contend that political democratization *can* occur without its economic equivalent occurring beforehand,¹⁰² most are of the opinion that political democracy cannot flourish, certainly cannot be sustained, in a state of poverty.

¹⁰¹ Oyugi and Odhiambo.

¹⁰² Georges Nzongola Ntalaja in *The State and Democracy in Africa*, for example, argues that: "The democratic situation cannot be held hostage by the economic situation democracy as a moral imperative, a social process and a political practice is not incompatible with low levels of economic development".

2. Techno structural/institutional factors

According to Oyugi and Odhiambo, at the technocratic level, state institutions need to be open, transparent and accommodating to inputs from individuals. Elections are the principal and necessary condition of democracy, enabling citizens to choose and remove leaders.¹⁰³ The secret ballot is of fundamental importance in insuring accountability. Thus, elections where the secret ballot is disallowed (such as in Kenya in the late 80's when the queuing system was adopted), would not be deemed democratic.

3. Superstructural/human relations factors

Democratic behaviour is not in-born, but needs to be taught and acquired as a value of cultural importance through socialization. The extent to which a country is democratic can be seen by the extent to which a democratic ethos has taken root in it. It is argued that : “the degree of democracy in any given society is directly proportional to the degree of acculturation of the people in democratic values, attitudes and beliefs”.¹⁰⁴

It should be apparent that democracy is not merely about having the right structures and rules in place to allow for representation of the people by elected leaders, but is inextricably linked to the organs of civil society and ordinary people's attitudes towards social relations (this is important when we consider the Kenyan case study and will ask to what extent civil society there has been pervaded by a democratic ethos?) I believe it is important to consider all three levels in this tier, when considering whether a state qualifies as democratic or not. Certainly, I am of the opinion that if for example, one compares

¹⁰³ Bratton and Van de Walle, *ibid*, p.13.

¹⁰⁴ *Ibid*.

Kenya with South Africa, it appears that the democratic ethos is more evident in the latter because South Africans have been exposed to more educational projects teaching them about democracy. In Kenya, the National Convention Executive Council has attempted to teach ordinary citizens about their constitutional rights and what democracy entails, but they are severely restricted by the regime's interference. Also, South Africa's Constitution and the Truth and Reconciliation Commission have done much to promote a culture of human rights and respect for the dignity of the individual. This is the core of liberal democracy.

Other useful working definitions of democracy are provided in Horowitz' *A Democratic South Africa? Constitutional Engineering in a Divided Society*. It would be well to refer to two of these examples.¹⁰⁵ Firstly, according to Robert Kaufmann, "Democracy is a political system characterized by competitive elections, civil liberties and the toleration of significant 'loyal oppositions'". For Kaufmann, the emphasis is simply on the political or infra - structural dimension of democracy. Many political scientists (especially those of American orientation) seem to focus solely on this dimension. Giovanni Sartori however, describes democracy as:

A system of government that meets three essential conditions: 1. Meaningful and extensive competition - among individuals and organized groups for all effective positions of government power, at regular intervals and excluding the use of force; 2. A highly inclusive level of political participation in the selection of leaders and policies at least through regular and fair elections, and 3. A level of civil and political liberties -

freedom of expression, freedom of the press, freedom to form and join organisations sufficient to ensure the integrity of political competition and participation..¹⁰⁶

Georges Nzongola Ntalaja's rendition of democracy also consists of a three-pronged approach and offers a broad-based account, covering the moral, social and political dimensions of the concept. As a moral imperative, Nzongola Ntalaja defines democracy as a permanent aspiration of human beings for freedom, for a better social and political order, one that is more human and more or less egalitarian. It is a basic human need, a necessity he stresses. As a social process, Nzongola Ntalaja defines democracy as a continuous process of promoting equal access to fundamental human rights and civil liberties for all. The state must be able to satisfy both the material and spiritual needs of its citizens (superstructural level above).

He argues that: "The democratization process currently underway in Africa is a logical consequence of the non-fulfilment of the expectations of independence for material improvements in people's lives". Thus, where the economic aspect of democracy is not fulfilled, people will express their dissatisfaction. Nzongola Ntalaja's third dimension of democracy as political practice is succinctly outlined and is one of the most useful formulations of this dimension which I have encountered. Firstly, he argues that, for a state to be democratic, there must exist the idea that legitimate power or authority emanates from the people, who exercise it either directly (through popular assemblies eg the African Palaver) or via delegation (this would epitomise the notion of hegemony); secondly, he maintains that the state must be organised around the concept of the rule of law : that is, that leadership cannot be arbitrary but must be accountable; thirdly he advocates the principle that rulers ought to be chosen by and accountable to the people; fourthly (the most reiterated point in all the literature of democracy), he emphasises the right of

citizens to participate in the management of public affairs through free, transparent and democratic elections, including the independence of civil-society from the state.

Finally, but very importantly (especially with regard to African states), the right of people to change a government that no longer serves their interests, or the right to revolution, is also a vital component of a democratic order.¹⁰⁷ This final right is obviously of great interest when thinking of the Kenyan scenario. Would some of the opposition forces consider themselves to have a right to revolution? Would they be able to implement this right effectively? How would the right to revolution interfere with the other prerogatives of a democratic state: such as respect for human rights? Would the revolutionaries have the “democratic” right to kill or detain or punish the previous regime?

The debate about what characterises an African state has also included whether such characteristics (pertaining to democratic states as discussed above), are fitting to the African context. Is it feasible to expect Africa to adopt democratic modes of governance? It has been argued that:

For some, democracy is an alien phenomenon that is being imported into a society whose culture places more emphasis on the community than on the individual, and is therefore incapable of internalizing liberal democratic values. For others, the economic preconditions of democracy, which include a solid middle class, are still absent in much of Africa.¹⁰⁸

¹⁰⁷ Horowitz, D. *A Democratic South Africa*, p.242

¹⁰⁸ Georges Nzongola Ntalaja, *The State and Democracy in Africa*, p. 10

However, all these arguments are perhaps meaningless because: “Africa is a repository of human values that are fully compatible with the very foundations of democracy as a political concept. We cannot import or Africanize democracy because the latter is something that is universal”.¹⁰⁹

This is the key issue. While the original semantics of the word “democracy” might exist in the West, the concepts and values which it embodies are argued to be worthy of universal recognition. Furthermore, African history itself is not without examples of governance akin to democracy.

4.1 Pre-colonial African Democracy?

A discussion of pre-colonial African modes of rule is both fitting under the section dealing with the state in Africa as well as this theoretical chapter on definitions of key terms, democracy in particular. George Ayittey, in his controversial *Africa Betrayed*, relates in detail how traditional African rulers depended on consensus from their supporters and tolerated alternative viewpoints. He quotes from Archbishop Desmond Tutu who says that: “In traditional Africa, a chief was a good chief because he could work out a consensus, and the consensus arose because people had different points of view”.¹¹⁰ These factors (consensus and tolerance), are fundamental to the notion of democracy. It is thus a term which does not originate (certainly in its practical manifestations; I am not talking about its linguistic origins in Greece) in the West alone. Ayittey argues sensibly that African leaders should consolidate the wisdom of their predecessors to expand upon their knowledge of how to implement democratic practices in Africa. As an Africanist I believe that a knowledge of Africa’s history and pre-colonial

¹⁰⁹ Georges Nzongola Ntalaja, *The State and Democracy in Africa*, p.10.

¹¹⁰ Ayittey, G.B., *Africa Betrayed*, p.228.

modes of governorship is essential in order to promote a holistic understanding of the concept of democracy across the dimensions both in time and place.

Ayittey provides an indigenous *African Constitution* which he derived from oral tradition and customs. It is a fascinating account and helps dispel many of the myths about pre-colonial African rule. One might recall that the colonialists argued Africans had no history or society or politics because they had no written constitutions. The opposite was in fact true. They were often highly organised societies, with carefully designed methods of ensuring social harmony.

I should emphasise that Ayittey is just one of many scholars who have explored this return to indigenous African modes of rule as a basis for understanding the applicability of western, liberal democracy (also referred to as procedural democracy) to the African context. Other authors who deal with this theme include Christopher Clapham, (*Third world politics: An Introduction*) Rothschild and Chazan (*The precarious Balance: State and Society in Africa*), Amilcar Cabral (*Unity and Struggle: Speeches and Writings*) and Basil Davidson (*Modern Africa: A Social and Political History*).

Cabral alludes to this theme when he refers to the cultural wealth which is to be found in Africa. He argues pertinently that:

The time is past when it was necessary to seek arguments to prove the cultural maturity of African peoples. The irrationality of the racist 'theories' of a Gobineau or a Levy Bruhl neither interests nor persuades anyone but racists. Africa has been shown to be one of the richest continents in cultural values..across the immensity of the African continent's natural conditions, the culture of African peoples is an undeniable fact. In works of art as in oral and written traditions, in cosmogeny as in music and dances, in

religions and creeds as in dynamic equilibrium of economic, political and social structures that African man has been able to create.¹¹¹

I maintain that this regard for the cultural wealth in Africa is inextricably related to the quest for an African democracy or an African Renaissance. It is this source of accumulated wisdom and values, which can contribute towards the realisation of working political systems in modern Africa. Basil Davidson however, warns against a regressive mode of historical digging, noting that “Africa shouldn’t return to the past”, rather it “should reconsider its traditions and recall its old principles of statecraft”.¹¹² This is an important compromise between avoidance of modernization, together with an appreciation of the wisdom to be attained from history. Thabo Mbeki’s revival of the concept of an African Renaissance as poetically written in his *The Time Has Come*, is perhaps the most recent and well-written account of such a political exercise.

Not only does Mbeki urge a recalling of age-old traditions, equally he calls on modern African Intellectuals to give their utmost to the Continent in terms of brain power and creativity.

Africa’s renewal demands that her intelligentsia must immerse itself in the titanic and all round struggle to end poverty, ignorance, disease and backwardness, inspired by the fact that the Africans of Egypt, were in some instances two thousand years ahead of the Europeans of Greece in the mastery of such subjects as geometry, trigonometry, algebra and chemistry.

¹¹¹ Cabral, Amilcar *Unity and Struggle: speeches and writings*, p. 148

¹¹² Davidson, B. *Modern Africa: A Social and Political History*, p. 265.

And then his final, uplifting and heartrending plea that: "To be a true African is to be a rebel in the cause of the African Renaissance, whose success in the new century and millennium is one of the great challenges of our time."¹¹³

As a final point in relation to this discussion of democracy, it is worthwhile to reiterate the perhaps cardinal feature which democracy should entail: Participation. After all, the pivotal theme has always been one of representation of the people by freely elected representatives or leaders. However, the process cannot end merely once the leaders have been put into positions of power. The important thing is that there needs to be a constant and dynamic process of feedback, discussion and debate between ruler and ruled, leaders and led. As Steve Biko framed it:

In a government where democracy is allowed to work, one of the principles that are normally entrenched is a feedback system, a discussion between those who formulate policy and those who must perceive, accept or reject it. In other words there must be a system of political education.¹¹⁴

This is why civic education campaigns and informing the populace about political matters, such as the Constitution and how it functions, in conjunction with the eradication of propaganda (which would distort the availability of free information to be channelled to the public) are quintessential to the realisation of the democratic ideal. The ballot box alone is hardly sufficient, and in fact, may in some instances merely serve the purpose of legitimating an unjust regime.

¹¹³ Mbeki, Thabo, *The Time Has Come*, p.299-300.

¹¹⁴ Mail and Guardian, June - 1999

The major point therefore, as discussed above, is to analytically distinguish between what is termed procedural democracy (ballot-box elections) and substantive democracy (genuine democratization of the entire society, thus including not only political but economic and cultural rights too). Substantive democracy it should be noted, was categorically defined at the 1990 *Arusha Conference on Popular Participation and Development*, at which African states committed themselves to the development of grassroots and participatory, people-driven democratic processes. This cardinal feature, participation, and the related features of feedback systems would clearly assist in implementing durable hegemony. It is the very lack thereof, that will be seen to have caused the failure not only of the quest for hegemony, but also of the flourishing of a democratic society in Kenya. However, it will be highlighted that there are certain positive trends which point towards the realisation of a democratic project. Some of these would include (albeit limited in freeness and fairness) the holding of multi-party elections; the increasingly vociferous criticism emanating from the print-media; continued mass protests arising from the campaigns of the National Convention Executive Council's Programs; evidence of the flourishing of counter-hegemonic organisations and the growth of an embryonic civil-society. These all bode well for substantive democracy. However, the failure by the regime to radically change, particularly in terms of the outdated and minimal Constitution; its continued adherence to patrimonial norms, allowance of an incumbent and corrupt leader to maintain supreme rule, and disallowance of the right of the people to revolution, together with its coercive, violent, manipulative and elitist agendas does not portray an easy road for a democratic hegemony to emerge.

4.2 Governance

A related term to that of democracy is "governance", a term which is frequently cited by political scientists, but more particularly is linked to IMF and World Bank political conditionalities whereby

they impose the requirement of “good governance” in order for donor aid to flow into the African continent. The ideological imperatives of this term cannot be denied. It is inextricably linked to the call for “multi-party democracy”, economic liberalization and the implementation of market capitalism.

These ideological imperatives thus make it dubious whether the term “good governance” really means good for grassroots Africans or, alternatively, good governance in the interests of the Western, capitalist forces and the elites within the continent itself.¹¹⁵

¹¹⁵ See for example Chabal and Daloz' *African Works: Disorder as Political Instrument*, p.22: “Western donor countries, following the lead of the World bank and the IMF have become increasingly concerned by the inability of governments in Africa to manage the economy and promote growth. They have advocated a diminution of the role of the state, and structural adjustment programmes have accordingly sought to curb the economic reach of the state on the continent.” It should be noted that “good governance” is associated then with a reduced state but an emphasis on ‘civil-society’; hence the growth in non-governmental organisations and their support from the Western powers.

“Governance” is essentially a Western concept referring to: “the development of legitimate authority based on a generalized normative consensus that fosters and regulates a communitarian web of reciprocal relations between rulers and ruled”.¹¹⁶ Generally, the term governance is analytically equated with that of democracy. Good governance is regarded as the application of democratic norms and procedures in society, that is rule by law, free and fair elections, and the fundamental rights of freedom of speech, association, assembly and others. It is undoubtedly related to the quest for efficient and legitimate government, one that is characterised by a streamlined rather than bloated bureaucracy; respect for the rule of law; transparency and accountability. These factors of good governance have clearly not been achieved in Kenya today as will be revealed in the Kenyan Focus.

As mentioned above however, the concept’s linkages with capitalist ideology, Western interests and the prevailing growth of market forces, cannot be denied. The irony is that corrupt African elites may use this argument (the ideological basis of the term “good governance”), to justify their failure to implement authentic good governance.

Obviously, if one takes the term at face value it would imply a government that is functional, ordered, efficient, law-abiding and acting in the interests of its citizens. Devoid of its ideological background, “good governance” is clearly a worthy goal for any state to strive for.

4.3 Constitutions and Constitutionalism

Democracy, governance and constitutionalism are related concepts, particularly as they all have in common the notion of respect for the rule of law. Thus, their emphasis revolves around the common

¹¹⁶ Fatton, *Predatory Rule*, p.142.

notion that the legal system should be above the whims of the person or persons in office, a feature which,¹¹⁷ is to be found in neopatrimonial African States.

In this sub-section, I will discuss Constitutionalism because it is crucial to an understanding of what is necessary in Kenya in order for the consolidation of democracy to be achieved and the quest for hegemony¹¹⁸ to be attained. Part of my hypothesis is that the fundamental site of the counter-hegemonic forces in Kenya lies within the Constitution itself: in other words in the people and organisations clamouring for it to be radically altered. The National Convention Executive Council and the Constitutional Review Commission will be discussed¹¹⁹, as crucial components of this site of struggle.

These two organs are attempting to revive that cardinal feature of democracy: participation, and thus to encourage state-societal accord. Their members believe in the validity of civil society, civic rights, human rights, the rule of law, and modern democratic governance. It is also worth mentioning at this juncture that lawyers, in particular those of the Kenyan Law Society, have proffered a bastion of non-state authority throughout both the Kenyatta and Moi era. In fact it could be argued that the lawyers have served to make Kenya in some ways different to some of the other African states such as Zaire which were markedly monolithic and totalitarian. Kenyan lawyers have albeit to a limited degree, served to sanction and curb the KANU regime's quest for hegemony. As Jennifer Widner posited it: "Kenyan lawyers held greater bargaining power than most of the economic associations because of professional and International ties". However she hastens to admit that: "they had very limited powers

¹¹⁷ as discussed in Chapter Two

¹¹⁸ By which I imply state-societal accord as discussed in Chapter Three

¹¹⁹ (in Chapter Sixteen)

too”.¹²⁰ Hence the detentions of the likes of John Khamimwa, Koigi wa Wamwere, George Anyona, Gibson Kamau, Gitobu Imanyara and others.

It is important to distinguish what Constitutionalism has come to mean in the West and how it has been utilised in Africa. Okoth Ogendo makes this distinction apparent when he argues in *Constitutions without Constitutionalism: Reflections on an African Political Paradox*, that: “The paradox (in Africa) lies in the simultaneous existence of what appears to be a clear commitment by African political elites to the idea of the Constitution and an equally emphatic rejection of the classical or at any rate, liberal democratic notion of Constitutionalism”.¹²¹

It is thus apparent that similarly to the acceptance by African elites of the sovereign state as a useful tool for their own gratification, the notion of a Constitution could also be manipulated for their own benefit, rather than be put to use for authentic reasons. Western Constitutions were intended to limit state power: that is to curb the personal preferences of elites such that they would abide by a construct of laws: in other words “the rule of law”. However, African leaders, it has been argued, used Constitutions not to limit their power but to facilitate their neopatrimonial and corrupt ways. Thus, an understanding of the crucial necessity for reforming outdated and colonially-based Constitutions in Africa is imperative for the democratic quest in Kenya (as one example among many African States).

¹²⁰ Widner, Jennifer, *From Harambee to Nyayo: The Rise of a One-Party State*, p.189.

¹²¹ Greenberg, *Constitutionalism and Democracy: Transitions in the Third World*, p.66.

Kenya's Constitution, as argued above, is the pivotal site of the democratic struggle. Unless the Constitution is radically altered, such that the President is subject to the law rather than being above it, (currently Moi is still an Imperial President¹²² and is thus immune to the legal process), there can be neither democracy nor authentic hegemony. It will be revealed below, that the National Convention Executive Council which is the major counter-hegemonic force in Kenyan society today (and prior to the 1997 elections), had as its major goal the need for Constitutional reform. The council succeeded in achieving some of their requests, such that eleven of the old colonial laws were repealed immediately prior to the 1997 elections.

However, the fundamental flaw in the Constitution which keeps Moi above the law remains in place. Hence the pivotal importance of the Constitutional Review Commission, currently underway and the fundamental necessity that this Review be open to the public. It is this request that is being championed by the NCEC and Opposition parties in 1999, as they realise that ordinary Kenyans and Constitutional reordering are imperative to the ushering in of a new political order in Kenya, where democracy, good governance, rule of law, a revived civil society and Constitutionalism work in tandem. The old methods of partrimonialism and authoritarianism will have to be systematically eradicated so that the Kenyan state's claims to sovereignty are legitimate. Because legitimacy is pivotal to the hegemonic aspiration it is only by this means that the state will succeed in its quest for hegemony. It is also

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The three main features of Imperial Presidency (which is clearly akin to the concept of neopatrimonialism) are: 1. Supremacy of the Office of the President over all organs of government; 2. Immunity of the President from the legal process while in office, and 3. Indefinite eligibility of a President for re-election, using the mystique and alleged sanctity of the president as the rationale for their incumbency in tandem with the theory that the masses can only understand government as personified or embodied by one person(man?). Clearly this is Messianic-complex based. See Ogendo, Okoth: "Constitutions without Constitutionalism: Reflections on an African Political Paradox", p.67 in Greenberg, *Constitutionalism and Democracy*.

because of the importance of Constitutions that this was the clarion call made by the Opposition at the time of the 1992 elections, and again more thoroughly at the time of the 1997 elections: that elections ought not be held (or if they were held they would be null and void) prior to thorough Constitutional changes.

4.4 Liberalization and Democratization

The concepts of liberalization and democratization are also vital analytical tools for the analysis of African states and Kenya in particular. These terms are intrinsically akin to the related notion of *procedural versus substantive* democracy, and to the difference between the mere holding of multiparty elections versus the actual democratisation of society, which implies the visionary goals mentioned above.

An understanding of these two terms is best gathered from a reading of Bratton and Van de Walles' *Democratic Experiments in Africa*. These terms are analytically autonomous yet complementary political processes which may occur sequentially or simultaneously in a society. Liberalization is the political process of reforming authoritarian rule and does not assume an end result of stable democracy. It would include the kind of reforms made by regimes wishing to placate their subjects into accepting their continued rule.¹²³ Liberalization is thus an intermediate phase of transition that occurs between the onset of protest and the emergence of a new regime.

Democratization however, is a broader, more genuine transformation of society, rather than the mere replacement of an incumbent leader or the installment of multiparty political structures. For

¹²³

For example, acceding to the holding multi-party elections, as in Kenya, 1992, after increased pressure from multi-national financial institutions and human rights advocates was a good example of liberalization.

democratization to occur there must be a sound economy, a free civil-society (including an open media),¹²⁴ and an acceptance by the citizens that democratic values are worthwhile. The trajectory is protest, liberalization and then democratization. (In order for a society to transform itself from being authoritarian to being democratic it would have to undergo this process).

In my opinion, liberalization is on a par with the strictly liberal Western notion of democracy, with its emphasis on the holding of multi-party elections as being the prerogative for democracy to exist, while democratization would refer to a more socialist notion of democracy, incorporating the utopian, visionary ideals for a more just and egalitarian society, with an emphasis on popular participation. It is democratization, and the socialist vision which calls for revolutionary and fundamental change of the status quo in African states.¹²⁵

¹²⁴ See discussion on the role of censorship/free press in Africa and Kenya in Chapter 12.

¹²⁵ It is this quest which I propose to assess in the Kenyan context: that is to what extent is there a potential for authentic democratization within the context of an incumbent who has overextended his tenure of office and a regime that has acceded to liberalization merely to appease its opponents? How can political space be craftily manoeuvred by the counter-hegemonic forces, by civil society (however it may appear in the African context), and by forms of popular or informal - protest?

4.5 Regime Transitions

Given that the notion of democracy is so often related to discussions of transitions from authoritarian rule to democratic rule, the concept of transitions also deserves brief mention.¹²⁶

Bratton and Van de Walle provide detailed analysis of what offsets regime transitions, what maintains them, and what conditions favour the maintenance over the long term of a stable democratic regime. A transition is obviously a move from one form of regime to another, whether military to civilian for vice versa, or democratic to authoritarian or vice versa. A transition does not necessarily imply the movement to a better mode of government, however it is often presumed to imply a transition from authoritarianism to democracy.¹²⁷ It is important to note that Bratton and Van de Walle emphasise the peculiarity of African transitions as being intrinsically related to their fundamentally neopatrimonial character. As they proffer: "In the institutional context of neopatrimonialism, regime change is more

¹²⁶ In the Kenyan scenario we need to ask whether there ever was a transition from authoritarian rule to democratic rule, or whether in fact there was merely a continuation of authoritarian rule: following from British colonialism to the Kenyatta regime to Moi's one-party state and then his multi-party system. It seems likely that all these phases of Kenya's history were merely different mutations of the same authoritarian state, *albeit* with slightly different faces. The genuine transition from authoritarianism to democracy is yet to come. It is my hypothesis that this transition is currently under way at the time of writing. An embryonic revolution is being actualised as is evidenced by increasing dissatisfaction with the regime, the rise in popular protest movements, the vociferously critical nature of journalists, and the power of the common people to engage in strikes and mass action to protest against the incumbent and non-democratic KANU regime. It is imperative that the new regime consists of radical politicians as well as a variety of interest groups and social classes who do not seek merely to replace the old state leaders, but to radically alter the very nature of the Kenyan state itself.

¹²⁷ Their analysis could prove vital to a potential forecasting of the prospects for the Kenyan regime, and an attempt to locate where Moi's government and society currently fall in terms of this trajectory.

commonly driven from below through mass political protest than initiated by incumbent state elites”¹²⁸

This is the fundamental point about African change, or transition from procedural to substantive democracy (liberalization to democratization). It is not likely to be initiated by the elites themselves.

It should also be noted that there are a variety of political options which African states may follow. Apart from democratic outcomes of a transition, there are also precluded, blocked and flawed transitions.¹²⁹ Unfortunately, most of the evidence in developing countries, Africa included, points to the fact that the majority of emerging democracies are flawed. They are described in the literature as “hybrid regimes”, “democraduras”, “facade democracies” and “patrimonial democracies”. (Most of the previous literature to date has focussed on Latin American countries, hence the importance of Bratton and Van de Walles’ seminal work). As argued by the aforementioned:

Such terms capture the notion that the formal trappings of democracy – such as universal franchise, elections and political parties – are superimposed on authoritarian practices and a clientelist culture. Multiparty elections of uncertain outcome may be regularly convened; but at the same time, civil and political rights are not fully respected between elections and various segments of the population are effectively coopted or intimidated.¹³⁰

As with other analysts dealing with the democratization process, these writers further stress the importance of a sound economy as the framework within which a flourishing democracy can take root.

¹²⁸ Bratton and Van de Walle, p.269.

¹²⁹ *Ibid.*, p.98.

¹³⁰ *Ibid.*, p.237.

However, they are also of the opinion that a sound economy is *not necessary* for a transition to occur, but rather for the actual *long-term survival* and consolidation of that democratic transition. They state that:

Our findings do not challenge the conventional wisdom that stable democracies are most readily consolidated over the long-run in high income economies, but we do contend that, regardless of subsequent regime sustainability, attempts at democratic transition can occur under a range of economic conditions and at any level of economic development.^{131 132}

4.6 Democratic Consolidation

Another related concept is that of 'democratic consolidation'. There has been much debate in the literature regarding what exactly such consolidation entails, but it is connected to the notion of transition between authoritarian and democratic regimes. Regime consolidation is a word that is rather similar to the notion of democratization above, implying a deepening of democratic values in a society. However, because the term is used loosely by different authors, it is important to reach some clarity.

Andreas Schedler's article, "What is Democratic Consolidation?" provides a useful rendition. He posits a trajectory between authoritarian regimes followed by electoral democracies followed by liberal democracies with the penultimate goal being advanced democracies. According to Schedler, some scholars argue that democratic consolidation implies the avoidance of regression to the authoritarian state (ie the negative), while others view it as the progression towards a more democratic state. Thus

¹³¹ Bratton and Van de Walle, *Democratic Transitions in Africa*, p.219.

¹³² Thus, despite Kenya's appalling economic conditions, the actual transition to democracy could take place, but its consolidation is unlikely.

shifting from authoritarianism to electoral democracy or from the latter to liberal democracy (etc) would provide evidence of positive notions of consolidation. Schedler prefers to view democratic consolidation in the negative light, that is implying a halting of reversal to a previous state.¹³³

His argument has its merits but I would prefer to argue that democratic consolidation implies the realization of a genuinely democratic state, beyond formal democracy, to real democratization of the society at large. These concepts are quite obviously similar to those of procedural versus substantive democracy.

¹³³

Schedler Andreas: "What is Democratic Consolidation", *Journal of Democracy*, April 1998

CHAPTER FIVE

ONE PARTY DEMOCRACY AND THE SHIFT TO MULTI-PARTYISM

Another important point for consideration in the political debate about what constitutes democracy is whether the democratic ideal is best implemented under one-party governments or under multi-party governments. This debate has historical significance in an analysis of the African continent, in particular as it relates to the previously mentioned mechanisms by which the newly Independent states attempted to forge a new, strongly Nationalist path, supposedly devoid of their colonial taskmaster's agenda. The newly independent African states' leaders argued that "African democracy" was to be clearly distinguished from Westminster-style democracy, and that the notion of multi-partyism was alien to a notion of African democracy. The essence of their argument was the belief that ethnic (or 'tribal') animosity would dove-tail with different parties, in other words, one ethnic group being represented by each party.

Furthermore, the debate is crucial because it helps highlight the fact that multi-party democracy is not necessarily the only route which can be advocated; in some instances there is certainly truth in the claim that a multiplication of opposition parties can strengthen the ruling regime, rather than weakening it. However, while this may partially be true, there is also the paradoxical and contradictory fact, that, despite a fragmented opposition, multi-partyism has, in small ways, inaugurated a revival of civil society and popular protest movements upon the African continent.¹³⁴

¹³⁴

Kenya in particular. Here, multipartyism has helped to increase the forces striving to quell the hegemonic quest of the KANU regime, even though their very intention was to use the multiparty facade as a means of disguising their antidemocratic disempowerment of the ordinary people.

Many African states prior to the 1990's were one-party states (for example, Sierra Leone, Tanzania, Zimbabwe, Malawi, Zaire, Zambia, Cote d'Ivoire, Ethiopia, Equatorial Guinea).¹³⁵ The argument pursued by the post-Independence leaders was that one-party states were better able to combat the effects of colonialism and create a climate conducive to 'democracy', nation building and development. The main thrust behind the argument was the perception that ethnic rivalries would be exacerbated by having multiple-parties and that there was a dire need to centralize the state so as to minimize the divisive influences which the colonial policies of "divide and rule" had bequeathed to the Africans.

¹³⁵ Decalo highlights the variety of manifestations which one-partyism has appeared in (similarly to the discussion of the various mutations 'democratic' states may assume, as discussed above). He argues succinctly that: "The one party system has been the means to govern society relatively benevolently - by Julius Nyerere, Kenneth Kaunda and Felix Houphouet-Boigny in Tanzania, Zambia and Cote d'Ivoire respectively; more harshly but still responsibly - by Kamuzu Banda and Thomas Sankara in Malawi and Burkina Faso; to venally plunder it - as have Mobutu Sese Seko and Samuel Doe in Zaire (now Congo) and Liberia; or as a camouflage for personal or class tyranny - as under Jean-Bedel Bokassa, Mengistu Haile Mariam or Macias Nguema in the Central African Republic, Ethiopia and Equatorial Guinea." However the common feature pertaining to all the above, he maintains is that is that : "Nearly universally, the single party system has 'degenerated into a form of oligarchic patrimonialism that was even unknown in pre-colonial Africa (Uwazurike, Chudi). Whether ruled by Prince, Autocrat, Prophet or Tyrant, relatively developed or not, unaccountable personal rule in institutionless voids, has helped pile up violations of human rights, stultifying national debts and chronic systemic instability' (Legum, Colin)". From Samuel Decalo: *The Process, Prospects and Constraints of Democratization in Africa*, p.11

While there may have been some truth in this, had the one-party states operated democratically and allowed for dissension within the ranks, the opposite occurred and such states simply became dictatorial. "The theory and practice of single-party rule is an example of the myth-reality syndrome that plagues much of Africa. The fact is it degenerated into a form of oligarchic patrimonialism (and) unaccountable personal rule in institutionless voids". What it turned out to be in reality then, was a facade for tyranny and presidential authoritarianism.¹³⁶

Some analysts maintain that a democratic one-party state was a "oxymoron" while certain African rulers, such as Mobutu Sese Seko of Zaire, facetiously argued that "Zaire's one-party system is the most elaborate form of democracy".¹³⁷ African intellectuals, such as Oginga Odinga in Kenya, and Nyerere in Tanzania, also contributed to the argument that one-party states and democracy went hand-in-hand. Odinga, (a Luo politician in Kenya's Kenyatta government), in his autobiography, *Not Yet Uhuru*, maintained that one-party systems were the means upon which democracy, socialism and unity were built, although he stressed that people needed to rule themselves.¹³⁸ Julius Nyerere too argued in 1969, in relation to the question of one - partyism in Tanzania, that, "where there is one party, and that party is identified with the nation as a whole, the foundations of democracy are firmer than they can ever be where you have two or more parties, each representing only a section of the community". He stressed that the important components of this system are firstly, that membership be open to all and, secondly, that freedom of expression be allowed by every individual. Nyerere believed that: "a national

¹³⁶ De Calo, "The Process Prospects and Constraints of Democratization in Africa", *African Affairs* (1992), 91, pp.7-35.

¹³⁷ Ayittey, G.B., *Africa Betrayed*, p.210.

¹³⁸ Oginga, Odinga, *Not Yet Uhuru*, p.269 and 283.

movement which is open to all, which is identified with the whole nation, has nothing to fear from the discontent of any excluded section of society, for there is then no section of society".¹³⁹ . Furthermore, it would concur with du Toit's insistence¹⁴⁰ that a successful state is one which has the ability to: "Ensure compliance with the survival strategies of the state, instead of those advanced by competing social organizations. (In this manner), there can be effective social control and domestic hegemony of the state".¹⁴¹

It would seem then, that it is to this notion of effective hegemony and of suitable cooperation between state and society, that Nyerere and the other one-party advocates were originally referring. However, the fact that they merely assumed the old colonial structures of statehood, meant that this hegemonic quest could not succeed. As previously noted in Chapter Two, the post-colonial state, like its predecessors, was built upon unjust, elitist systems of rule, hardly fitting for the realisation of hegemony and legitimate rule.¹⁴²

However, after 30 years of proving that this was not the case and that, in actual fact a one-party state was a system within which presidentialism, neopatrimonialism, despotism and elitism would flourish, there was a growing call for multi-partyism.

¹³⁹ Nyerere, J.K., *Freedom and Unity*, Oxford University Press, East Africa, 1969, pp.195-203. This argument would accord well with the concept of hegemony discussed in Chapter Four, whereby the State must be in accordance with society if it is to achieve genuine hegemony.

¹⁴⁰ du Toit draws on the writings and ideas of Joel Migdal's work on strong societies and weak states in the African context.

¹⁴¹ du Toit, Pierre, *Civil Society, Democracy and State-Building in South Africa*, p.3.

¹⁴² (Refer to Chapter 2 on the African state).

5.1 The Shift to Multipartyism

Much has been written about the advent of this demand in Africa and the reasons for the transition from one-party states to multi-party ones. In this section I briefly explore some of the reasons proffered by scholars, so as to put the Kenyan transition to multipartyism in 1992, into perspective.

Some scholars insisted that the transition was inextricably linked to the fall of the Berlin Wall in 1989 and the fact that Africans saw on television and read in newspapers how their East European counterparts had risen against the Soviet-induced one-party states, equally, if not more, dictatorial, and thus striven for their freedom. Other scholars believe that it was more than a “knee-jerk reaction to events in Eastern Europe”¹⁴³ as there were definite internal factors which played a significant role in the democratic upheavals. Africa had reached a stage where economic crisis was of such a degree that popular dissatisfaction with the various regimes was increasingly evident. “Africa”, it was argued, “was at a political dead-end morally, and economically bankrupt,¹⁴⁴ inherently unstable to the degree that ‘no state can count itself safe from a wind of change once it starts to blow’”.¹⁴⁵ Samuel de Calo suggests four reasons for the economic decline facing the Continent at the end of the eighties. These were: (1.) The dissipation of fiscal resources on large, functionally redundant civil services; (2.) The population increase in Africa between the 1960's and 1980's (Kenya's for example went up exponentially by 300%) and thus the limits to which leaders might satisfy people's basic needs, in

¹⁴³ Decalo, S., p13

¹⁴⁴ As Decalo points out: “Utterly marginalized, Africa is not suffering from a temporary crisis, but from a lasting inability to make itself part of the world economy...Africa scores at the bottom of every criteria of development”, p.15 . See also Chapter Two on the Nature of the State in Africa.

¹⁴⁵ Ibid, p.14

particular those of the vastly expanded numbers of young people¹⁴⁶ (3). The collapse of the Cold War which devalued the worth of Africa and thus the Superpower's interest in its economic well being, turning African states from "Cold War pawns into irrelevant International clutter", and, finally, (4). The drastic falls in commodity producer prices which placed countries at the mercy of the World Bank and IMF.^{147 148} It was no doubt a combination of both external and internal factors, which led to the "winds of change" call for multi-partyism in Africa. What is of interest however, is whether the regimes managed to implement multi-party political systems and genuine democracy, or whether they merely allowed the holding of such elections, continued their outdated modes of ruling through repression and censorship and corruption, thus allowing for de-facto one-party states, facades for undemocratic regimes, and stalled transitions to democratization.

On the whole, African regimes were reluctant to hold multi-party elections and merely did so to appease the Western countries on whom they depended financially, or to quell the rising tide of internal dissatisfaction within their home countries. It has thus been argued by a number of political scientists that very little actually changed with the advent of multi-party democracy, beyond the surface level of regularly held elections with Opposition parties being legitimised.

¹⁴⁶ "This in turn leads to impatience and decline in respect for national political leaders, since there are limits beyond which symbolic outputs can satisfy political quietism". Decalo, p.16

¹⁴⁷ Decalo, S., "Process, Prospects and Constraints of Democratization in Africa", *African Affairs* (1992), 91, pp.7-35.

¹⁴⁸ Refer also to Chapter Eight which deals with the Agricultural effects of the Kalenjinisation of the Kenyan State under Daniel arap Moi in the 1980's.

In many senses the very creation of Opposition parties, served in fact to cement the power of the ruling parties, by enabling them to claim greater legitimacy for their rule.¹⁴⁹

Not only was this problematic but there was also partial validity in the notion that: “the destabilizing potentials of ethnic politics combined with persevering economic decay, against backgrounds of psychologically heightened expectations attending democratization, can produce explosive results”¹⁵⁰ Thus, the advent of multi-party democracy was by no means an immediate panacea for all ills.

Bratton and Van de Walle claim that, although by 1994 a transformation had indeed occurred in African states, in that one-party systems had been eradicated, “at the same time in many other respects, the Africa of 1994 was not markedly different from the Africa of a decade before. (Indeed) the enduring Institutional characteristics of the Continent’s politics continued to condition the longevity and success of democratic experiments”.

This point helps to explain why long-standing incumbent leaders in some countries continued to survive, despite competitive elections. The pivotal argument is that the legal eradication of one-party rule did not inaugurate *de facto* non-monopolistic styles of rule.¹⁵¹ The previous ruling parties

¹⁴⁹ As will be evidenced quite clearly in the Kenyan scenario.

¹⁵⁰ Decalo, S. P. “*The Process, Prospects and Constraints of Democratization in Africa*”, p. 31

¹⁵¹ Bratton and Van de Walle, *Democratic Experiments in Africa: Regime Transition in Comparative Perspective*, pp.8-9.

continued to have hegemonic sway over their countries. The question which we ought to pursue in the Kenyan context, is to what extent this proved true.¹⁵²

¹⁵² Certainly, on the one hand Moi remained as the incumbent ruler despite multiparty elections while Kanu retained its hegemonic stranglehold. And yet, paradoxically, there were significant political shifts which were inaugurated by the shift to multipartyism. Such factors as the liberalisation of the media, a diversity of Parliamentary opinions, the revival of non-state organisations, all attribute to the positive offshoots the move to multiparty democracy had (despite the regime's great reluctance and manipulation of the process to maintain *defacto* one-partyism). They also point to the fact that hegemony was not actually achieved, despite appearances to the contrary. Coercive might and domination are not equivalent to hegemony which implies the acceptance by the society of the regime's right to rule. Certainly, KANU attempted to create such legitimacy by resorting to non-coercive methods such as propaganda, scapegoating and electoral and constitutional meddling. Thus we need to ask ourselves whether multiparty 'democracy' can actually usher in substantive democracy; whether in Kenya the KANU regime's resort to oppressive tactics actually undermined their hegemonic quest, and what the solution for achieving a genuine *democratic hegemony* in Kenya today is: a hegemony whereby the state and society would interpret their interests as mutual and reciprocal, and allow not only for feedback and participation at the strictly political and constitutional level, but more relevantly for grassroots development, economic transformation, justice and equity (See also Chapter Four, which explores the difference between procedural versus substantial democracy/ liberalization versus democratization)..

CHAPTER SIX

A BRIEF INTRODUCTION TO KENYA

A very brief account will be given of Kenya's geographical setting, her economy, agricultural setting, population, legal system, government and administration in order to provide a background to the political analysis.

The Republic of Kenya straddles the equator, covering some 582,640 square kilometres. It borders the Indian Ocean and Somalia to the East, and Ethiopia to the North, Uganda and Lake Victoria to the West and Tanzania to the South. It is thus at the heart of East Africa. ^P The economy which is predominantly agriculturally-based has been steadily getting worse, especially after the violence preceding the 1997 elections. At the time of writing, the Shilling had dropped to 72 Shillings a dollar which was indicative of the unstable political and investor environment. ^P Hence increasing unemployment, poverty and hunger.

Agricultural activity is concentrated in the highlands, the previous heart of the white colonial community and thereafter the Kikuyu ethnic group (during the Kenyatta regime) and more recently the Kalenjin (during Moi's Presidency). The principal crops are coffee, tea and pyrethrum while the main food crop is maize. Also cultivated extensively are sugar-cane, wheat, sorghum, beans and bananas. The importance of agriculture and its relationship to politics and ethnicity cannot be underestimated, and will be explored more fully below under the section "Agricultural affects of Kalenjinisation".

By 1992 estimates, the population was 23.7 and the birth rate, one of the highest in the world, 3.2% per annum. While Aids is rampant, the impact this will have on the current population boom is uncertain. The population explosion, simultaneously with the AIDS epidemic have paradoxically both impacted seriously upon the economy and politics of Kenya.

The average literacy rate is 69.4%. Kiswahili is the national language and English the official language of communications in schools, institutions and government.

Christianity, Islam and Hinduism are the main religions, although in the rural areas some do still practice traditional African forms of worship. One the whole, Christianity prevails and the Christian churches have played an interesting role in terms of state-church relations, at times being part and parcel of the state and later, sectors of the church constituting counter-hegemonic forces fighting for democracy. The Muslims have also played a role in resisting the state through their fiery brand of fundamentalist just-war politics.

There are 42 different ethnic groups from three major groups – the Bantu, Nilotics and the Cushites. The major ethnic groups will be discussed in the case-study section dealing with the opposition parties and ethnicity.

Kenya became independent in 1963 after a protracted and violent struggle against the British colonial settler regime, with the British Administrative army fighting the Mau Mau movement (the forest fighters). The fact that Independence was won only after a violent struggle lay a precedent for the kind of future Kenya politics would assume.

The Constitution of Kenya establishes the Republic and its government with a body of laws or Acts passed by the National Assembly and signed into law by the President, while other laws were inherited from the colonial system (some of these have been adjusted after reform initiatives which will be discussed below).

It is most useful to understand the Government and Administrative aspects of Kenya if one is to come to terms with the political domain, in particular, that within which, the elections of 1992 and 1997 were held:

Government

Since 1963 the government has been a unitary one, headed by a President, assisted by a Vice-President, a cabinet and assistants. The National Assembly/Parliament, with a life span of 5 years, consists of 222 members, 12 nominated by the President and the rest directly elected by universal adult suffrage. There are 28 Ministries each headed by a Minister and run by a permanent secretary.

Administration

The administration map of Kenya comprises eight provinces, which in turn consist of a complex web of districts, divisions, sub-divisions, locations and sub-locations. Each Province is headed by a Provincial Commissioner appointed by the President, each District has a District Commissioner and the divisions and subdivisions are headed by chiefs and assistant chiefs.

At local government level, the city, municipality, town and urban councils are headed by mayors assisted by their deputies and councillors, while chairmen,

their deputies and councillors run the county councils. The administrations are led by town clerks and clerks of the county.¹⁵³

From this information it is apparent that the governance of Kenya is based on complex administrative systems, inherited from the British Colonial system, and thus similar to those modes of governance found in other ex-British Colonies, such as Nigeria, Malawi and South Africa. It also enables one to understand the enormity of holding multi-party elections within such a diverse structure.

¹⁵³ The information was gathered from the *Daily Nation* archives, entitled KENYA BACKGROUND.

CHAPTER SEVEN

NEOPATRIMONIAL RULE AND THE QUEST FOR HEGEMONY AS EVIDENCED UNDER DANIEL ARAP MOI'S RISE TO POWER

An unravelling of the history of Daniel arap Moi's rule is crucial for understanding not only the increasing predominance with which factionalism and ethnicity would come to play in the Kenyan political arena, but also the political context within which the elections of 1997 were held. It is of importance to note that Moi's mode of rule did not differ significantly from that of his predecessor, Kenyatta. In fact it was Moi himself who coined the term "*Nyayo*": meaning, to follow in the footsteps of Kenyatta, but equally implying the notion of civil obedience to the Kenyan African National Union (hereafter referred to as KANU) party and to the state.

In a sense, it might be argued that Moi's notion of *Nyayoism* offered the potential for a hegemonic project were it to have been realised in its ideal form. However, as with other visionary political projects, the idea was perverted and essentially became more akin to a dictatorship. It ought to be reiterated that it was not Moi who initiated the original eradication of potential hegemony, for this was a process which began during colonial rule as discussed in Chapter Two of (in particular the colonial policy of "divide and rule" and the legacy of the 'rhizome' state). Thereafter, Kenyatta's leadership, similarly to other post-Independence leaderships, quickly shifted into the politics of patrimonialism, ethnicity, elitism and corruption. Even under Kenyatta, although his was not an overtly tribalistic regime, it is more than evident that the Kikuyu were favoured. More specifically, Kenyatta's personal

family and friends were secured land and wealth unimaginable to those outside his “Family” connections. Kenyatta, similarly to his successor, was deeply suspicious of rivals, hence the assassination of the brilliant Tom Mboya in 1969, and the evidence of other distortions of an ideal political establishment.

The sidelining of Oginga Odinga, whose Socialist vision for Kenya, (like Nyerere’s *ujamaa*), perhaps portended more hope for a hegemonic project and also revealed the extent which Kenyatta, bolstered by the West and Moi alike, both failed in securing a political system based on the hegemonic ideal of state-societal accord. Moi took over from Kenyatta and exacerbated the flaws of the post-colonial regime.¹⁵⁴

Daniel arap Moi came to power in 1978, having served as Kenyatta’s Vice President from January 1967. He was the appointed successor and assumed power as acting President the day of Kenyatta’s death, whereafter, without waiting for an election he appointed himself to the position of President.¹⁵⁵

Once described as a giraffe with a long neck that saw from afar, he is a former primary school teacher who was hailed as a moderate in the Kenyatta era. Moi has a certain penchant for describing himself as “The Professor of Politics” and is allegedly intensely paranoid about criticism and deeply threatened by his more schooled compatriots. It has been suggested by James Kariuki in his insightful piece:

¹⁵⁴ Interview with Fred Mwachi, Law student and President of the East African Society, Natal University, Pietermaritzburg, July 15, 1999. See also Jennifer Widner’s *The rise of a Party-State in Kenya*, Chapter One and Two.

¹⁵⁵ Interview with a Kenyan Theology student, previously involved in Church/State mediation (in Kenya), March 21, 1999, Pietermaritzburg.

“Paramoi: Anatomy of a Dictatorship in Kenya”, that the way arap Moi reacts and behaves is based, not merely on personal whim, but is: “lodged in the fabric of Kenya’s political culture which has been antagonistic to his Presidency from its inception”. He was never regarded as Presidential material as he apparently lacked savvy, was relatively uneducated, had minimal charisma and, contrary to Kenyatta, proved unable to galvanize a trans-tribal following.

Due to the fact that Moi entered politics when appointed as an administrator by the British Colonial government¹⁵⁶ it was not surprising he would adopt some of the very worst strategies of British rule when he assumed power himself. Prior to his successorship, Moi led the later disbanded, Kenya African Democratic Union (KADU), which had merged with KANU within a year of Independence. As a result, even while serving under Kenyatta’s leadership, he had consolidated the heart of KADU’s support which was the Kalenjin and Maasai in the Rift Valley Province, as well as the Abaluhya in Western Kenya and Coast Province.¹⁵⁷

According to a former Moderator of the Presbyterian Church, this merger meant that KANU was no longer KANU but became, in reality, an engine for KADU.¹⁵⁸ On succeeding Kenyatta as the President, Moi immediately set about changing Kenya’s political landscape from being Kikuyu-focused to one revolving around the boosting of ethnic minorities. Moi and his supporters perceived the Kenyatta

¹⁵⁶ *The Sunday Independent*, July 20, 1997, (“Corrupt beyond belief, Kenya’s Moi will not last long, says exiled writer” - Ngugi wa Thiongo).

¹⁵⁷ Hornsby and Throup, “Elections and political change in Kenya”, *Journal of Commonwealth and Comparative Politics*, Vol. 30, No 2 (July 1992) p.173.

¹⁵⁸ Informal Interview, Pietermaritzburg, March 26, 1999.

regime as existing solely to serve the interests of the Kikuyu elite at the expense of other ethnic groups.

It was maintained that the Kikuyu had amassed too much financial power for themselves.

Moi came to power as the leader of a coalition opposed to the continuing dominance of a coterie of Kikuyu business leaders, mainly from Kiambu District, from which Kenyatta, his wife, Mama Ngina and several powerful cabinet ministers, came.¹⁵⁹

This group was known as 'The Family'. The Kikuyu needed to be put in their place. Moi therefore banned the GEMA (Gikuyu, Embu and Meru Association) in 1980, and used his constitutional power to nominate 12 members of parliament to advance the interests of his allies whom he believed would not threaten his rule. "He rotated politicians in and out of important positions ensuring factions would constantly form and reform".¹⁶⁰

The Kikuyu Dynasty of Kenyatta was, in this manner, replaced by a Kalenjin Dynasty under Moi.¹⁶¹

Sadly, the basis for the support of Moi's government (was) reduced for all practical purposes to members of the Kalenjin, such that the stability of the regime depended on the government's alleged

¹⁵⁹ Hornsby and Throup, op cit, p.172.

¹⁶⁰ Widner, Jennifer, *From Harambee to Nyayo: The Rise of the One Party State in Kenya*, 1992, p.36.

¹⁶¹ *African Political and Economic Monthly*, Feb 1998, vol. 11, no. 4, p.2.

willingness to go to any lengths to terrorize and intimidate its political opponents.¹⁶²

7.1 Agricultural Effects

An interesting, but vital offshoot of the Kalenjinisation of the State, was the effect it was to have on agricultural output, and hence the economy. This in turn had an obvious spin-off on the nature of the political landscape and the prospects for democratization. Traditionally, the export crop producers of the Central Highlands on whom the Kenyan economy flourished between 1965 and 1989, were the Kikuyu. Under Moi however, the support of these export-crop producers declined and the shift was made - obviously, no doubt - to the Kalenjin grain farmers of the Rift Valley. This contributed in large part to a lowered growth rate and a "decline in the quality of economic management."¹⁶³ There were of course, other factors, such as the decline in the global coffee industry which resonated across the world economy.

Between 1980 and 1990, agricultural growth decreased by 34%, Industrial growth by 60% and manufacturing by 53%. This had an enormous impact on the socio-economic and political situation of Kenya, whose population growth rate had increased exponentially (300%). As Callaghy and Ravenhill argue: "The political actions of the Moi administration caused economic decline because they alienated and demoralized some of the country's most skilled agriculturalists and business leaders."¹⁶⁴

¹⁶² Callaghy, TM and Ravenhill, J (eds) *Hemmed In: Responses to Africa's Economic Decline*, 1993, p.442.

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*

The impact of this decline upon the Kenyan nation, once hailed as a leading and prosperous one upon the Continent, cannot be overemphasised and reveals the inextricable link between economic productivity and prospects for political democratization.¹⁶⁵

The increasing grip which Moi held over the Kenyan nation was not only evident in this Kalenjinisation process. It was also under his rule that KANU (the ruling party), the State, and the President became synonymous with one another. Between 1980 and 1989, "the party acquired a new and far stronger role in the pursuit of political order, and its boundaries began to merge with those of the office of the President or "State House".¹⁶⁶

Whereas Kenyatta had allowed for internal criticism within the party, Moi sought to eradicate anything which might cause disruption to party unity and thus created internal disciplinary committees in a fashion similar to the Soviet communist regimes. In fact, so alike was his regime to that of Stalinist ones that he had proclaimed ostentatiously in 1984 that :

All ministers, assistant ministers and every other person should sing like parrots. During Mzee Kenyatta's period, I persistently sang the Kenyatta tune. I did not have ideas of my own. Who was I to have ideas? If I put a full stop, you should put a full stop. This

¹⁶⁵ Refer to the minimalist notion of democracy as regular elections, and the maximalist notion of democracy as including a sound economy, free civil society (including the press) and a culture or societal ethos of democratic values: which would include a desire for the attainment of substantive democracy, understood as incorporating social and economic rights and a significant element of wealth distribution.

¹⁶⁶ Widner, *op cit*, p.2.

is how the country will move forward. The day you become a big person, you will have the liberty to sing your own song and everybody will sing it.¹⁶⁷

7.2 A One-Party State

By 1982, Kenya was declared a single-party system by a constitutional amendment and all opposition was banned. Youth wings patrolled and monitored dissent; police were under the President's jurisdiction and were involved in surveillance of allegedly subversive activities; a Ministry of National Guidance and Political Affairs was instituted (essentially a mechanism to ensure a complete lack of freedom in the political realm); the Press was restricted; the Universities were closed and lecturers' passports stolen; foreign journalists were harassed; opposition to KANU was illegalized, and new detention laws mushroomed.¹⁶⁸

7.2.1 Oppression and the consequences thereof

7.2.1.1 The August Disturbances

Despite an attempted military coup in August 1982 ("The August Disturbances"), when air force personnel, university students and Luo politicians allegedly united to dislodge Moi's government, Moi's grip on power continued to become more consolidated. Probably because of the threat the coup posed to the regime, they became more paranoid and hence even more coercive in their modus

¹⁶⁷ Attiye, G.B., *Africa Betrayed*, p.184.

¹⁶⁸ Widner, *op cit*, p.144.

operandus. After the elections of 1985, KANU was constitutionally superior to Parliament and had acquired a corporatist character,¹⁶⁹ though it was still organized weakly at the rural level.

By 1986, Constitutional changes were of such drastic nature that they allowed for the eradication of the security of tenure in office of the Attorney General, the Controller, the Auditor and Judges of the High Court and Court of Appeal, thus implying that there was no valid separation of powers to ensure a just system of political arbitration.

To make matters worse, Moi had the powers to single-handedly place Kalenjin into the following key security and governmental "gate-keeping" positions: the speaker of the National Assembly; the head of the Civil Service; the Cabinet Secretary; the Deputy Army Commander; the Chief Military Intelligence Officer, the Director of the CID; the Commander of the Government Services Unit and the Deputy Director of Intelligence.¹⁷⁰

He also appointed Kalenjins to fill the most important economic posts: governorship of the Central Bank, the Ministry for Cooperative Development, the Ministry of Local Government, the Chair of the Kenya Commercial Bank and National Insurance, Director of Posts and Telecommunications, of Agriculture, of Financial and Industrial Estates, the National Cereals and Produce Board, the Grain Growers Cooperation, the *Nyayo* Tea Zone and Bus Company and the Kenya Broadcasting

¹⁶⁹ Ibid, p. 159. Note that Widner emphasises that "The year 1985 saw the rise of a party-state in Kenya, but a distinctively Kenyan party-state nonetheless. Despite severe restrictions of political activity by State House, at no point did KANU acquire the all-inclusive corporatist character or the expanded functions of the *Mouvement populaire de la revolution* in Zaire, which absorbed all other associations, political and otherwise. KANU continued to lack the organizational efficacy to carry out significantly expanded law-enforcement functions".

¹⁷⁰ Widner, op cit, p.165.

Corporation.¹⁷¹ Out of the 28 Ministries¹⁷², it is clear that these were the most important economic and political posts.

7.2.1.2 Exiles, Bannings and Detentions

Exiles, bannings and detentions prevailed throughout the eighties.

The government silenced churches, proscribed academic discussion in schools and universities, and monitored access to literature. Much of the paranoia stemmed from the activities of the underground movement, *Mwakenya* (*Muungamo wa Wazalendo Kukomboa Kenya* - the Union of Nationalists to liberate Kenya) which sought to oust the Moi regime, but was labelled by him as an organization of fanatical socialists.¹⁷³

Mwakenya was initiated by, among others, Koigi wa Wamwere and student activists.¹⁷⁴ Another radical group which also appeared at this period was known as “*Umoja*” or “The Platform”, led by Ngugi wa Thiongo and other intellectuals. Their mandate was allegedly to demand : (1) the legalization of the opposition, and (2) an ending to foreign military facilities. They applied a quasi-Marxist analysis of the country’s economic woes. In 1995 there were allegations of the existence of another mysterious guerilla movement, surreptitiously dubbed the *February 18th Movement*, which was arguably a

¹⁷¹ Ibid, p.180

¹⁷² Refer to Chapter Six, p. 3

¹⁷³ Ayittey, George, B., *Africa Betrayed*, p.184.

¹⁷⁴ Personal Interview with the ex-moderator of the Presbyterian Church, J.M. Kariuki, Pietermaritzburg, 1 April 1999. Note that *Mwakenya* was a little known organization whose original impetus was said to be from university researchers and leaderless urban, rural and exile components

clandestine rebel movement, based in Uganda and led by a “Brigadier” John Odongo. Odongo was supposedly a Kenyan refugee who had smuggled explosives from Libya and trained soldiers in United Nations’ refugee camps.¹⁷⁵

Subsequently, (out of fear that these movements would fuel opposition within civil society), editors, newspapers and magazines were banned: in March 1988, Moi banned *Beyond*, a National Christian Council of Kenya (NCCCK) magazine, which had talked of alleged election rigging. In 1989 *Financial Review* was banned for criticizing the government’s economic and political initiatives, and in the same year *Development Agenda* was also banned. By 1989, reporters from the Nation Group of Newspapers were barred from covering parliamentary proceedings for four months after *Daily Nation* journalists had criticized the poor quality of parliamentary debate”.¹⁷⁶

It should be emphasised however, that, although KANU had, during this period assumed a totalitarian nature, it was never as totalitarian as had been Mobutu’s Zairean Revolutionary Party in the former Zaire, now Democratic Republic of Congo¹⁷⁷. This limitation was due to the extra-parliamentary

¹⁷⁵ Hamner, Joshua: “Never count a big man out”. *Newsweek*, March 27, 1995. It should be noted that there is an opinion that the February 18th Movement was a piece of government propaganda, a ploy to enable the regime to legitimately hunt down the members of a “mirage movement” and thus to clamp down on the reform movement. (According to interviews with two Kenyan law students studying at the University of Natal, in South Africa, Pietermaritzburg, 1999).

¹⁷⁶ Widner, *op cit.*, p.187.

¹⁷⁷ Widner, *ibid*, p. 159: (as discussed above, in reference 16 of this Chapter) “The year 1985 saw the rise of a party-state in Kenya, ...(yet)... KANU continued to lack the organizational efficacy to carry out significantly expanded law-enforcement functions and only later did it seek to absorb economic, sports, cultural and religious bodies”.

protests which were first initiated during this period by lawyers and the Churches in a bid to curb the power of the state. As revealed by Widner, the actions of businessmen, lawyers and church groups did indeed curb state totalitarianism. "The combined action of Matiba, Rubia and other businessmen, members of the legal community and elements of the church, led to the reversal on paper of some of Moi's restrictions".¹⁷⁸

These included the alleged elimination of the above-mentioned National Guidance and Political Affairs' body; the fact that KANU rescinded its powers to expel members; and the abolishment of disciplinary committees. In addition, the Kenya Law Society survived, despite attempts to subordinate it.¹⁷⁹ The Kenyan Law Society was to prove its mettle continuously throughout the multi-party period, particularly before and after the 1997 elections. This will become apparent in Chapter 15 which details the National Convention Executive Council and the Constitutional Review Commission and thus highlights the paramount importance of lawyers and constitutions in the counter-hegemonic struggle.

Thus, even prior to the 1990's when the revival of civil society occurred both in Eastern Europe and in Africa, civil society had already revealed its ability to counter to some extent the hegemony of the KANU regime. These extra-parliamentary forces will be further discussed in the Chapters dealing with the Opposition (Chapter Eight) and Civil Society in Kenya (Chapter 15 and 16).

¹⁷⁸ Widner, *ibid.* Note that both in the period preceeding the 1992 elections and those of 1997, these elements of society would have a significant impact upon the state's attempt to muster up a weak hegemonic image.

¹⁷⁹ Widner, *The Rise of the One-Party State*, p.195.

By the beginning of 1991, there was such a growing sense of resentment towards the ruling regime that the former Vice President, Jaramogi Oginga Odinga, founded the National Democratic Party, in the first official evidence of a desire to oppose the one-party regime which had been in existence since 1982. The new party was of course, outlawed due to the 1982 Constitutional amendment prohibiting the registration of new political parties. (Amendment 2A to the Constitution). Nevertheless, Odinga found a way out by exploiting a provision which allowed for the registration of associations of less than ten people, and thus he assembled a group of 6 'notables' from various provinces to launch a pressure group called the Forum for the Restoration of Democracy (FORD) which was to be registered as the main opposition party in 1992.

With this recent historical context being born in mind, it is hardly surprising that Moi and his regime would resist the calls for multiparty democracy which began in the late 1980s and reached their zenith in 1990/1991, and that it would only be the prompting of International Financial Institutions - the *IMF* and *World Bank* and the Nordic donor countries – and the dire economic constraints facing the regime, which tempted them to agree to such reforms, *albeit* with inevitable reluctance.

The fact that there was no *genuine* desire to change would suggest that multi-party democracy in Africa is often a "fig-leaf" covering up the actual practices of a highly undemocratic regime.¹⁸⁰ It would also explain, why, despite the 1992 elections and KANUs' accession to some reforms, this was merely an

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Two authors use this notion. Bayart, JF in *The State in Africa: the Politics of the Belly* (1995) provides constant usage of this metaphor. Zimbabwean writer, Jonathon Moyo in his article "Consolidating human rights and democracy in Africa" in *African Association of Political Science Newsletter*, Volume 2, no.1, Jan-April 1997, also gives a useful rendition of this terminology.

example of “liberalization” to appease their opponents and hang on to power. Moi remained virulently dictatorial; dissidents continued to be banned or detained; assassinations, detention without trial, police brutality, appalling prison conditions and blatant state propaganda were the order of the day.

Ethnicity; factionalism; neo-patrimonialism; modes of repression and suppression, together with economic productivity (or the lack thereof), are factors which should thus be considered in tandem when assessing the Kenyan case study and the prospects for the consolidation of democracy. If these prospects were so weak during the period of Kalenjinisation and one-party rule, a period in which Moi and his regime used coercive methods in their attempt to maintain power, to what extent was the status quo undermined as a result of the inauguration of multi-party democracy?

To what extent did procedural democracy allow, not only for substantive democracy, but for an erosion of Moi’s Kalenjinised state, and a significant obstacle in the path of the KANU regime’s hegemonic quest.

I wish to argue that, while the regime used multiparty politics as a means to actually stall the transition to democracy, ironically and as the result of unintended consequences, significant inroads were made, such that their power and hegemony were eventually, significantly challenged.

7.3 The 1992 Elections

The 1992 elections set the precedent for a multi-party democratic system in Kenya, certainly at the level of procedural democracy.¹⁸¹ As argued by Otieno Odhiambo, these elections were not just farcical, but represented a hard won struggle. Odhiambo posits that:

Elections represent our history of struggles against the colonial and post-colonial state for political, social, economic and moral freedom; secondly, that they are the legitimate means for bringing about democratic changes through legislation in Parliament and the development of grassroots advocacy and finally that they provide some means of scuttling ruffians out of Parliament.¹⁸²

The pros and cons of multiparty elections will become more obvious as this thesis continues.

In particular one will notice the contradictory nature of opposition politics, namely that it may serve both democratic and undemocratic purposes. Additionally, I would argue that there may be cases where a one-party state is more democratic than a multiparty one, especially if it allows for internal debate and external influence. But, when multi-partyism is used as a legitimization of the status quo and a division of the forces counterposed to this, then it needs serious reassessment.

¹⁸¹ In 1992 some of the elections results were as follows: KANU won 78.5% of the vote in North Eastern Province; 67.98% in the Rift Valley, 64.31% in the Coastal Province; 39.7% in Western and a mere 36.66% nationally. The combined Opposition thus secured 64% of the vote, so they were clearly the majority. Matiba's Ford Asili won 62% in Central Province, 44% in Nairobi and 38.84% in Western Province. Odinga's Ford Kenya won Nyanza Province with 5.67%, while Kibaki's Democratic Party secured Eastern Province with 49.79% and Central province with 34.49%. (Source: Fox, Roddy, "Bleak Future for multi-party Democracy", *Journal of Modern African Studies*, 34,4 (1996), pg 606, Table 2.

¹⁸² Odhiambo, Otieno, "Why a poll boycott will be political suicide" (*Daily Nation*, December 3, 1997).

CHAPTER EIGHT

OPPOSITION POLITICS AND ETHNICITY IN KENYA

While under one-party rule, official political activity in Kenya was limited to the KANU regime. However, with the advent of multiparty politics in 1992, (as a result of the eradication of the 1982 Section 2A Amendment to the Constitution), a multitude of newly legal political formations emerged. On the one hand, this boded well for an emerging democratic society, yet on the other hand the very splintering and diversification of opposition parties played directly into the hands of the incumbent regime, serving ironically to entrench their rule.

In many senses, despite *de jure* multi-partyism, Kenya remained a *de facto* one party state, dominated by KANU, under the mantle of Moi and his henchmen. It is difficult to come to grips with the myriad of political parties in Kenya, however, it is essential to assess them in order to fathom why the ruling party succeeded in asserting its hegemony (certainly at the political level, for so long).

It should be stressed that Kenya is not alone in having problematic opposition politics.

Many African politicians still abide by the neopatrimonial mode of leadership and merely seek to replace one incumbent leader with another.

Bratton and Van de Walle (*Democratic Experiments in Africa: regime Transitions in Comparative Perspective*) maintain that: "In most cases the new crop of political parties constituted little more than

an ambitious politician, a handful of acolytes, and a non-existent base of members and finances. The new atmosphere of associational freedom encouraged the unchecked proliferation of weak organisations, internecine bickering and the fragmentation of opposition movements”.¹⁸³

Ayittey (*Africa Betrayed*) also proffers a scathing account of opposition politics in Africa. As he depicts it: “The most unlikely support for tyranny in Africa often came from the very groups organized to oppose it. Thus, one cannot heap all the blame for Africa’s ruination on the dictators. Their primary impulses are well known: to loot the country and to squelch criticisms, and they succeed not so much because of their ingenuity or craftiness, but because of the inadequacies and weakness of the opposition. A force dominates either because a counterforce is non-existent or weak”. (This would imply that the counter-hegemonic force is so weak that the hegemony of the state has succeeded in asserting itself as superior).

He continues with his conviction, stating that : “In many places in Africa, the opposition has been hopelessly fragmented, disorganized and prone to squabbling such that most of the opposition leaders in Africa are themselves closet dictators, exhibiting the same tyrannical tendencies they so loudly denounce in the leaders they hope to replace”.

Ayittey further admits that many opposition politicians suffer greatly at the hands of the regime, but adds that they often use unsophisticated methods to challenge the powers that be, thus being their own worst enemies.¹⁸⁴

¹⁸³ Bratton and Van de Walle, *op sit*, p.115.

¹⁸⁴ Ayittey, *op sit*, p.298.

8.1 The Connection between power and wealth

Hampered by dire financial constraints, opposition parties in Africa (and specifically in Kenya), tend to rely on business tycoons for their financial support. Elite monetary interests and politics become inextricably intertwined, further estranging political action from the needs and demands of ordinary people and hampering a genuinely democratic form of political leadership. Often, opposition leaders are wealthy, former cabinet ministers, who can “use private funds to bankroll forums in which liberal views could be expressed”.¹⁸⁵ (This is evident in Kenya with regard to Matiba and Kibaki, both of whom are wealthy Kikuyu businessmen).

Many opposition leaders, have adopted similar survival techniques to that of President Moi who has relied on wealthy Asian and Coastal business interests for *his* long-term financial backing.¹⁸⁶ This issue of finances brings one to the question of hegemony and counter-hegemony and recalls Chabal’s (*Power in Africa*) notion that the counter-hegemonic drive is essentially elitist, non-revolutionary and related to a need to merely penetrate the state rather than to fundamentally change it.¹⁸⁷ In the main, opposition politics in Kenya is evidence of this kind of counter-hegemonic drive.

8.2 Coopting Elites

It is also of utmost relevance that the majority of Kenya’s opposition politicians were previously in Kenyatta’s or Moi’s governments and that they had thus already tasted power. It has been argued that,

¹⁸⁵ Bratton and de Walle, *op sit*, p.148.

¹⁸⁶ Bayart, Jean, *op sit*, p.88. (“Moi has involvements with the major Asian and business affairs of the country and investments in all sectors of the economy”).

¹⁸⁷ Chapter Three

despite having held influential positions, they failed (certainly then), to utilize them for the betterment of the Kenyan majority. The following examples underline this point: Mwai Kibaki, Presidential Candidate of the Democratic Party in 1997, was Moi's Vice President from 1979-1989. Anyona, another contender, was also a KANU member of parliament a few years ago, whilst Koigi wa Wamwere had served in parliament in the 70's on a KANU ticket. Furthermore, Matiba, James Orengo and others, were all previous holders of KANU 'Life membership' cards, before they defected, re-joined and defected again only to appear as opposition candidates.¹⁸⁸ It is thus questionable whether their credentials for promoting democratization rather than merely their personal and ethnic interests, were, substantial. Commentators argue that Moi used this fact to 'buy out' the opposition. For example, the dismantling of FORD in 1992 was achieved as a consequence of a deal made to Martin Shikuku which he failed to resist and which resulted in the FORD split mentioned above.

This phenomenon of 'buying out' the opposition continued into the 1997 pre-election period, as well as after it.

8.3 The Opposition Parties and the Ethnic Dimension

A study of opposition politics, both generally in Africa and specifically in Kenya, cannot be divorced from the context of the ethnic dimension. It is this factor which both undergirds such politics and is equally used as a tool in the hands of incumbent and opposition politicians, who manipulate and exacerbate it to their own advantage.¹⁸⁹

¹⁸⁸ wa Mirii, Ngugi (*African Political and Economic Monthly*, February 1998, Vol. 11, no. 4., pp4-5.

¹⁸⁹ This theme was introduced in Chapter Two: Ethnicity and the Tribal factor.

Shifting ethnic alliances have long marked Kenyan politics, with the pivotal divide being between KANU's original Kikuyu/Luo alliance and Moi's KADU/KANU alliance of Kalenjin, Luhyas, Kamba and other smaller ethnic groups. The extent to which ethnic politics has reached down to the grassroots level in Kenyan society is evidenced (from personal and documented experiences) by the prevalence of ethnic and tribal talk among ordinary people, such that Kikuyu will denounce kiKamba for example as being stupid, lazy and 'into witchcraft', while the non-Kikuyu will castigate the Kikuyu for being long-fingered, thieves, out to destroy the Kenyan nation through political activism. From personal experience it would appear that, on the whole, people tend to perceive themselves as Kamba, or Kikuyu or Masaai, or Luo, or Luhya, prior to perceiving themselves as Kenyan, though this would clearly require more rigorous and statistical surveying, to be proved academically exact.

A brief survey of Kenya's ethnic groups would be constructive. It should be emphasised that these figures were compiled in 1993 and hence reflect the context of the 1992 elections. However, the major factors remained the same for the 1997 elections.

Kikuyus (and the related Embu, Meru, Mbere and Tharaka ethnic groups), comprise 28% of the population and are based in Eastern, Central and Rift Valley Provinces. Together with the Kamba, also a central Bantu group, the total is 42%. It is argued that Kikuyus have long provided the face of Kenya to outsiders for they had the longest contact with the British and the Kikuyu Mau Mau movement was one of the most famous ethnic-based liberation movements in Africa.¹⁹⁰ While Jomo Kenyatta was Kikuyu, Kikuyu are now predominant in Ford Asili and the Democratic Party, yet there are no Kikuyu

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For in-depth understanding of this history I suggest Ngugi wa Thiongo's novels, such as "A Grain of Wheat" which deals with the *Mau Mau* movement in novel form.

KANU members. Of the 34 Kikuyu in Parliament, 21 are Ford Asili, 12 are Democratic Party and one is Ford Kenya.

Jealousy and suspicion of Kikuyus who are derisively known as “Kyukes”, relates back to their predominance during the Kenyatta era, and their amassing of wealth and land during that period. Generally, Kikuyu are known for their intellectualism and radical pursuit of politics.

It should be emphasised however, that the Kikuyu are divided into two disparate groups: the one, led by Kibaki's DP, which represents the elite, old, Kenyatta-aligned/Kiambu/Family elite, and the second, as led by Matiba in Ford-Asili, representing the 'rank and file' or ordinary, Kikuyu. This split in the Kikuyu group has revealed that the ethnic ties of kinship and cultural/primordial solidarity have, ironically, been interpenetrated by class and capitalist interests. This is a distinctive feature of Kenyan politics and explains to some extent the failure of the Opposition to provide a united front.

Luhyas (including Kisii and Kuria), comprise 20.5% of the population, and are largely found in Western Province as well as Nyanza. Luhyas are regarded as politically independent, with unpredictable voting

patterns and belonging to political parties across the board. Luhya MP's are thus found in Ford-Asili, KANU and Ford Kenya.¹⁹¹

The Kalenjin group, including Kipsigi, Nandi, Pokot, Keiyo, Marakwet and Tugen (as well as Maasai, Samburu and Turkana), comprise 14.4% of the population and is centred in the Rift Valley Province.¹⁹² As explained in the section dealing with the history of Moi's rule, Kalenjin now dominate government positions. Kikuyu/Kalenjin rivalry is the greatest cause of ethnic animosity in the Kenyan nation today.

Luos constitute 13.2% of the population and dominate Nyanza Province. It is argued that Luos have long been the main political rivals of the dominant Kikuyus, at times in alliance and at times in strenuous political struggle. The most important names in Luo politics, leaders whose impact has resonated across Kenya's political landscape, are the late Tom Mboya, who was assassinated in 1969 by the Kenyatta regime,¹⁹³ and Jaramogi Oginga Odinga. The latter became the undisputed leader of the Luo people under the mantle of Ford Kenya. It will be remembered that Ford- Kenya was formed in

¹⁹¹ It has been alleged that Luhya politicians were promised high positions in government should their support of Moi, result in his re election. However, the main Luhya leaders in the 1992 elections were Elijah Mwangale and Burundi Nabwera, both of whom lost, and thus failed to secure such high positions. KANU enjoyed wide Luhya support, until Cyrus Jirongo, a Luhya leader of Youth Kanu 92, was set up by KANU by being implicated (scapegoated for local and foreign audiences), for being the instigator of the bribing and bullying of opposition politicians undertaken by the Kanu Youth Wing, prior to the elections.

¹⁹² The Rift Valley has been the heart of ethnic conflict and clashes between Kikuyu and Kalenjin, both prior to the 1992 and 1997 elections and thereafter.

¹⁹³ It is alleged that Tom Mboya was a brilliant thinker whose threat to Kenyatta's Presidential seat was too much for him and the Kenyatta "Family" to bear. Personal interview with the ex-moderator of the Kenyan Presbyterian church, J.M. Kariuki, Pietermaritzburg, April 1999.

the 80's as a broad-based movement to call for reforms and constitutional changes as well as for multi-party democracy. The movement became a political party in 1992. It will also be recalled that Matiba left Ford - Kenya to form his own party on the basis of his desire to secure Kikuyu support - as this was the constituency he represented, being Kikuyu himself.

Jennifer Widner, in her comprehensive work, *From Nyayo to Harambee: The Rise of a One-Party State in Kenya*, argues convincingly that: "ethnic division in Kenya is less a reflection of the existence of distinct, well-organised cultural communities, than a consequence of tactics politicians have used in securing public resources for their constituents".¹⁹⁴ What this implies is that, despite the existence of different groups with different cultural and linguistic heritages, these differences needn't assume negative proportions, unless they are utilised for political purposes.¹⁹⁵ There is no reason why different ethnic groups should not coexist harmoniously, as had for example happened between the Kalenjin and Kikuyu prior to the (allegedly) state - instigated ethnic clashes.¹⁹⁶ It is also worth recalling that these ethnic problems and claims of "tribalism", had their origins both in the colonial mode of governance (which had masterminded 'divide and rule' strategies in order to secure authoritarian leverage over the people), as well as in the post-colonial era of governance (in which the state sought to amass power and

¹⁹⁴ Widner, Jennifer, *op cit*, p.44.

¹⁹⁵ This is not to deny the existence of primordial ethnic conflicts which have and may occur. Not all ethnic conflicts are necessarily due to political activation, but may relate to cultural and anthropological differences, or varied resource allocation amongst feuding groups.

¹⁹⁶ Widner, Jennifer, *ibid*

prestige for the ruling elite at the expense of the majority). Ethnicity impacts upon both the rulers' mode of governance and the opposition parties' modes of countering this governance.

Opposition politicians in Kenya , rather than uniting in one anti-incumbency voice,¹⁹⁷ are discordant amongst themselves, juggling the ethnic factor in an attempt to secure power for themselves.

Advancing the interests of one's own group takes precedence over all else. This is argued to be a feature common in Africa and is referred to as "Unbounded Politics" by analyst, Jeffrey Steeves.¹⁹⁸ It is for precisely this reason that, ethnic rivalries have played the greatest role in stalling Kenya's movement towards a lasting multi-party democratic system.¹⁹⁹

It is worthwhile taking into consideration the fact that this ethnic dimension is not as cut and dried as might be presumed. Naomi Chazan warns against perceiving Kenya's ethnic conflict as merely inter-ethnic, arguing that there are also intraethnic conflicts which complicate one's analysis.

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It is argued by numerous scholars that because Opposition politicians have focused on their ethnic support base they miss the proverbial boat and power has remained in the hands of the regime. One journalist argued that: "All they needed if they were after the democratisation of the country, was to insist on a new constitutional order before they went into elections. If all they were interested in was removing KANU from power, all they needed was the original Forum for the Restoration of Democracy. Of course they all agreed that KANU should go, but they were also democratic enough to agree that each one of them was qualified to be the next President and Minister and Attorney General and Chief Justice" (note the sarcasm).

198 Steeves, Jeffrey: "Re-democratisation in Kenya: 'Unbounded politics' and the political trajectory towards National elections" *Journal of Commonwealth and Comparative Politics* Vol 35 (no 3), p.27.

199 [http://www.iri.org/Africa/Publications/Kenya Update 93/appendix - 2htm](http://www.iri.org/Africa/Publications/Kenya%20Update%2093/appendix%20-%202.htm), page 3 of 3.

As Chazan interprets it:

Not only is predominately Kikuyu Central province divided by the three rival districts of Muranga, Nyeri and Kiambu²⁰⁰, but clan and generational differences remain as intense as ever. Moreover, Kenya's other major ethnic groups are also torn by divided interests.

She goes on to show that: "A Kalenjin leader must forge a united position among diverse representatives for Kipsigis, Marakwet, Nandi, Pokot, Elgeyo and Tugen, prior to dealing with leaders of other ethnic groups".²⁰¹

This is a crucial point to take into account when considering Moi's political tactics and attempts to muster support from the small ethnic groups related to the Tugen, from whence he comes.

HISTORY OF SPLINTERING IN THE OPPOSITION

FORD broke up (due to personal ambition and ethnic rivalry) into Ford-Kenya, (led by Oginga Odinga) and Ford-Asili (original, led by Kenneth Matiba). Odinga and Matiba claimed to represent their home-tribes, Luo and Kikuyu respectively and lured these groups into their campaigns for Presidency. The Kikuyu were split however, because there were some who, rather than supporting Matiba, supported Kibaki's Democratic Party (in the Rift Valley and Nyeri). In a like manner, the Abaluyha tribe were

²⁰⁰ These divisions are very important to note as they reveal the class war between the elitist and 'rank and file' Kikuyu/the old Kenyatta Dynasty or Kiambu residents versus the Kikuyu who were marginalised under the Kenyatta regime.

²⁰¹ Chazan, p.104.

divided in their support, some turning to Odinga's mainly Luo, Ford-Kenya, and others to the predominantly Kikuyu-supported, Ford - Asili.

During 1992-1997, opposition party fracturing and new party formation continued to prevail in Kenya. By 1996, Ford Kenya itself re-split into one faction led by a Luhya leader, Wamalwa, (who had allegedly gained the upper hand in terms of leadership), and the other by Odinga Oginga's son, Raila. The latter left the party on New Year's Eve 1997, and joined the hardly known National Development Party (inaugurated in 1994), a move which severely weakened Ford - Kenya. Ford - Asili suffered a similar fate with one section remaining supportive of Kenneth Matiba because he was a Kikuyu, and another section of Abaluhya supporters defecting to KANU in their attempt to ensure that their ethnic group rights would be honoured

The Democratic Party led by Kibaki was also riven by internal divisions when in 1995 the Secretary General, John Keen, a Maasai, defected to KANU, and Agnus Ndeti likewise in 1996.

Other Opposition parties were SAFINA, (headed by ex-wildlife society chairman and famous conservationist, (as well as a former KANU MP who lost his Langata seat to Odinga in 1992, Doctor Richard Leakey), which, as with the original Ford - Kenya, purported to be an umbrella body for all opposition parties, undergirded by an alliance with civil-society organisations.

In January 1996, the *National Alliance* appeared as a body to unite and allegedly transform Kibaki's DP, Wamalwa's Ford - Kenya and Martin Shikuku's Ford - Asili. At the same time, another grouping

entitled *Opposition Solidarity* appeared with claims to offer a new vision for opposition politics in the form of reviving the DP (under Ngengi Muigai), Ford - Kenya (under Raila Odinga) and Ford - Asili (under Matiba). By October 1997, just prior to the December 29th Election, Kenneth Matiba registered a new party, Ford-People, (which splintered from Ford-Asili due to Matiba's personal conflicts with its secretary general Martin Shikuku) thus allowing for the existence of three Fords: Ford-K, Ford-A and Ford-P! This then provided clear evidence of the comprehensive fracturing of opposition politics.

Of course the problems inherent within the ethnically-based opposition parties were not merely internally motivated. The ruling regime had strategies to exacerbate the lack of cohesion, to mastermind it and encourage its growth in their own favour. Clearly, the more Opposition parties that existed the more discordant they would be as an Opposition front.²⁰² Furthermore, agents could be planted into Opposition parties to both create conflict and provide vital information to the ruling regime. The regime could offer financial reward to defectors and offer minimal concessions to reform so as to divide and confuse the more radical from the liberal opposition politicians. This was clearly evidenced in both 1992 and particularly in 1997, especially with regard to the Inter-Parliamentary Parties Group (hereafter referred to as IPPG) as a concession which weakened the role the National Convention Executive Council (hereafter referred to as NCEC) might have played. The division within Kenya's major opposition party, Ford-Kenya, was indicative both of opposition power politicking and of KANU's attempts to buy out segments of the opposition.

²⁰² This was especially evidenced in the former Zaire where there were over 200 Opposition parties, who failed to oust the Mobutu regime due to political bickering.

Hence, while the deputy president James Orengo, was at the forefront of attempts to disrupt the 1997 presidential elections, the leader of the self-same party, Michael Wamalwa, headed the negotiations with KANU which were to lead to the IPPG deal!

8.4 Division Within the Ruling Party Itself

At the same time, the ruling party itself was riven by internal division, and was not as cohesive and powerful a force as it might have been, in this way providing some political manoeuvring space for the Opposition.

Although, opposition politicians tried to maintain the prominent tribes' support, Moi and his coterie of KANU MP's, sought to unite a broad alliance of minority tribes, giving them: "a place in the state structure beyond their numerical claims".²⁰³

Yet, KANU found itself divided between the smaller groups known as "the KANU tribes", under the mantle of KANU A and led by Simeon Nyachae (Abagusii leader and Minister of Agriculture); Musalia Mudavadi (Abaluhya leader and Minister for Finance); William ole Ntimama (Maasai leader and Minister of Narok); Noah Ngala (Minister of Energy) and Kipkalya Jones (Kipsigi leader) and the larger groupings: Kikuyu, Luo and Kalenjin,²⁰⁴ under the mantle of Kanu B, and led by Vice-President George

²⁰³ Steeves, Jeffrey, *Redemocratization in Kenya, Unbounded Politics and the Political Trajectory Towards National Elections*, p.31.

²⁰⁴ Note that KANU B represented a merging of the old and the new Family Dynasties: The Kikuyu (Kenyatta), the Kalenjin (Moi's Dynasty) and also the Luo (the major contenders for power/a new dynasty). This is clearly evidence of a hegemonic pact between the old and new economic ruling bloc? Yet at an ethnic level they were regarded as arch enemies as was evidenced by the Rift Valley violence pitting Kalenjin warriors against Kikuyu residents.

Saitoti, Secretary General Kamotho, Nicholas Biwott and Wilson Ndolo Ayah.²⁰⁵ This division between Kanu A and Kanu B had begun prior to the Moi era, under Kenyatta's regime, according to an anonymous Kenyan contact.

Ethnicity was clearly a major driving force in both opposition and ruling party political tactics.

The divisions within KANU were to become exacerbated after the 1997 elections, but particularly in 1999, when President Moi declared that the Constitutional Review Commission be returned to Parliament, sparking off the dissension of a substantive number of KANU MP's.²⁰⁶

8.5 Opposition Politics and Local Government

The case of the management of the Nairobi City Council, that is after the 1992 General election, between the periods of 1992-1995, and in which the Opposition won the rights to administer the city, offers one of the most interesting and relevant accounts of why and how Opposition politicians failed to implement democracy in Kenya at the local level. It provides a superb example of the flaws inherent not only within both the Opposition's mode of administration, but equally within the ruling regime's centralized control, and ability to undermine the Opposition's power at the local level.

Thus, despite the fact that opposition parties won the local councils after the 1992 elections, (and despite the fact that multiparty elections had been held, and thus an element of competition been

²⁰⁵ Steeves, *op cit* p.43.

²⁰⁶

Refer to Chapter 15 on the National Convention Executive Council: 15.1 = The Constitutional Review Commission.

tolerated) they were faced with: “enormous limitations to their autonomy imposed by the past centralization of power in the hands of the Ministry of Local Government”²⁰⁷ While strapped of cash, the local councils still had to beg from head office for finances which secured their dependence on the ‘powers that be’ and made bribery and co-optation a tempting option. KANU resorted to two major tactics in 1993: firstly, via an administrative decree they ensured greater centrifugalization of government power in the hands of the Ministry of Local Government “. While strapped of cash, the local councils still had to beg from head office for finances which secured their dependence on the ‘powers that be’ and made bribery and co-optation a tempting option. KANU resorted to two major tactics in 1993: firstly via an administrative decree they ensured greater centrifugalization of government such that Mayors and Chairmen were merely ceremonial figures rather than leaders in their own right at local level. Secondly, they lured members of the opposition to ‘cross the floor’ with incentives of: “the plenitude of material resources at their disposal”.²⁰⁸

The fact that Nairobi City fell into a state of chaos and disrepair is not solely due to the fault of the ruling party then, because it was actually administered by the Opposition. Of course, the deterioration in Nairobi’s management began long before the advent of multipartyism, most notably between 1981 and 1987, and hence was pretty well entrenched by 1992. While Steve Mwangi (Ford - Asili) was elected as the Mayor of Nairobi, the rivalries between the Democratic Party and Ford Kenya who allied with KANU, was at the root of the failure to enact strong management and leadership practices under Mwangi. He himself was a competent and visionary leader who set up the well-known but failed

²⁰⁷ Southall and Wood, “Local Government and the Return to Multi-partyism in Kenya”, *African Affairs* (1996), 95, 501-527, p.515.

²⁰⁸ *Ibid*

“Nairobi we Want Convention”.²⁰⁹ All sorts of internecine party politicking and bickering, allied with corruption and ethnic interests, contributed to the downfall of Mwangi and his Convention.

After attempts to unseat him, Mwangi resigned to be replaced by King'ori, who faced similar threats after exposing corruption within KANU (in particular Machakos KANU chairman, Mulu Mutisya). As stressed by Southall and Wood: “The experience of Nairobi offers little to suggest that the return to multipartyism, under existing conditions in Kenya, has done much to promote the cause of democracy”.²¹⁰

Perhaps the greatest drawback of the multiparty elections was that, as in the case of Nairobi, the voters chose incompetent persons to assume leadership roles. This is indeed democracy but only of choice, as opposed to informed choice (as in electing leaders based on their merit and skill). More akin to populism perhaps? Electing *matatu*²¹¹ touts and semi-literate men and women into positions of power did not bode well for administrative success. As argued again by Southall and Wood, and this is a point which relates to all the Councils throughout Kenya today: “Until only well-educated men and women of integrity and good leadership qualities are appointed and elected to the City Council and its administration, Nairobi's citizens will continue to wallow in filth and the consequences of greed”.²¹²

²⁰⁹ *Ibid*, p.522.

²¹⁰ *Ibid.*, p.533.

²¹¹ Swahili for mini-bus/taxi. The major form of local transport in Kenya.

²¹² *Ibid.*, p.524. Note that such an argument would concur both with Ayittey's (*Africa Betrayed*) argument as discussed in the opening section of democracy (A pre-colonial democracy), that many pre-colonial African modes of governance stressed good leadership qualities, such as accountable leadership, and the generally argued case for democracy - that it requires competent leadership able to be representative of the people and to impart wisdom to them.

This factor, together with decentralization of power (without implying *majimboism* or ethnic federalism) would indeed augur well for the consolidation of democracy. Who was elected to the local councils after the 1997 election would be a theme worth pursuing in order to assess whether this negative trend can be reversed.

8.6 Extra-Parliamentary Opposition

The National Convention Executive Council may offer greater prospects for a viable democratic revival, being a broadly civil-society based opposition front without having the hampering effects of parliamentary power politics. (Although MP's do subscribe to it, they are not the dominant actors, and the movement is strictly extra-parliamentary). There may of course be elements of elitism as it does comprise religious, legal and intellectual leaders. Of course it is of interest to note that the original FORD (Forum for the Restoration of Democracy in Kenya, initiated in 1991, prior to the first multi-party election of 1992), was, similarly, a broad based, non-political opposition front clamouring for constitutional reforms. Once they entered the mainstream political arena, power politics inevitably corrupted their democratic ethos and personal feuding over who would take the Presidential candidacy assumed paramountcy.

8.7 Positive Achievements of the Opposition

It would be dangerous to denounce all opposition politicians, although it is tempting to do so, in order to make it easier to provide a generalized explanation for Kenya's woes under multipartyism and for the lack of an effective and united opposition force. Such an argument would no doubt please the ruling regime immensely.

Likewise, on a related theme, it would be foolish to denigrate the valuable aspects of the transition to multiparty democracy which allowed for the very existence of these opposition parties, new spaces for

an emerging civil-society and checks on the KANU state. As Odhiambo argues in his article: *Why a poll boycott will be political suicide*:

It is important to enumerate what we have achieved since the watershed elections of 1992. *Because* we participated, even though we knew they were flawed in whole Provinces, we actualised our multi-party dreams. This exercise gave us 81 seats in Parliament and a voice in the political arena.

The quality of debate in Parliament was enhanced through the contributions of people like Professor Anyang' Nyongo, Mr. Paul Muite and Professor Ouma Muga.²¹³

This is a powerful rendition of the impact the Opposition can have, and has had, on the parliamentary and political arenas.

Furthermore, I would like to stress that Kenya has had many vociferous critics of the government; men and women of the highest calibre: intellectuals, historians, novelists, politicians and lawyers, who have formed part of the Opposition front. Nakuru MP, Koigi wa Wamwere; political analyst, Peter Anyang'Nyong'o; lawyer, Paul Muite; as well as Social Democratic Party leader Charity Ngilu and Greenbelt Movement leader, Professor Wangari Maathai, are but five examples of sound opposition leaders who were prominent at the time of the 1997 elections.

Koigi wa Wamwere is, in my personal opinion, one of the finest characters within the Opposition fold, despite being a previous KANU MP. His suffering in detention due to his outspoken stand against human rights abuses in Kenya and his tenacious efforts to promote justice in his home country while in exile in Norway (he set up a Kenyan Human Rights' Campaign from Cornell University), are credible and noble.

²¹³ Odhiambo, Otieno: "Why a poll boycott will be political suicide" *Daily Nation*, Dec 1 1997

The way he was mocked and denigrated by the media prior to the 1997 elections for which he stood as a Presidential Candidate (they portrayed him as a crazy Rastafarian due to his dreadlocks, who had the 'audacity' to presume that his being in detention made him fit to be President of the country), was clearly part of the propaganda campaign initiated by the regime to ensure their success in winning the election.²¹⁴

Likewise, there are numerous others who have been exiled, banned, detained or assassinated because of their pursuance of genuine democracy, justice, and authentic "peace, love and unity". (Moi's *Nyayo* theme). There are other notables such as Ngugi wa Thiongo, whose novels, such as *A Grain of Wheat* and *Petals of Blood*, have played a crucial role in disseminating an understanding about Kenya's politics (ethnicity, chauvinism, corruption) to both Kenyan and International audiences alike.

8.8 New Opposition Movements

To conclude Chapter Eight, brief mention ought to be given of a highly promising Opposition Movement which appeared - in embryo - in July 1999.

It is my opinion that, certainly in theory, the credentials of the United Democratic Movement bode well for a valid counter-hegemonic and authentically democratic project. According to the *Daily Nation*

²¹⁴ This is based on personal reading of the newspapers in Nairobi, during the months August - December, directly preceding the elections held on 29th December 1997. Even the so-called liberal *Daily Nation*, satirised Koigi, without putting his detention and exile into context. I think they probably made a mockery of his statements by linking his detention suffering with his claims to be able to lead. If anything his detention probably rendered him unfit to lead in a sense that the emotional trauma he underwent would have left deep scars that will take years to heal. Similarly, Matiba's period of incarceration has left him mentally and emotionally scarred and thus less able to perform competently. Hence his confusion about whether to partake in the elections or not: "to burn the voter cards or not to burn them - that is the question!". He constantly shifted his opinions in a dangerously unstable way.

Online, the United Democratic Movement has the aim of fighting for the welfare of women, youth, pastoralists and other disadvantaged Kenyans; to fight corruption and embezzlement of funds; and to be a “coalition of progressive forces”. Significantly, the Movement has proposed its symbol to be that of a Bicycle, suggesting the spokes of a wheel working together in tandem. Their motto is to be “*Ya Watu Wote*” and their salute an open palm.

I believe these positive suggestions may pave the way for a regeneration of a new and valid spirit of *harambee* and *nyayo*, which may inaugurate hegemony (state-societal accord) in Kenya today. There may be some controversy over the decision that the Movement be led by a Council of Elders, with a minimum age of 55, as this may be seen as age discriminatory, but in the light of historical political philosophies, such as Plato, perhaps a return to the notion of rule by the wise, is not such a bad idea. However, incumbency and geriatric rule (as epitomised by neopatrimonial rule in Africa generally and in Kenya, by Moi) is certainly not on a par with such a notion. A compromise must be sought: whereby leadership of the older/wiser and younger/innovative is achieved, both serving for maximum periods of two to three years to ensure fresh political outlooks and yet maintain some continuity of leadership.

CHAPTER NINE

THE STATE'S REACTION TO THE NCEC

This chapter will provide evidence of a weak state resorting to coercive rather than hegemonic means to assert power. More specifically, it is a detailed Chapter based on newspaper articles. In essence it is an investigation of certain events, victims and perpetrators of violence.

9.1 SABA SABA 1990 and 1997

The author was in Nairobi on the seventh of the seventh 1997, *Saba Saba*²¹⁵ day, and personally witnessed police beating up alleged protestors, and hooligans raiding stores and setting cars alight. The brutal events of *Saba Saba* day revealed the extent to which the KANU regime feared the threat posed by the NCEC and the reform movement, and how they thus resorted to their old tactic of coercive and military force to quell the opposition movement.²¹⁶

²¹⁵ "Saba Saba" is Swahili for "seven seven", referring to the seventh day of the seventh month, the day on which the NCEC called for mass action to protest for constitutional reform prior to the holding of National elections, were they to be deemed legitimate.

²¹⁶ It should be noted that, in 1990, similar violence occurred on this day, hence it being known and remembered as '*Saba Saba*'. Then, people calling for multiparty democracy were targeted, with the arrest and detention of Matiba and Rubia (prime Opposition leaders) on July 4th, as precursors to the actual day of violence on the seventh. They had sponsored the holding of a public rally for multiparty democracy at Nairobi's Kamukunji meeting ground for this day. 1,500 arrests were made of people giving the two-finger salute (for multi-party democracy); 30 people were shot dead by the police and further demonstrations were banned. Government denunciations increased with Minister for Local Government and Maasai MP, William ole Ntimama, attributing the bid for multi-partyism to Kikuyu. He allegedly went so far as to state that: "a certain ethnic group should be cut down to size as were the Ibo of Nigeria"! Only a year earlier, Moi had urged his supporters to "hunt down the advocates of multipartyism, like rats" and that advocates of it were merely "puppets of the West" 1990 was a particularly memorable year - it being in February that Foreign Minister Robert Ouko was murdered in highly suspicious circumstances. Subsequent investigations revealed to have been a

According to newspapers sources, on the seventh of July 1999, thirteen civilians were either shot dead by police or died in stampedes brought about by confrontation between the riot police and politically charged agitators. The latter were led by the *National Convention Executive Council* including Opposition parties, religious leaders and civil groups, calling for constitutional reforms prior to the holding of the December 1997 elections.²¹⁷

It was believed by the opposition movement that, without such constitutional changes, the multi-party elections would remain a mirage, a farce, because the constitution contained inbuilt mechanisms to ensure the ruling party would win. (This included, for example the stipulation that the Presidential candidate win 25% in 5/8 of the Provinces and 50% nationwide, as well as the continued power of the President to nominate the election date - thus enabling the regime to manipulate the environment to

political assassination due to his exposure of corruption in the upper echelons of Kanu's political cabal. As Ayithey so pertinently argues: "of the numerous political assassinations in Kenya, the case of Robert Ouko, a former foreign minister, serves as a reminder of the danger of concentrating excessive powers, without checks and balances, in the hands of a single party or government. In Kenya, there are no assurances once an individual steps out of line with the party or government. Ouko was brutally murdered on 13 February 1990. Kenyan security men have been widely implicated". After his death, anyone who suggested it may have been an assassination was also rounded up. By May 1990 "almost every critic, opponent or past enemy of the government had been swept up in the police net". At least ten witnesses in the case, including judges and lawyers died of mysterious short illnesses, after the investigation! At the time of writing (May 1999), Moi's right-hand man, Biwott, was implicated in the Ouko murder in a controversial book entitled *Dr Ian West's Notebook*, written by Chester Stern. (Refer to Chapter 16 on corruption for more detail on this aspect of Kenyan politics).

²¹⁷ *Daily Nation*, August 23, 1997 (Andrew Ngwire "Why make Kenyans' lives nasty, brutish and short?")

their own advantage.²¹⁸ These claims were indeed valid and pivotal to the need for a radical reassessment of Kenyan political structure, beyond a view which posited the holding of multi-party elections as adequate.

The confrontations and deaths of *Saba Saba* day occurred in Nairobi (Uhuru Park and Central Park), Nyahururu town and Thika, where pro-reform rallies were held, despite the absence of authorisation..

In Nairobi, riot police used live ammunition and teargas to disperse the rally prior to it making any headway. After the initial disruption of the rallies, skirmishes spread to the outskirts of the city and lasted the entire day. Some police officers pursued people into their houses and matatus (taxis), beating them for no apparent reason and with gay abandon. The appearance of an elite police force, known as the "Flying Squad". While brandishing sophisticated guns they moved in vehicles bearing civilian registration numbers.²¹⁹ This suggested that the regime and its paramilitary wing were working in cahoots to undermine the potential of these counter-hegemonic forces.

Many police acted with considerable brutality in the streets of Nairobi, regardless of the presence of the International media and tourists. It is as if they were a dehumanised force, acting on orders without regard for their fellow Kenyans.

²¹⁸ Refer to Chapter 15 on the NCEC and 15.1 on the Constitutional Review Commission).

²¹⁹ *Electronic Mail and Guardian*, July 9, 1997 (Ngunjiri, Philip, "Kenya police under fire for killing protesters").

That they could behave in such a way in front of observers, from personal intuition, suggests that they may have been unaware of the injustice of their actions, thus perceiving themselves as the 'moral custodians of law and order'.²²⁰

The most shocking incident occurred in All Saints' Cathedral, Nairobi, where more than 50 paramilitary police forcefully entered, fired teargas and beat worshippers with pickaxe handles.²²¹ According to the

²²⁰ Author's personal sarcasm. "Peace, love and unity" is the motto behind Moi's rule since he came to power in 1978. I find it highly ironic that this song can be sung in Kenya, when it is clear that nothing could be further from the truth. It should further be noted that such police brutality was repeated in 1999, in particular I refer to June 1999, when the NCEC and other Opposition groups campaigned against Moi's proposal to return the Constitutional Review Commission back to Parliament, and demonstrators were brutally beaten in the streets. As with the *Saba Saba* day incident, Reverend Timothy Njoya was again targeted and ruthlessly beaten by men, whom it was later discovered were agents of the "Jeshi la Mzee", the President's elite paramilitary squad (in other words hired mafia, dressed in plain clothes). Refer to *Daily Nation On the Web*, June 1999.

²²¹ The police allegedly claimed that the cathedral was being used as a sanctuary for "dissidents and hooligans", for criminals; thus giving them the right to perform as they did. Even if the congregation had been worthy of such a title, one still wonders how this could legitimate such ferocious behaviour on the part of the police? In a state which conducts itself upon norms of governance one would at least expect the "criminals" to be duly round up, handcuffed and taken to court for a fair trial, but to be summarily shot at and mercilessly beaten, suggests a patrimonial regime gone horrible awry; worthy of only one title: police state/despotic. Not that this was anything new. The same behaviour had been acted out numerous times previously during the 1980's and 1990's. What was being evidenced was pretty 'par for the course' in the light of the regime's history. A state that can detain without trial its political prisoners and brutalise them with sophisticated torture methods; a state that, despite some media freedoms has continued to feed the populace with lies, cannot be expected to have approved of calls for constitutional reform prior to the 1997 elections. Piecemeal, Latin American-style transition would be the only course to follow. It is my opinion that the behaviour of the police on this day revealed the morbidity of the interregnum and of the intransigence of the regime.

opinion of *The People* newspaper, “blood was spilled in the church, while benches were broken in a manner reminiscent of the Rwandan genocide that was extended inside church compounds”.²²²

Two men were allegedly beaten to death as they knelt at the altar. The Reverend Timothy Njoya, moderator of the Presbyterian Church of East Africa, was critically injured outside the church, beaten almost senseless by seven riot police bearing truncheons, while raising his hands in surrender and pleading for mercy.²²³ The leader of the Democratic Party of Kenya (DP), Mwai Kibaki, and other opposition parliamentarians, were also beaten during the raid.²²⁴ In the words of Reverend Peter Njoka, who had led the prayer service: “This is the height of decadence, it’s unimaginable that a government that professes Christian faith can allow its police force to come into the church and disrupt a prayer service.”²²⁵

The newspapers and international television crew carried horrific footage of these incidents which, having been beamed around the globe, caused an International outcry. Although Moi’s regime had invited increasing critiques as a result of human rights abuses, what was unique about the condemnation this time around, was how personalised it was against President Moi specifically. There were growing concerns that the Press was ‘Mobutunising’ him. “Mobutu is going, Moi is next”, was a comment attributed to *CNN*, for example.

²²² *The People*, July 17, 1997, p.11.

²²³ *Keesings*, July, 1997, p. 41720.

²²⁴ *Electronic Mail and Guardian*, July 9, 1997 (Ngunjiri, Philip “Kenya police under fire for killing protesters”).

²²⁵ *Ibid.*

The seriousness of the matter was compounded when American Secretary of State, Madeleine Albright, issued a direct statement about what was ostensibly an internal Kenyan matter.²²⁶

The local KBC footage was, naturally, severely censored. The radio barely mentioned the incident at all and focussed instead on other news in the Continent and abroad! Two television editors were sacked for their reporting of the police violence as they were allegedly biased against them and obviously in favour of the opposition.²²⁷

In the ensuing mayhem of '*Saba Saba*', two students were shot dead at Nairobi University; two students were injured at Thika Institute and one lecturer was shot dead in his office at Nairobi University. On July 9, the University of Nairobi and the Jomo Kenyatta University of Agriculture and Technology were closed after three days of student unrest. Six days later, thousands of students demanding democratic reform and the release of eleven of their colleagues,²²⁸ arrested as the result of '*Saba Saba*', clashed with riot police in central Nairobi.²²⁹

The violence of '*Saba Saba*' had been preceded by a build up of calls for mass-action and protest rallies in previous months with the most notorious day being the May 31st rally also held in Uhuru Park, which, similarly, had been violently dispersed by riot police and resulted in riots and looting in Nairobi.

²²⁶ *Ibid.*

²²⁷ (refer to Chapter Twelve on Propaganda, the role of the media and the KBC in furthering KANU's hegemonic quest).

²²⁸ *The Daily Nation*, July 17, 1997, p.1.

²²⁹ See also Chapter 16.2 on Student Groups who form part of the embryonic civil society(counter-hegemonic forces).

Furthermore, four leading Opposition figures, Raila Odinga (chairman of the National Development Party), Kenneth Matiba (leader of Ford Asili), Michael Wamalwa (chairman of Ford Kenya) and Paul Muite (a member of Safina) had been placed under house arrest.²³⁰ In June, government officials had blamed unlicensed street hawkers for the troubles and using this as a convenient scapegoat, ordered their removal from the streets. Moi denounced the NCEC as a “revolutionary movement bent on unleashing blood”²³¹

The forces striving for change and reforms prior to elections were severely hampered in their attempts. The Pharaoh would “not let his people go”. The “new was struggling to be born”.²³²

Instead of listening to the demands and acceding that they were valid, the government was trying to blame the ‘unruly mob’ (Opposition leaders, the NCEC, hawkers and general looters all being thrown into one), for all of Kenya’s woes. Nevertheless, because of the International outcry against the police brutality beamed around the world on *Saba Saba* day, the government feared an economic backlash which would doom its very survival.²³³ Hence, Moi agreed that he would consider the repeal of the eleven colonial-era laws which the NCEC wanted scrapped. He also agreed to the establishment of a Constitutional Review Commission to talks with opposition parties. However, “observers noted that,

²³⁰ *Keesings*, May 1997, p.41627

²³¹ *Keesings*, August 1997, p.41762.

²³² See opening quotations.

²³³ *The People*, July 1997, (*Citizen Supplement*).

whilst the repeal of the laws might reduce the powers enjoyed by Moi, the gesture was likely to undermine the pro-democracy campaign and divide the opposition".²³⁴ Thus, paradoxically, both the regime and its opponents simultaneously gained and lost aspects of power.

CHAPTER TEN

THE MANIPULATION OF ETHNICITY:

VIOLENT TACTICS USED TO ASSERT KANU'S HEGEMONY
AND DENIGRATE THE POTENTIAL FOR DEMOCRATIZATION
WHICH THE HOLDING OF THE 1997 MULTI-PARTY ELECTIONS
MIGHT HAVE HAD - THE EXAMPLE OF LIKONI AND THE
RIFT VALLEY CLASHES

While the violence of *Saba Saba* day provided a typical example of the KANU regime's coercive response to manifestations of counter-hegemony (as epitomised by the National Convention Executive Council's calls for mass action in 1997), the regime was also seemingly capable of extended and deliberately planned violence involving deaths and displacements of hundreds of people, who were scapegoated either for their ethnic allegiances or for their being non-KANU supporters. While this is a contentious issue, (as there are counter-arguments suggesting that the ethnic violence was instigated by the opposition parties in an attempt to undermine KANU's position²³⁵), I will attempt to substantiate

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A good source of this argument is the controversial Moi biography written by Andrew Morton: *Moi: the making of an African Statesman*. As he argues: "Not long afterwards the first of the violence erupted in the Rift Valley, the finger of suspicion pointing firmly at Kalenjin leaders. So far this is a story of Kalenjin chauvinism, government connivance and KANU dirty politics, a tale of a desperate President clinging to power by fair means or foul. Yet, as any detective mounting an investigation would ask, what was the motive behind the violence, and who had most to gain from it? It was immediately clear that the chief beneficiary was the opposition Forum for the Restoration of Democracy party. The violence left the government discredited, the Kalenjin isolated from every other tribe, whilst those tribes wavering between KANU and the Opposition, notably the Luhya, moved towards FORD.". Later he quotes from GG Kariuki, a former Kikuyu-nominated MP: "Could Moi have won the support of the Kalenjin, the Luo, the Luhya, Kisii and others by having the Kalenjin fight with each individual tribe? Who of those tribes is then going to vote for him? The answer is no. The clashes were exploitation by cheap inexperienced politicians - and, speaking as a Kikuyu politician, I would say that Kikuyu have blood on their hands. The Kikuyu-Kalenjin war was being forced by jubilant opposition parties". (Morton, p. 248/9). My personal opinion is that Morton's argument is carefully orchestrated to suit the interests of Moi, however, the reader must allow the facts to speak to him/her

this argument by referring to some of the available literature on the matter with particular reference to *Amnesty International*, *Africa Watch* and the *Kenyan Human Rights Commission* reports.²³⁶

Prolonged campaigns of “ethnic cleansing” it is argued, had a historical precedent in Kenya, originating prior to the 1992 elections when the debate about whether to institute multi-party politics was at its peak.²³⁷ These campaigns extended into the pre-1997 and post-1997 election phases. This was, arguably, the major dimension of the coercive component of KANU’s quest for hegemony. The ethnic

self.

²³⁶ According to the *Encyclopaedia of Human Rights*, edited by Edward Lawson and published by Taylor and Francis Incorporated, a reputable Publishing Firm, : “Amnesty International is an International non-governmental organization in consultative status with the UN Economic and Social Council and UNESCO, OAS, OAU, and the Council of Europe”. Lawson argues that Amnesty International provides “reliable reports”. According to the *Amnesty International 1997 Report*: “Amnesty International is impartial. It is independent of any government, political persuasion, or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of the victims whose rights it seeks to protect. It is concerned solely with the protection of the human rights involved in each case, regardless of the ideology of the government or opposition forces. It is financed by subscriptions and donations from its worldwide membership. No funds are sought or accepted from governments. All contributions are strictly controlled by guidelines laid down by the International Council. (*Amnesty International*, USA, Baltimore, John. D. Lucas Printing). With regards to *Africa Watch*, the following information is pertinent. *Africa Watch* is one of five bodies under the umbrella of Human Rights Watch. The director is Mr Peter Takiambudde. The umbrella body originated in 1978 with the Helsinki group. At present there are also the Africa, Americas, Asia and Middle East bodies. According to the *Human Rights Watch 1998 Report* “ Human Rights Watch contains regular, systematic, investigations of human rights abuses in some 70 countries. Our reputation for timely, reliable disclosures, has made us an essential source of information for those concerned with human rights”. The above information points to the credibility and objectivity both of *Amnesty International* and *Africa Watch*.

²³⁷ (refer to Chapter Seven and Eight for more in-depth analysis, and also to Chapter Five on the shift from one-party to multi-party states in Africa)

violence which continued after the introduction of multi-party elections in 1992, appeared to fulfil Moi's self-fulfilling prophecy that multipartyism would only usher in destabilisation, violence and bloodshed.. Regions of the Rift Valley, and the Trans - Nzoia region where so-called cattle rustling and inter-ethnic animosity had caused the loss of thousands of lives and properties, suggests a political stratagem behind the ethnic clashes.

Prior to 1992, different ethnic groups in these areas had lived quite amicably side-by-side. Similarly to the tragedies of Yugoslavia and Rwanda, these ethnic groups were then activated by politicians and their 'morbidity'²³⁸ creatively exploited by the regime (and to a lesser extent its opponents) in its attempted quest for hegemony. Policies of tribalism were employed by politicians to sow confusion and disarray amongst the communities. There is an irony in the use of ethnic cleansing by a regime to attempt to attain hegemony. The very nature of divide and rule policies is inherently non-hegemonic, in the sense that it pits one people against another and thus creates divisions amongst society instead of cohesion. Thus, while ethnic discord was used to prevent rivals from coming to power, and while it represented a coercive strategy to maintain the status quo of the Moi/KANU regime, it ultimately resulted in the failure to achieve hegemony.

²³⁸

As discussed in the Theoretical component (Chapter Two) on ethnicity and the tribal factor.

The events which occurred at Likoni Ferry, Mombasa, in 1997, appear to fit into this same stratagem and tribalistic political paradigm utilised by the regime previously. It will be recalled that in Chapter Two of the theoretical section, the difference between ethnicity and tribalism was discussed. The “morbidity” of tribalism in the Kenyan context, will be revealed in this chapter, and it will become apparent how the regime has used this phenomenon in its attempted quest for hegemony.

On 13 August 1997, directly preceding the as yet unfinalised election date (which was subsequently set for 29 December 1997), a brutal orgy of violence and mayhem occurred at the Likoni Ferry station situated on Mombasa Island.²³⁹ The initial attack was to be followed by repeated incidents of violence in the area. While at first reading the violence of Likoni seemed to be uninterpretable; from background reading on ethnic violence in Kenya, together with retrospective accounts of the Likoni violence, one is able to discern certain dynamics behind the events.

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The first major event which triggered off a wave of violence in the Likoni area occurred on the 13 August 1997. What exactly transpired on this day? Gathering data from newspaper sources one is able to isolate the pertinent information as follows: A horde of marauders, estimated to number between 200 and 500, unleashed all-night terror on the Likoni area, killing six policemen at the Likoni police station, stealing 30 guns and thousands of rounds of ammunition, and then proceeding to assault, knife and club, civilians indiscriminately throughout the neighbourhood, killing approximately 42 of them and injuring scores. The attack on one Mr Frederick Odour, was typical of the approach of the attackers. He said seven men set upon him, demanding to see his identity card. When he gave it to them they said: “*Huyu ni Mbara, maliza*” (He is from upcountry, finish him), where after he was slashed with pangas on the back and head. He had no idea why he should have been attacked. Inhabitants of Trench town, a village in Likoni, were also attacked by the marauding mobs and many of their houses razed.

The Likoni violence, together with other clashes in the Rift Valley, appear to represent part of an ongoing practice of the KANU regime, certainly since the advent of multi-party politics in 1992, to foment ethnic-destabilisation as a way of destroying counter-hegemonic forces.

More importantly, it provided perfect fodder for KANU's propaganda campaign, the essence of which was to perpetuate myths about the Opposition parties by blaming the mayhem on *them*.

The Likoni incident also typified the strategies employed by KANU to use ethnicity as a scapegoat for their political agenda. It is argued that KANU wanted to ensure that they would win 25% of the vote in 5/8 of the provinces, and, as they had a weak support base in the Coast region, it was necessary to eliminate their opponents, or at least to weaken them, so as to ensure their (KANU's) political survival.²⁴⁰

Nevertheless, a variety of opinions were immediately circulated in the newspapers, offering reasons for the attack. The Opposition blamed the government, arguing it wanted to get rid of so-called upcountry people who were non-KANU supporters; eliminate Opposition leaders and forestall the Constitutional debate by declaring a State of Emergency.²⁴¹

The government, on the other hand, blamed the Opposition for wanting to create an atmosphere of violence as part of their destabilisation campaign. Through its newspaper channel, *The Times*, and via its *KBC* (Kenyan Broadcasting Corporation) broadcasts, they promulgated the notion that the violence

²⁴⁰ In Chapter Eighteen it is apparent that this strategy worked superbly as, in the 1997 General Election, KANU won Coast Province with 17 seats, against the DP and SPK with one seat each.

²⁴¹ *Daily Nation*, August 17, 1997 (Sunday Nation team, "Government to blame for attacks").

was evidence of the kind of Kenya *wananchi* (citizens), would have to endure, were the 'violence-loving' Opposition to come to power.

The government had used a similar argument in relation to the pre-*Saba Saba* and *Saba Saba* day violence. The government further alleged that the Likoni violence was ethnically motivated.²⁴² Moi, in particular, stated that the foreign media had distorted the issue.²⁴³

The violence in Likoni was due to a combination of interacting political and economic interests of the elites. The dominant reasons appear to be political, but the economic reasons cannot be ignored. Of course in terms of the regime, the political and economic interests were intertwined considering Moi and his coteries' links with powerful Coastal barons.²⁴⁴ Equally, there was the fact that Likoni residents were economically threatened by their upcountry counterparts, and were thus easily manipulated into 'xenophobic' sentiments by the instigators of the violence.

10.1 Why do I assume an anti-regime stance on the Likoni violence ?

From the beginning, it seemed that the opinion of the Opposition held greater objective truth than that of the regime, especially in the light of previous evidence of state-sponsored violence prior to the 1992 elections in the Rift Valley Province.

²⁴² *Sunday Nation*, August 31, 1997, p.1. (Sunday Nation team: "Government under fire as more run away from Likoni").

²⁴³ *Keesings*, August, p.41762. See also section on Counter-hegemonic organizations and civil society (Chapter 16) and Propaganda (Chapter 12), in particular the section on the Kenyan Broadcasting Commission (12.1.1.)

²⁴⁴ Refer to Ayittey, *ibid*, p.244 "President Moi sits at the of a growing empire of graft. As he has tightened his authoritarian control of political life, he has continued his conspicuous acquisition of personal wealth and built an economic empire of vast fortune." Refer also to chapter 14 :Corruption in Kenya.

Such a well-coordinated, professionally orchestrated attack was likely to have been initiated by high-powered politicians, together with powerful Coastal barons, who would have had the financial means to support such an undertaking.²⁴⁵ As Andrew Ngwiri so aptly asks:

Which organisation would have the magnitude to initiate such a deed. Who would have the kind of money and authority necessary to mount and organise such an operation carried out by hundreds of people who were certainly not plucked out from neighbouring villages at random and given machetes to do the killings?²⁴⁶

The most revealing source of evidence pertaining to KANU's being implicated in prior ethnic cleansing is Amnesty International's *Africa Watch* report, *Divide and Rule: State Sponsored Ethnic Violence in Kenya*.²⁴⁷ From an understanding of these old allegations one is able to ascertain a predictable strategy employed by KANU in its quest for hegemony.

Published in 1993, this report was categorical in its' assertion that: "Violent conflict between ethnic groups in Kenya since the advent of the multi-party system in 1991 has been *deliberately manipulated*

²⁴⁵ *Daily Nation*, July 23, 1997.

²⁴⁶ *Daily Nation*, August 23, 1997 (Andrew Ngiri, *ibid*).

²⁴⁷ *Human Rights Watch*, New York, 1993.

and instigated by President Daniel arap Moi and his inner circle in order to undermine attempts to create an atmosphere conducive to political pluralism”²⁴⁸²⁴⁹

Furthermore, they highlight the fact that the Moi government actually benefited economically and politically from the violence while generating continued Kalenjin support at the expense of the political opposition.

How exactly they benefited economically is not apparent and would require further research. Most probably it pertains to the fact that prime agricultural land was given to the Kalenjin coterie who would thus favour the regime with whatever outputs they made.

Rok Ajulu argues succinctly that the provocation of ethnic clashes erupted long before the legislation of political parties and at the hands of some Kalenjin and Msaai politicians who were alleged to be part of the President's inner cabinet.²⁵⁰ Interestingly, “a significant feature of these confrontations was that the government and its security apparatus appeared incapable of bringing them to an end.”²⁵¹ This implied

²⁴⁸ *Ibid.*

²⁴⁹ According to political analyst, Steeves, “Moi's intention to prove that multi-party politics would merely lead to ethnic violence proved to be a self-fulfilling prophecy, as his government encouraged a program of ethnic cleansing, whereby Kalenjin warriors, acting in roving groups of approximately 300 and dressed with red head-bands, while armed with bows, arrows and pangas, attacked Luo, Abaluhya and Kikuyu people accused of occupying traditional Kalenjin land. A particularly virulent attack occurred in the Nandi District of the Rift Valley, when, over a period of six months, starting on the 29th October 1991, 100,000 people were forced to flee the area.

²⁵⁰ Refer to section on Neopatrimonialism, Presidentialism, Sycophancy and Ethnicity.

²⁵¹ Similarly to the clashes between the IFP and the ANC in Kwa-Zulu Natal prior to the 1994 National Election in South Africa and typical under regimes which rule by “divide and rule” strategies.

that they did not *wish* to bring them to an end and were manipulating events to achieve their own ends. . By May 1992, the clashes, particularly in the Rift Valley, the destruction of homes and crops and the murdering of men, women and children, bore all the marks of contemporary 'ethnic cleansing'". Ajulu asserts that "the government had resorted to punitive separatism with the objective of carving out an autonomous sub-territory and using this to exact concessions from the advocates of multi-partyism".²⁵² *Thus, ethnic cleansing in effect destroyed a great deal of the positive impact the holding of multiparty elections might have had upon the democratization of Kenya and the relinquishment of KANU's attempted hegemonic grip over Kenya. And again, in the case of the 1997 elections, these repeated brutalities would denigrate the authenticity of the regimes' claims to be democratic .*

Africa Watch called on donor nations and financial institutions to withdraw aid until Moi's government took effective steps to fully investigate allegations of government involvement. As a result of the pressure brought to bear on the government, a parliamentary report was initiated. This report, following a church-sponsored investigation in June 1992,²⁵³ the *Kiluku Report*, also interpreted the attacks as being politically motivated. (Kiluku released the full report at a London Conference, "Conflict Prevention and Violence in the 21st Century" in February 1997). The *Report* implicated then Vice-President George Saitoti, MP's Ezekial Barngetuny and Nicholas Biwott, Moi's closest confidant and power broker, as being the financial stooges behind the "Kalenjin Warriors" - Kalenjin being Moi's tribal group. (It should be noted that despite the findings, these men remain powerful members of Moi's cabinet in 1999, although Saitoti lost his position as Vice-president and was shuffled into a less

²⁵² Ajulu, Rok, "Kenya's 1992 Election and its implications for Democratisation in Sub-Saharan Africa".

²⁵³ *Amnesty International*, 993, p.180.

powerful post, only to be reinstated in March 1999. Not only were these henchmen allegedly involved in financing these atrocities but they have also been implicated in serious corruption scandals.²⁵⁴

The Kiluku Report suggested that, by September 1992, the violence had led to 779 deaths, 600 injuries and 56,000 displaced families.²⁵⁵ Why the figures are less than those of the *Africa Watch* report is not clear. (The *Africa Watch Report* estimated that the ethnic clashes left 1,500 dead and 300,000 displaced. It warned that escalating violence threatened to spiral into civil war.) One may speculate that this difference in statistics served to appease the government or the public Or was *Africa Watch* overhasty to publish without thorough verification of the facts? The *Kiluku Report* was in agreement with *Africa Watch*, however, on the source of the violence. *The Report* thus alleged that: “the attacks were organized by hardline elements within the regime to intimidate opposition supporters”.²⁵⁶ Nevertheless, the full parliament, composed solely of KANU members, voted in October to reject the committee report. Obviously this was an attempt to evade the truth so as to maintain their grip on power. Thus, no further action was taken by authorities to bring to justice any government officials allegedly involved.²⁵⁷

An alternative view to the *Kiluku Report* is posited by Kenyan academic B. Ogot who, similarly to Andrew Morton, argues that the Opposition played a role in the ethnic violence and used the *Kiluku Report* to fan anti-Kanu sentiment. As he argues in his work, *Decolonization and Independence in*

²⁵⁴ as evidenced in Chapter Fourteen on corruption in Kenya.

²⁵⁵ Steeves, p.48.

²⁵⁶ Barkan, p.219.

²⁵⁷ *Amnesty International*, 1993, p.180.

Kenya: “Key members of the Kiluku Committee were opponents of KANU, and most of them were soon to end up in the opposition. The report was thus clearly part of the campaign to discredit the Kalenjin community in particular and KANU and its president in general”. He later asserted that: “In the view of KANU parliamentarians, the report was clearly part of the disinformation campaign to cover up the terror that the opposition unleashed on Kenyans in the form of clashes which were intended to force KANU out of government”. It is worthwhile to consider this opinion in order to realise that the ethnic clashes in the Rift Valley while emanating predominantly from the regime’s intentions, may also have been, to a small extent no doubt, fuelled by the interests of Opposition party leaders.

While the *Kiluku Report* dealt with these earlier clashes preceding the 1992 election, the *Akiwumi Commission* was set up to deal with both the 1991 violence *and* the violence preceding and following the 1997 election, including both the Likoni and Rift Valley incidents thereof. Set up in 1998 by President Moi to inquire into tribal clashes since 1991, The *Akiwumi Commission* was mandated to find the origin, causes and action of the police and to recommend prosecution. It was headed by Judicial Commission Chairman, Mr. Justice Akilano Akiwumi, Commissioners Mr Justice Samuel Bosire and Justice Lady Sarah Odeyo, Joint Secretaries, Jacob ole Kipury and Mr Peter Muhati with Assisting Counsel John Gacivih and Mrs Dorcas Odour.²⁵⁸

Various opposition leaders scorned Moi’s belated decision to set up the Enquiry, arguing that they had demanded such a commission for the last six years. Outspoken legislator, Oloo Aringo alleged that Moi

“only set up the Commission to pre-empt (a) convention on peace and security held in early July 1998, in Limuru, by Kenya’s religious leaders”.²⁵⁹

The fact that it is the fourth commission set up by Moi is also disconcerting, considering that, despite investigations into the conduct of Minister of Constitutional Affairs, Charles Njonjo (the First Commission); investigation of insurance graft in 1987 (the second); and the investigation of Foreign Minister Ouko’s murder in 1990 (the third Commission), nothing was done to prosecute the alleged perpetrators of these various crimes.²⁶⁰ This is not a new phenomenon in politics. Commissions are often set up as fronts to stall real investigations and to exonerate the perpetrators. The Law Society of Kenya made the valid assertion that it would be better if a UN tribunal were installed to investigate the clashes. At least in this way, some impartiality would be assured. In all likelihood the *Akiwumi Commission* was implemented in order to stall genuine transformation and with the intention of not allowing it to proceed full course: that is to prosecute the perpetrators of ethnic violence. The *Akiwumi Commission (in this light)*, was yet another tool in the arsenal of the “Soft-glove” dimension of KANU’s quest for hegemony.

The *Akiwumi Commission* (which ‘sat’ until the end of June 1999), did however, begin to furnish some answers to the questions I have asked above. Perhaps there is more hope for the Akiwumi Commission than its predecessor. Days 21-25 and day 28 of the Commission were certainly revealing. On Day 21, Justice Akiwumi ascertained that a certain KANU MP, Boy Juma Boy had held secret meetings only 4 days prior to the raid in which he had stated that it was time for *majimbo* (ethnic federalism), as tourism

²⁵⁹ *Electronic Mail and Guardian*.

²⁶⁰ *Electronic Mail and Guardian*, July 10, 1998 (Ngunjiri, Philip, “Kenyan’s wary of Moi’s violence probe”).

was benefiting the upcountry people of Likoni at the expense of the local residents. This was clearly evidence of KANU's fanning of ethnic hatred.

Secondly, an Indian farm manager, Mr. R.K. Pradhan alleged to have witnessed 50 strange men holding meetings on the premises of his Ziwani fam (in the Likoni vicinity), three months prior to the Likoni attack. Although he raised these strange occurrences (he had witnessed oathing activities and military training) with the authorities (including the Coastal Provincial Commissioner, the Provincial criminal investigations officer, the Likoni police, local chief and local KANU chairman), no action was forthcoming.²⁶¹ Later, local people would allege that they had heard the attackers calling themselves "Kaya Bombo", after a forest where some of them had been receiving training. There were further allegations of such activities around the Similani caves.²⁶²

Again on Day 22, Mr Pradhan alleged that despite notification, Intelligence Officers took no action. On Days 23 and 24, revealing allegations pertaining to the source of funding for KANU's campaigns in the Likoni area came to light. It was alleged that a certain Mr. Rashid Sajjad - a businessman; former Coast PC, Timothy Sirma and a current legislator, Shikamba, had paid a certain Mr. Alfani, a Tanzanian witch doctor, thousands of shillings to help promote KANU in the area. He was asked by these three men to help KANU to win the elections by conducting oathing rituals at his hermit home in the Kaya Bombo forest.²⁶³ The allegations increased in seriousness when, on Day 25 of the Commission, Intelligence

²⁶¹ *Daily Nation*, August 28, 1998.

²⁶² *Electronic Mail and Guardian*, September 15, 1997 (McGreal, Chris, "Who's behind these Kenyan Marauders?")

²⁶³ *Daily Nation*, September 2, 1998.

Officer, Omar Raisi, alleged that the group of men who had been training on the Ziwali farm, had planned to recruit 800 servicemen and ex-servicemen to help train a large force of combatants. These combatants were to be compiled of 2,895 youths taken from the Likoni area and 4,068 from the Kwale District. The group planned to target police stations in a bid to secure more arms so as to carry out their mission of ethnic cleansing in Likoni.²⁶⁴

By the 28th day, eight Coastal politicians had been named as prime organizers of the Likoni raids, thus confirming Andrew Ngwiri's question above.²⁶⁵

It can be reiterated then that, as mentioned above, KANU clearly had an acute political interest in the Likoni area, prior to the December 1997 elections. By getting rid of "upcountry" people in their thousands, (100,000 were driven out),²⁶⁶ they ensured that the people who remained would be mostly KANU supporters and they would thus win the necessary 25% in 5/8 of the Provinces. This latter point is the pivotal issue. Ethnic cleansing served as an adjunct strategy to bolster the KANU regime's quest for hegemony. The fact that it was a quest based on coercive and illegal means, implied that the state

²⁶⁴ *East African Standard*, September 3, 1998, p.3. (Amadi Mugasia, "Likoni raiders had plan for 800 army men").

²⁶⁵ They were:

1. Mr Boy Juma Boy (MP for Matuga)
2. Mr Kassim Mwamzandi (Msambweni)
3. Mr Salim Mwaavumo (Likoni)
4. Mr Emmanuel Karisa Maitha (Kisauni)
5. Mr Suleiman Shakombo (Likoni)
6. Ali Chizondo, (chairman of the unregistered National African Democratic Union)
7. Dr Chibule wa Tsuma
8. Mr Swaleh bin Alfah

²⁶⁶ *Electronic Mail and Guardian*, September 15, 1997 (McGreal, Chris "Who's behind these Kenyan Marauders?")

was weak and that hegemony²⁶⁷ was quite clearly non-existent. As will be revealed in sub-section D, which explores the “soft glove” or “carrot” dimension to KANU’s two-pronged quest, the regime sought to lessen or subdue the influence of these coercive and illegitimate methods through the use of, in particular, propaganda, scapegoating, but also of gerrymandering of constituency boundaries to favour the ruling party.. It was these “soft glove” techniques, together with that of the above-mentioned Commission, which perhaps had the most pervasive characteristics of a hegemonic quest, in the sense that their aim was to legitimise the regime and ensure that the Kenyan people believed the State (and the regime) to be not only legitimate, but plausible in its interpretation of events and of the problems (political, social and economic) which beset Kenya, specifically prior to and after the 1997 General Election.

Ethnic violence has continued to flourish in the Rift Valley since the 1997 elections, and up until the time of writing (October 1999). The Moi regime has allegedly targeted those areas that did not vote for him (in 1997) most notably Democratic Party - supporting areas and areas dominated by Kikuyu speakers. As with the 1992 campaigns of ethnic violence, it is not only the regime which has been implicated in the Rift Valley clashes. For example, the *Akiwumi Commission* called on Democratic Party MP, Paul Muite, to testify against allegations that he too had promoted Kalenjin-Kikuyu conflict.

The most affected areas were Laikipia, Nakuru, Njoro, Ndeffo and Mau Narok, areas won by the DP in 1997. Murder and looting by mysterious raiders plagued these areas, accounting for numerous deaths and countless displacees during 1998 and 1999.

According to the Catholic Church however, it was the government who was directly responsible for these post-1997 attacks. “We could not help but conclude government conspiracy and blessing for what is going on”, they argued. They substantiated their view with the fact that, despite the presence of security personnel, nothing was done to stop the marauders from their attacks, while on other occasions deployment of the security was sometimes stalled for weeks while fighting raged. The victims themselves allegedly described seeing armed raiders wearing white election T-shirts bearing the name and portrait of the President.²⁶⁸

The Trans-Nzoia region was also wracked by ethnic violence long after the 1997 Elections. Here, divisions between the Pokot and Sabaot versus the Bukusu, were manipulated by politically motivated members both of the regime and the Opposition. The politicisation of ethnicity in the region led to the association of the Bukusu with the Opposition (due to a Mr Kapten from Ford Kenya being a Bukusu) while the Pokot and Sabaot are associated with KANU. However, as described in the chapter on *The Opposition and ethnicity* (Chapter Nine), intra-party divisions were even more serious than inter-party ones. Hence the animosity between two Bukusu MP's in Ford Kenya: the above mentioned Kapten and the leader Michael Kizama Wamalwa.

A *Sunday Nation* correspondent agreed that: “Ethnicity and politics in this volatile area are closely intertwined”. Later, he asserted that: “When Kapten rails against the system it is not just Moi that he's setting his sights on. There is the extremely bad blood between him and Wamalwa such that Kapten totally disagrees with Wamalwa's passive and undefined ‘cooperation’ with KANU and also the way

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Electronic Mail and Guardian, January 1998. (Hannan, Lucy, “Kenya police ‘just watched’ murders”).

the party is run”.²⁶⁹ Thus, the recent ethnic violence in Trans-Nzoia is allegedly related both to inter-party (KANU-FORD-KENYA) and intra-party (FORD KENYA/Bukusu) animosities. Were the Bukusu to align themselves in a common front against KANU, they would clearly provide a far stronger counter-hegemonic force.

Yet, as reiterated in previous Chapters, the ethnic bickering and lack of a genuine counter-hegemonic drive evidenced by political Opposition parties, has fed straight into the hands of the regime’s quest for hegemony. There is neither hope for hegemony (state-societal accord), nor for democracy, when inter-ethnic and intra-ethnic tensions are manipulated and violence instigated.²⁷⁰

²⁶⁹ *The Sunday Nation Online*, August 15, 1999. (Gitau Warigi, “Strong arm tactics: MP’s have more problems than meets the eye”).

²⁷⁰ Saitoti and Biwott have also been implicated more recently (at the time of writing, July 1999), in the Likoni and 1997-1999 Rift Valley “ethnic cleansing” programme.

CHAPTER ELEVEN

THE IPPG (INTERPARTIES PARLIAMENTARY GROUP): LIBERALIZATION RATHER THAN DEMOCRATIZATION

In the previous two chapters, I have provided evidence of the kinds of coercive and violent strategies chosen by the Kanu regime to strive for power, in particular prior to and after the 1997 elections. In the following three Chapters, I will refer to some of the more subtle options adopted by the regime in an attempt to win back some of their lost legitimacy. These subtle options are indicative of the quest for hegemony, in the sense that they fit into that notion of hegemony as being culturally, idea-based and related to intellectuals and the notion of the “universalization of an idea”. These characteristics of hegemony were explored, in Chapter Three of the Theoretical section. In this particular chapter, the IPPG is analysed as an example of liberalization rather than democratization. It will become apparent that liberalization, which is intrinsically related to the co-option of elites and to a desire by the regime to forestall genuine and radical change, is a classic technique of a regime’s hegemonic quest.

In the Kenyan scenario, liberalization served to undermine the power of the counter-hegemonic forces; maintain the status-quo and shore up rather than legitimate the regime. Other dimensions of the soft-glove technique will be pursued in Chapter Twelve, Thirteen, Fourteen and Fifteen. In Chapter Twelve, the pivotal tool: propaganda is explored; in Chapter Thirteen, the use of electoral gerrymandering, and in Chapter Fourteen corruption is also explored.

This Chapter attempts to highlight how the regime quested for hegemony by coopting elements of the Opposition into its orbit. This then will serve as an example of *Liberalization* rather than democratization, of piecemeal reforms to appease the revolutionary forces in the society, maintain KANU's hegemony and prevent a fundamental change in the status quo.

The *Inter Parties Parliamentary Group* (IPPG), was inaugurated by the government as a ploy to divert attention and power away from the NCEC, which had its broad support emanating from the organs of civil society. It has been described by numerous journalists and commentators as a ploy to derail the pressure and power of the NCEC and to co-opt sections of the opposition into the ruling party's sway. The Interparty Parliamentary Group was formed in September 1997, after the hideous violence of *Saba Saba*, *Nane Nane* and the Likoni disturbances. It appeared the government had realised it had better make concessions to reforms so as to avoid being labelled the instigator of the troubles and in order to quell the increasing instability within the country and dissatisfaction amongst its inhabitants.

It is not in doubt that KANU pulled a fast one against the opposition and the pro-reform movement. KANU's sudden acceptance of reforms and its embracing the IPPG diverted the torpedoed the prodemocracy initiative. KANU was converted from Saul to Paul, and became the 'saviour'.²⁷¹

The focus of the IPPG was the notion that reforms should emanate solely from the parliamentary level rather than from non-governmental sectors. This argument was to be resurrected in June 1999, when President Moi argued that the Constitutional Review Commission was strictly the role of Parliament and had no place in civil society.

²⁷¹ *The People*, p.12. (Mwangi Chege, "Reforms: why it's too early to smile").

He later rescinded this decision and claimed that he had not meant it seriously - this was, interestingly and pertinently made after he had attended Thabo Mbeki's inauguration in South Africa. Quite clearly some of the democratic norms of accountability which were being witnessed in South Africa rubbed upon his conscience.

In the 1997 scenario KANU claimed that the NCEC was not a *political party* and could therefore not be involved in reforming the system. What they failed to realise is that the NCEC, although not having politicians on its committee, did have political parties subscribing to its membership. In fact, with its alliance of political parties together with components of civil society, it offered a more genuine platform for the transformation of Kenyan society. Moi coopted opposition politicians into agreeing to the IPPG proposals.

Most of the reforms had already been spearheaded by the NCEC themselves during their Limuru Conventions. Yet, the government had the audacity to claim these ideas as being of their own insight and volition.

While the IPPG proposals could at least be lauded for the success they made in bringing together previously hostile KANU and Opposition politicians within Parliament, this was a limited success and perhaps revealed a classical example of Gramscian concepts in operation. In other words, a situation whereby the elites or power holders in society agree to collaborate in the interests of securing their privileged positions. The NCEC was considered radical in its approach, sweeping in its desire to change the entire system, to have an interim government and a National Constitutional Assembly, rather than merely the repeal of the eleven, then existent, colonial laws.

The IPPG and Moi's government in particular, ought to have acknowledged the work done by the NCEC, specifically that of the lawyers who had slogged away at the Constitutional and legal technicalities within the Kenyan system which the IPPG merely adopted wholesale. According to Stephen Ndegwa: "The IPPG pact actually undermined the possibility of democratic consolidation".²⁷² This powerful conviction ought not to be underestimated.

The *Daily Nation* reported that, on the 11th of September 1997, the IPPG Plenary Meeting adopted a full package of reforms. The 36 Opposition and 38 KANU legislators agreed to amend or repeal within a

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Ndegwa, p.1. ("The Incomplete Transition: The Constitutional and Electoral Context in Kenya").

month 13 colonial-era laws that reformists said gave Moi a competitive edge in seeking his fifth five-year term.²⁷³

The front page picture of this *Daily Nation* report reveals an ingratiatingly happy Vice-President George Saitoti, together with a DP and Kanu member of the Constitutional, Legal and Administrative Reforms Committee, and a caption that reads: "All is well that ends well". The *Daily Nation* editorial the following day was equally glowing in its account of the IPPG Proposals, perhaps revealing the extent to which the paper was in fact part of the existent hegemonic forces and not a radical publication as might have been perceived on previous occasions. (One would do well to recall that certain writers were in

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These included:

1. Laws pertaining to Freedom of Assembly -
 1. The Public Order Act
 2. The Public Collection Act
 3. The Preservation of Public Security Act
 4. The Chiefs Authority Act
 5. The Societies Act
2. Laws pertaining to Freedom of Speech -
 1. The Film and Stage Plays Act
 2. The Kenyan Penal Code
 3. The Outlying Districts Act
 4. The Special Districts Act
 5. The Administration Police Acts
 6. The Vagrancy Act
3. Laws pertaining to the holding of Elections and the National Assembly -
 1. The National Assembly and Presidential Elections Act
 2. The Electoral Offenses Act

Other important proposals made at the meeting were (a) that the winning Presidential candidate should be allowed to form a government of national unity; (b) that the President would appoint 10 additional electoral commissioners from a list of names submitted by the opposition rather than the ruling party; (c) that 12 seats be reserved for women; (d) that the Presidential candidate obtain a 50% majority (not just the previous requirement of 25% in 5/8 of the provinces), and (e) that all pending applications for private radio and TV broadcasting stations be processed within 30 days. These proposals are crucial to the implementation of a democratically restructured Kenyan political order.

fact being paid by KANU to toe the government line, the best example being Kwendo Opango, who was subsequently fired from *The Nation*²⁷⁴).

The Editorial read as follows: “Swiftly and unexpectedly, Kenya, thanks to its MP’s, has re-defined and re-invented itself. It has reshaped itself, indeed it is as if the country has been born again politically, blood has been shed, bones have been broken ... and then a veritable revolution occurs in just under two weeks”²⁷⁵ Interestingly however, on the very same page in which this information appeared, another article reported fresh attacks occurring in Mombasa. Twenty people were allegedly injured at Ukunda township on the South Coast, when “raiders (between 60-100 of them) dressed in black robes, with red ribbons on their heads and armed with machine guns and Kalashnikov rifles” attacked them. The juxtaposition of these two articles (on the same page and day) would surely highlight a hidden agenda the IPPG procedures (or at least of the genuine intent behind some members of the regime within the IPPG, such as Biwott and Saitoti), who were later implicated by the Akiwumi Commission in the Likoni clashes.²⁷⁶

Further confirmation of the dubious authenticity of the IPPG package, as a “veritable revolution”, was highlighted in a *People* article published a week later. Entitled, “Govt buys scaring riot control gear”, the article pointed to documentary evidence which implicated the KANU government (with the

²⁷⁴ Interview with Kenyan Theology student, University of Natal, Pietermaritzburg, March 29, 1999 and Internet report.

²⁷⁵ *Daily Nation*, September 12, 1997. (Editorial: “Kenya reinvents itself with reforms”).

²⁷⁶ *The Daily Nation*, September 12, 1997 (“Hopes rise as Opposition and Kanu agree on crucial issues”).

authorisation of the Central Bank), in lucrative deals with two security companies, Sides and Sound Day Corporation, and a South African firm, TFM Limited.

It alleged that close to 300 million shillings had been spent on riot control equipment, including the purchase of South African armoured personnel carriers or tanks; tear-gas grenades and rubber bullets.²⁷⁷ That the government was willing to spend such a fortune due to its fears of internal dissent points to the fact that the IPPG package was a soft glove beneath which steel fists waited to pounce, should dissidence reach unwanted proportions.

The timing was also questionable, considering that IMF clampdowns had severely constrained the Kenyan Economy. Where such amounts of revenue came from baffles the author.²⁷⁸

It should also be stressed that, as mentioned above, not only were these IPPG reforms largely reflections of what the NCEC had themselves proposed, but that, it is what they failed to achieve, which reveals their essential weakness in transforming the Kenyan state and achieving a valid “democratic transition”. They did not achieve comprehensive constitutional reforms to level the political playing field prior to the elections. Thus, it was actually quite easy for the regime (in a typical example of an “elite pact”) to

²⁷⁷ *The People* (Fair, Frank and Fearless), September 19-25, 1997 (People Reporter: “Govt buys scaring riot control gear”). Naturally, there is the argument to be made that every modern state must account for its security interests and that what the KANU government was doing was perfectly natural. In other words they were taking sensible precautions should civil dissent get out of hand. In the eyes of the government interests, these actions then, were perfectly legitimate. My point however is that they are legitimate only in terms of maintaining the status quo; rather than in terms of promoting justice and accountable ‘good governance’.

²⁷⁸ Refer also to Chapter Thirteen which deals with *Propaganda and the role of the media*, and also Chapter Seventeen on *Civil Society in embryosis*.

repeal and amend those laws, without fearing a loss of power. It was certainly a case of piecemeal reforms, stealthy compromise of the Machiavellian 'fox' variety, to ease the antagonism of the Opposition and to quell dissent amongst the population. Most importantly, the President remained above the Constitution and thus had supreme control over the nation, hardly a democratic ethos. The IPPG was a classic example of the kind of strategies employed by the KANU regime, particularly prior to the 1997 elections to soften the blow of their coercive operations. It was a subtle move, one which convinced even the International movement and some of the Opposition members that this was a legitimate democratic alternative. Although, as with so many political acts, it did have its paradoxical unintended consequences, these were insignificant in comparison to the overall goal of the IPPG agenda, which was to stall genuine and radical change, maintain the *status quo* and deceive the people about the regime's true intentions.

CHAPTER TWELVE

THE USE OF PROPAGANDA IN THE HEGEMONIC QUEST

12.1 The Media: Print and Broadcast

An analysis of Kenya's media is imperative for understanding how the Kenyan regime attempted to attain legitimacy through the use of propaganda. At the same time, the media has also played a pivotal role in informing the public about the coercive and illegitimate practices of the regime, especially since the post-1992 liberalization of the media. However, while the print media has been extensively liberalized, broadcast media still requires thorough reformulation.

The media can play a fundamental role in establishing a democratic hegemony, by constantly re-establishing rapport between the state and society, between the governors and the governed. It can contribute towards the establishment of norms of accountability and legitimacy and to feedback from the people themselves about what they want from government. For example, the Constitutional Review process has a vital media element, in that it is via this medium that people are informed about and able to contribute towards the review process.

The information media in much of Africa has been monopolized by the state and turned into various propaganda organs for the party elite.²⁷⁹ Strangely enough, while one would think that this was only the case in one-party regimes, the same has occurred in the so-called multiparty democracies. In fact, some scholars have gone so far as to argue that media bias is even worse in the latter. "Press and general

²⁷⁹Ayittey, *Africa Betrayed*, p.212.

freedoms are most restricted in those African countries that are multiparty democracies", they have claimed.²⁸⁰ Whether this is true, is I believe, open to debate, and would require comparative and empirical analysis over a period of time comparing one-party with multiparty regimes. The point is that media, when it is used merely as a propaganda exercise for incumbents, is the very antithesis of the function of the media which should be to expose the variety of opinions emanating from both state organs and civil-society.

However, while the situation of the media in the African Continent may appear gloomy it is not without many aspects of hope and diversity. Take for example the variety of newspapers and magazines dealing with African states, from daily papers, to magazines such as BBC's Focus on Africa and others, not to mention the lively interest paid by African and Kenyan urbanites and educated rural people in reading and keeping up to date with both local and International political news.

It has been argued that Kenya's print media is among the most liberalized in the continent.²⁸¹ One will find, especially in places like Nairobi, that Kenyans are avid readers of the newspapers and weekly magazines as well as International publications and journals. This offers great hope for the consolidation of democratic ideas in Kenyan society, for a nation that has well-read intellectuals and non-intellectuals alike, conversant in the politics of their own country and of those abroad, is unlikely to be stagnant and accepting of the status quo. Yet Kenya has a history of press censorship and bannings of outspoken writers and journalists, as well as publications and journals, a history which reveals the

²⁸⁰ Ayittey, *Africa in Chaos*, p.232.

²⁸¹ *CNN Interactive*, September 15, 1998.

KANU regime constantly attempting to thwart democracy in the media. The worst phase was prior to the 1992 elections as was made apparent in the section on Moi's increasing grip on power.

It is of utmost relevance that the current growth in information technology has also had a dynamic impact on the African continent and hence Kenya because it is now that, via satellite dishes, fax machines, the Internet and e-mail, information can be channelled both within a nation and across the globe, without the incumbent regime being able to halt its flow. There is almost no way that the government can stop information from appearing on the Internet, although they may certainly try their damndest to do so. Thus, such technology serves as a vital force in the democratization of both the continent and Kenya today. One has only to look at organizations such as *Journalistes sans Frontiers* and *The Network for the Defence of Independent Media in Africa* (NDIMA) to acknowledge the impact which international media transfer has had upon the dissemination of political news.

In this section I will give a brief history of some of the media organs and then analyse the role played by the media during the 1997 elections, using both primary and secondary source data. I should emphasise that an analysis of the media's role in creating or hindering the consolidation of democracy is perhaps one of the most pivotal aspects to be considered in this thesis. I believe that the Kenyan media has been used both as a tool by the regime to perpetuate its stranglehold over the Kenyan nation using blatant propaganda, but that simultaneously the argument can be held that certain sectors of the Kenyan media, certainly in recent years, have played a vital role in resuscitating the concerns of civil society, voicing the ideas of the Opposition and providing an antithetical force to counter the status quo. However, on the whole, it would seem evident that until very recently the regime has had the upper hand in terms of media power.

Prior to the elections (both 1992 and 1997)

According to an Article 19 Publication of 1991, the following facts pertain to Kenya's media. The best-selling newspaper is the *Daily Nation*, published by the Nation Group of Newspapers, and owned by the Aga Khan, spiritual leader of the prosperous Shia Ismaili community. The Nation Group also publishes the best-selling Kiswahili daily, *Taifa Leo*. The oldest English language newspaper established in 1917, is *The Standard*, published by London-based Lonrho and with a third of the readership of the *Daily Nation*.

Africa's only full-colour newspaper, the *Kenyan Times*, was first published in 1983 and is jointly owned by the ruling KANU party and the London-based Maxwell Communications Corporation. The Kenya Times Media Trust published East Africa's first full colour Kiswahili newspaper *Kenya leo*. There are also a number of weekly and monthly publications, including the *Nairobi Law Monthly*; *The Weekly Review* and others. *The Weekly Review* has served as an invaluable source of information to social science researchers dealing with Kenya and is one of the most quoted sources in the journal literature.

Kenya News Agency is state-owned and is the source from which KBC draws most of its material.

Kenya Television Network is owned by the Standard Newspaper Group, and perceived as loyal to the ruling party, its chairman being businessman and ruling party MP, Mark Too.

The state of the media prior to the 1997 election

Some press freedoms did ensue as the multi-party elections of 1992 had allowed for the opening up of political space, previously unavailable. Prior to the 1992 elections, any criticism of the state, regime or Moi, were severely curtailed. In contrast, the *Daily Nation* for example aired its views quite liberally, prior to, during and after the 1997 election although journalists such as Kwendo Opango, were later found to be working for the ruling party. On reading through a variety of *Daily Nation* periodicals for the duration of 1997, one is able to discern a certain manipulative strategy employed by Opango, in that some articles were clearly radical, while others were conservative in approach. On the whole Opango allowed criticism of the regime, but simultaneously promoted the government's IPPG agenda in favour of that of the NCEC.

The People newspaper whose subtitle is "Fair, Frank and Fearless", was outspoken as evidenced for example by their timely coverage on the government's buying of riot control gear in September 1997 at the same time as the IPPG was being propagated as the government's sign of acceding to 'genuine' reforms and democratization. However, they also attempted objectivity in that they did allow for articles to be submitted which highlighted the possible validity and credibility of some of the IPPG's agenda.

The State-controlled media, in particular the broadcast media, continued to toe the Party line with gusto, and clearly had the greatest sway over the poor and illiterate majority in the rural areas, who, based on my personal experience in Makueni District, in 1997, could not afford to buy newspapers, but could listen to the radio playing in village kiosks and cafes.

Not being able to buy newspapers I should reiterate is not an '*ipso facto*' reason for swallowing the government's version of events, but it is a major contributing factor.²⁸²

In this way the regime tried to convince the rural people of how marvellous a nation Kenya was, how great President Moi was, and how the regime indeed had the interests of the "*wananchi*" (citizens) uppermost in its mind. Undeniably this was a important component of the quest for hegemony. But evidence speaks louder than words, and certainly many people, educated or not, newspaper readers or not, became increasingly cynical of KANU's continued promises. In Ukambani for example, a major shift took place, despite this propaganda, in that the majority of people decided to vote for the Social Democratic Party or Democratic Party, because they could see that KANU was failing to deliver its promises.²⁸³ Knowledge and ideas emanate from word of mouth, conversations and household gatherings, in clinics and hospitals, trading stores, bars, cafes and among people as they work on the fields, ploughing and cultivating.

Pre-1997 publications

Strange improvisations manifested themselves in the pre-election climate of 1997, with the appearance of bogus non-governmental organisations, research groups and unusual publications and pamphlets, some in support of the regime and others favouring the opposition. The regime for example, used the official media to promote two organizations, the Friends of Kenya and the University of Nairobi Network Association, organisations which were merely election propaganda tools soon dissipated once the elections were over. Several opposition newspapers also began during the lead up to the elections,

²⁸² Personal experience, 1997.

²⁸³ Personal experience, Tawa village, Makueni District, Ukambani, 1997.

for example *The Horizon* (linked to Raila Odinga's National Development Party), *The Dunia*, (associated with dissenting elements within Kanu), *The African Confidential* (linked to Mwai Kibaki's Democratic Party of Kenya), but they too faced a similarly sudden death.

Despite these heroic attempts by opposition groups to voice their opinions, the media remained conclusively biased in favour of Moi and KANU, according to the results of a post-election media survey for the Media Institute which was initiated by the privately owned company, Strategic Public Relations and Research Limited. They proved that despite claims of impartiality, coverage of KANU was actually twice that of the four main opposition parties (DPK, NDP, Ford-Kenya and SDP) combined.

"Statistical data revealed a tendency by the mainstream print and electronic media (including KBC's prime-time broadcasts, and space allocated to presidential candidates in the *Daily Nation*, *East African* and the *Kenya Times*) to tone down criticisms of President Moi's actions and statements, but tended to be acerbic in their analysis of opposition parties' leaders', speeches and activities", said the director of Kenya's Independent Media Institute.²⁸⁴ Furthermore, despite the alleged impartiality of the "liberal" *Daily Nation* and *The Standard*, more than 50% of the coverage of the *Daily Nation*, *The East African Standard* and *The Times*, went to KANU Presidential candidates. Again, this makes it obvious that print-media propaganda was the fundamental tool used by the regime as part of their 'soft-glove' mode.

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Electronic Mail and Guardian, January 13, 1998 (Philip Ngunjiri, "Bogus groups and media hokum").

However, from my personal reading of the variety of newspapers at the time of the 1997 elections I would argue that the *Daily Nation* played a certain counter-hegemonic role by providing fairly in-depth and substantial voter education programmes, with special Election 1997 supplementary features, and hence played a positive role in the furtherance of a democratic ethos in Kenyan society both prior to, during and after the 1997 elections. Thus the media was not entirely subject to monolithic state control, but rather to a weak state, half- succeeding half-heartedly in its attempts to dupe the majority (that KANU and Moi were legitimate and good for the country, whereas the opposition was to blame for all the violence and other sufferings).

Perhaps the greatest weakness of the *Daily Nation* coverage was the fact that personality profiles of the Presidential candidates were limited; however, in-depth accounts were made of regional political activities; the issues facing each region, and the variety of politicians involved there.

The People newspaper was outspoken and defiant both prior to and during the election. They allowed for the radical and dissenting voice of Kenya to be heard, and thus posed a crucial counter-hegemonic and potentially democratizing force in Kenyan society. Their expose for example, of the military deal that was mentioned in the section on the IPPG reforms, is an example of their willingness to uncover the hidden agendas which were occurring despite the euphoria over the IPPG agreement. They thus showed that the government was merely in a phase of "liberalization" to appease their opponents, rather than engaging in genuine "democratization" (refer again to Bratton and Van de Walle's *Democratic Transitions in Africa*).

The Times newspaper was blatantly pro- government, during the 1997 period, as it always had been, continuing to voice the opinion of the KANU/Moi regime.

Capital FM Radio was inaugurated in 1996, as the first privately-owned radio station to carry news reports. They attempted to report independently prior and during the 1997 elections. This was indeed a positive step towards the consolidation of democracy in Kenya.

12.1.1 The Kenyan Broadcasting Commission (KBC)

The Kenya Human Rights' Commission, in conjunction with Article 19, launched a media monitoring component which analysed KBC's coverage of news, news commentaries, documentaries and press conferences for the six months period prior to the 1997 General Election, and the month after the polling, in order to assess the impartiality and independence of KBC's coverage of the various political party issues events. This included KBC television and radio, both Swahili and English. Their report is a succinctly argued and well written piece of work with clearly demarcated time frames: they analyse the pre-IPPG agreement phase, the IPPG negotiation phase and the IPPG implementation phases as well as the Nomination, Campaign, Polling and Post-polling phases.

As argued by the Kenya Human Rights' Commission:

As much as 70% to 80% of Kenya's demographic space is covered by KBC radio.

Against the backdrop of Kenya's high rate of illiteracy, especially in the rural areas, the pervasiveness of the radio renders KBC a highly potent instrument of information and

propaganda, and a large section of the country's population captive to its messages".²⁸⁵

The KBC was the major tool utilised by the KANU regime in their "soft-glove" mode.

History of the KBC

It is of importance to note that the Kenya Broadcasting Corporation Act came into effect in 1989 and that it created a parastatal out of the previous Voice of Kenya, in essence turning it into a commercial entity "but with certain powers in law derived primarily from its relationship with the political establishment".²⁸⁶ Thus, although the Act entailed clauses requiring impartial and independent broadcasting, these positive factors were outweighed by the provisions which gave the government exclusive control over the directorship and management of KBC. This clearly implied then that the radio was strictly curtailed by the political purposes it was intended to serve. The Chairperson of the Board of Directors is a presidential appointee and the remaining eleven members are all civil servants appointed by the Minister of Information and Broadcasting.²⁸⁷ The KBC Act of 1989 thus set a precedent for the government's stranglehold over the broadcast media and entrenched all the worst flaws of Presidentialism, neopatrimonialism and "strongman" tactics as explored in my opening section.

²⁸⁵ Kenya Human Rights' Commission and Article 19, 1998, *Media Censorship in a Plural Context: A report on the Kenya Broadcasting Corporation*.

²⁸⁶ *Kenya Human Rights' Commission Report, Ibid*, p.2.

²⁸⁷ *Ibid*, p.13.

In terms of the 1997 elections, according to the *Human Rights' Commission Report*, approximately 54% of air time went to KANU with only 4% going to the Opposition²⁸⁸ during the pre-IPPG phase before the 1997 election. This evidence makes it quite apparent that there was no level playing field prior to the elections. No wonder the Opposition had, as one of its major reforms calls, the demand for equal airspace for all political parties prior to the election. The government did accede slightly to this call after the IPPG agreement (because they felt they were by then in a position of relative safety, having coopted some of the Opposition into their fold and thus divided their potential power). Not only did they now feel safer, but they could focus on the division within the Opposition, (between the pro and anti IPPG supporters), and thus after the IPPG, KBC did allocate more time to Opposition coverage. The IPPG received 17% of positive coverage while the NCEC received less than 1%. At the same time, any negative coverage of KANU or the country as a whole was avoided at all cost. Such outright bias speaks for itself.

There was a minimal improvement after the IPPG agreements due to an agreed upon amendment to the Broadcasting Act, such that the Opposition's coverage increased from 4% to 14%, while KANU's airtime decreased to 31%. Thus, there were clearly some positive spin-offs resulting from the IPPG compromise, *albeit* severely limited ones. KANU and Presidential coverage actually increased, in effect reducing the effects an increase in Opposition airtime may have had.

Simultaneously, events were covered in definitely biased ways, such that President Moi attending Church ceremonies, for example, might get 15 minutes news coverage, while the violence of *Saba Saba*

or the Likoni clashes were barely mentioned. “KBC strove to create the impression that all was well in spite of the tragedies that were taking place in some parts of the country. Coverage of the Likoni violence for example, was so superficial, that, to the KBC viewer who did not have access to alternative sources of information, the mayhem on the ground appeared little more than a petty ethnic dispute which resulted in a few unfortunate deaths. If and when the violence was covered, the story often contradicted other news sources or omitted some critical fact”.²⁸⁹

On the other hand when Kenya Television Network journalists, Vitalis Musebe and Isaiya Kabira did show in-depth footage of the *Saba Saba* day violence, they were summoned to State House and briefly suspended from employment.²⁹⁰

Negative coverage of the Opposition or the NCEC was always given, portraying them not only as the provokers of violence and mayhem in Kenya but as with the case of the NCEC, also ‘illegal’, while the President and KANU were naturally depicted as the solid builders of democracy and the main proponents of development in the nation. Radio broadcasts continued to begin with “President Daniel arap Moi today said that” (“Reis Daniel arap Moi leo anasema ati); thus ensuring that the collective psyche was flooded with the incumbent’s image and power. This was a slight improvement from the pre-1992 days, when not only did the broadcasts begin with this sentence but Moi would be hailed as the great lion of the nation or other such rhetorical claptrap. I personally experienced this radio bias and

²⁸⁹ *Ibid*, p.31.

²⁹⁰ *Ibid*, p.34.

found it highly provocative, because blatant mistruths were created by the regime, mistruths which uneducated or poor people easily swallowed.

This substantiates my hypothesis that the broadcast media was in all probability the pivotal tool KANU had at their disposal in the "soft-glove" mode ; and was in all probability the most powerful tool they had at their disposal. Certainly it would have had an even greater effect than the use of the coercive techniques such as outright violence on *Saba Saba* and prolonged campaigns of ethnic cleansing such as seen at Likoni and in the Rift Valley episodes, because it was more likely to ensure a "winning of the hearts and minds" of ordinary Kenyan "wananchi" (citizens).

However, simultaneously it ought to be noted that many Kenyans did *not* 'buy into' the KBC's rhetoric. They chose instead to tune into independent media stations such as the BBC (British Broadcasting Corporation) or Radio FM, or to watch other television stations such as CNN (Central News Network) live, to get accurate coverage of incidents occurring in Kenya. The International Press thus played a lively role in the dissemination of (certainly to a greater degree) objectivity regarding incidents both prior, during and after the 1997 elections. In particular the coverage of incidents such as *Saba Saba*, were correctly or at least more objectively portrayed by International channels, in particular CNN and BBC than by the Kenyan Broadcasting Commission.

The role played by the KBC in the furtherance of the hegemonic quest is clearly evident. Thus, despite claims to being a multi-party democracy, the fact that KANU continued to have control over the mass-media implied that its *de facto* non-democratic *modus operandi* was maintained.

12.1.2 After the 1997 elections

The failure to award the Nation Media group a license to broadcast on the airwaves (a request made in March 1997), was perhaps the most revealing evidence that the government was not in fact willing to relinquish its monolithic hold on power. Considering the fact that only two percent of Kenyans read newspapers, while more than 90% listen to the radio, this meant that the state-owned radio broadcasting corporation (KBC) continued to provide government - biased information, especially to the rural areas. As a Reuters' journalist summed it up:

The government is often seen as reluctant to free up the broadcast media especially outside the capital, Nairobi. And although there are signs that the country may be finally on the threshold of a new era of electronic media freedom, analysts say there is a long way to go.²⁹¹

Wangethi Mwangi, managing editor of the Nation Media Group, argued that the slow pace of liberalization was indeed a ploy by elements in the government, who actually long for a return to media censorship.²⁹² In March 1998, the Minister for Information and Broadcasting, Joseph Nyagah, warned publishers of many newspapers, magazines and pamphlets to either stop publishing allegedly false and inaccurate reports, or face libel action. Nyagah referred to the opposition media as the "gutter press".²⁹³ Clearly, the government was not behaving democratically, and, as with the 1992 elections, had used the 1997 elections to legitimise their regime and their right to control the dissemination of information.

²⁹¹ *CNN Interactive*, September 15, 1998.

²⁹² *Ibid.*

²⁹³ Tanui, Kipkoech and Nation Correspondents: "Intolerance in Kanu government begins to show". *Daily Nation on the Net*, March 18, 1998.

Furthermore, intimidation of journalists continued throughout the post-1997 election period. According to the *Daily Nation* (Internet site) of March 27, 1999, two *Nation* correspondents, Musa Radoli and Johnstone Bukachi, received death threats for exposing corruption in Western Province, while an *East African Standard* correspondent, Winstone Chiseremi, was picked up and questioned by CID officers after writing a report about security. Similar stories appear at regular intervals in the newspapers. Clearly then, Press freedom is not on a par with other democracies such as South Africa. Despite the 1997 elections, the KANU regime still attempted to prevent the development of substantive democracy and continued to resort to its old "soft-glove" strategies to maintain its quest for hegemony.

Despite these negative renditions of, in particular the broadcast media in Kenya, it should be noted that there are also vividly positive trends (not only by the role of the Satellite/Internet media transmission services) but also by the activities of the previously mentioned *Network for the Defence of Independent Media in Africa*, which has encouraged the growth of a variety of small, independent publications aimed at getting media information transmitted to the grass roots and at inculcating an ethos which respects local languages and regional interests in tandem with an emphasis on civic education. Hence the appearance after the 1997 elections of publications such as *Ndega*, which is Embu-based, and written in the vernacular, as well as *The Crusader-Kumekucha*, which promotes civil rights and exposes political evils in Kenya. Both are published by the Civil Rights' Education and Democratic Organization (an NGO founded in 1994 to educate Kenyans on civil rights and voluntarism). An expansion of these sorts of publications would bode well for entrenched democratisation and a diversification of counter-hegemonic media in Kenya today.

12.2 Scapegoats and Convenient Distracting Issues

A related component of the propaganda techniques employed by the KANU regime is the use of scapegoating. The Moi regime has a penchant for finding scapegoats for the problems besetting Kenyan society which it uses as a tool in its propaganda war. Both prior to the 1992 elections and the 1997 elections, hawkers, beggars and street-children were blamed for many of Kenya's woes and were thus systematically rounded up, forced off the streets and driven away in Nairobi City Council trucks.

This phenomenon has also occurred in other African countries, where the regime seeks to blame the poor and marginalized for problems essentially caused by the state itself. After the violence of *Saba Saba* day and *Nane Nane*, hawkers were banned from selling their wares on the streets of Nairobi and forcibly allocated to areas outside the city. This was allegedly in the interests of 'cleaning up the city' and making it more presentable. On numerous occasions, the Nairobi City Council razed town - based market kiosks, where struggling Nairobians had built up some means of survival for themselves.²⁹⁴

Why destroying the economic livelihood of city-dwellers was seen as necessary reveals the extent to which the state did not have the interests of the ordinary people at heart. It meted out brutal and unfair treatment simply to feed its elitist/capitalist agenda and at the same time boost its propaganda war against hawkers, illegal immigrants, hooligans and the National Convention Executive Council, who were all somehow pooled into the same category of 'vagrants', or 'vermin'.

White expatriates and alleged 'illegal immigrants' from neighbouring African countries, in particular Somalia and Ethiopia, were also scapegoated for the escalating problems facing the Kenyan state/regime prior to the 1997 election. The Africans suffered a worse fate, many of them being rounded up and sent to detention camps where they awaited their deportation. In August 1997 for example, buses carrying 129 Burundian, Rwandan, Sudanese and Somali refugees drove under police escort to Kakuma camp, 800 kilometres from Nairobi. At the same time it was alleged that 600 people were arrested for being illegal immigrants. However, not all of the roundups of illegal immigrants were necessarily 'scapegoating'. In some cases there were people without valid visas and in other cases, some of the Rwandan prisoners in police cells were indeed linked to the former Rwandan regime and had been hiding in Kenya with Moi's assent until July 1997 when Rwandan Vice-President, Paul Kagame, held discussions with Moi to bring the criminals to book. The problem however was that the rounding up of alleged criminals or illegal immigrants, turned into a far-sweeping campaign to exact bribes and blame all foreigners for Kenya's woes. White expatriates and NGO workers were merely castigated by Moi verbally, as being 'out to destroy the integrity of Kenya as an African nation', and as people who had no right to criticise the politics of Kenya as a sovereign state.²⁹⁵

Apart from the scapegoating of hawkers, whites and African illegal immigrants, another device of the ruling regime was to focus on problems occurring in other African states in order to both minimise what was occurring at home and to highlight Moi's alleged capacity for conflict resolution and hence the 'democratic credentials' of his rule.

This strategy is familiar to South Africans who will recall its being used by the apartheid regime, which constantly focussed on what was happening elsewhere in order to distract the nation from the problems at home and to make the situation in other African states appear to be far graver. Moi was repeatedly involved in mediation in the Sudan conflict as well as that of the former Zaire, now The Democratic Republic of Congo (DRC).

This conflict-resolution/mediator/peace-lover depiction of Moi was utilised to the maximum by the regime who beamed it to the population via KBC news and radio broadcasts and through the newspaper publications, both government-owned and independently-owned (Refer to previous section on the history of the KBC and the role of media in propaganda campaigns). IGAD, the Intergovernmental Authority on Development (previously known as the Inter-Governmental Authority on Drought and Development), was formed in 1986 in Djibouti. In 1997, President Moi agreed to lead the IGAD Sudan peace process, sponsored by the United States Institute for Peace and consisting of four countries: Kenya, Eritrea, Ethiopia and Uganda. While hosting the IGAD meeting in Nairobi, with Heads of state from each of these countries in attendance, violent incidents such as *Saba Saba* day were occurring. Thus the very state which was claiming to broker peace in Sudan was continuing to unleash unmitigated violence on its very own citizens.²⁹⁶

This strategy of scapegoating, similarly to the liberalization strategy of the IPPG agenda and the use of media propaganda, were evidence of the regime's attempt at subtly and in non-coercive ways, maintaining their attempted quest for hegemony. It was believed that non-coercive, "soft-glove" methods were more likely to rekindle legitimacy than the coercive use of violence, intimidation and fanning of ethnic hatred, for which the regime was beginning to receive vociferous criticism: both within Kenya and from the International arena.

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Even in February 1997 a Commonwealth Heads of State and Government on Democracy and Good Governance, was held in Botswana, in which Kenyan representatives were prominent.

CHAPTER THIRTEEN

THE USE OF RIGGING AND GERRYMANDERING TO ENSURE THE FAILURE OF COUNTER-HEGEMONIC FORCES

In many countries, there is an element of election-rigging and gerrymandering by the ruling regime in order to ensure that multi-party elections, while allegedly allowing for impartial expression of opinion, are cleverly designed so as to favour the ruling party. This seems to be more prevalent in the African context, where multi-party democracy was often reluctantly acceded to.

As mentioned in the theoretical section, it is worthwhile reconsidering the fact that, according to some scholars and analysts, the holding of multi-party elections in Africa is merely : “ A fig leaf covering up the politics of the belly from the prudish eye of the West”.²⁹⁷ It is thus regarded as a method used by the Continent’s dictators together with donors and International financial interests, to forestall genuine democracy.²⁹⁸ Chapter Thirteen will expose the use of electoral engineering, as yet another example of a “soft-glove” technique, employed by the KANU regime to ensure the maintenance of power.

This engineering had its precedents in historical factors, and yet these remained relevant at the time of the 1997 General Elections. Unbeknown to the majority of Kenyans, these practices served to undermine the genuineness of multi-party elections, and hence to turn democracy in Kenya into a farce.

²⁹⁷ Bayart, p.11.

²⁹⁸ Moyo, Jonathan (*African Association of Political Science Newsletter*, Vol. 2., no. 1, p.2.

The problems which beset the 1992 election in Kenya, were the same problems that were to resurface in 1997, and relate back to clauses added to the Constitution as late as 1962. In this year, prior to Independence, the Regional Boundaries' Commission divided Kenya on the basis of either ethnic homogeneity (one ethnic group per district), or compatibility (more than one ethnic group where they were happy to coexist). As a result, eight provinces and 41 districts were demarcated, divisions which were the basis for all subsequent elections up until 1997.²⁹⁹

Related to these divisions were the Parliamentary constituencies demarcated in 1966 and revised in 1987 (increased from 158-188) which similarly related to ethnic groups and tribes.

There are 188 single-member Constituencies divided amongst five ethnic groups and further divided amongst 40 major and minor tribes³⁰⁰, thus making ethnic coalitions imperative if one is to win a majority in a multi-party context.

KANU ensured, through gerrymandering, that there would be more seats allocated to the smaller tribes from whom they gained their support (their core support constitutes 33 seats from the Nilo-Hamitic tribes: Kalenjin, Masaai, Turkana, Samburu and Iteso, and 18 seats from the Eastern and North Eastern

²⁹⁹ Roddy Fox, *Bleak Future for Multi-Party Elections in Kenya*, p.597. See also Chapter Eight on the history of Moi (and KANU), as well as Chapter Nine which explores Opposition politics and Ethnicity in Kenya.

³⁰⁰ The usage of the word tribe in this context is due to the fact that the literature accessed uses it. Any derogatory connotations are not implied by the author.

tribes: Western and Eastern Hamitic tribes, giving a total of 51 seats. These 51 seats have been “artificially inflated through gerrymandering to ensure a surplus of small constituencies in areas with strong support for the ruling party”).³⁰¹ Of the 188 Constituencies, only 8 went to Nairobi, and only 4 to Mombasa, despite their large populations, because KANU knew that the Kikuyu in Nairobi and Luo in Mombasa were not regime supporters. Furthermore, urbanised voters are generally more radicalised across the Continent.

Thus, most of the additional seats allocated in 1987, went to rural areas and areas neither strongly identified with the ruling nor opposition parties: in Kisii (Kisii), Kakamega (Luhya) and Machakos (Kamba) District, three seats each were allocated. In the Opposition strongholds of Nyeri (Kikuyu) and South Nyanza (Luo), two seats each were allocated, while in Nyandarua (Kikuyu), Muranga (Kikuyu) and Kisumu (Luo), only one seat each was allocated. On the other hand, seven KANU districts each gained a seat. The remaining seats were spread evenly across other rural districts.

In effect, the 1987 Boundary Commission gave KANU 20.7 of the 25.6 extra seats for the 1992 election, while 14 new administrative districts which were added in 1994, were also in areas supportive of President Moi. Thus the 1962, 1987 and 1994 adjustments were all in favour of an un-level playing field (in support of the ruling party) during the 1997 election.

A further 22 seats were added to the 188 constituencies, by Justice Zacheus Chesoni's Electoral Commission in 1997. Again, although seats were distributed across all Provinces, none went to

Nairobi, further disempowering the Opposition. Although KANU had less than 40% of the popular vote, they were able to win an artificial majority of seats through a grossly unequal population size representation for each constituency.

Thus, KANU areas, with smaller populations would have the same power (ie. one seat represented in Parliament), as a more heavily populated opposition area would have had.³⁰² The ruling about Presidential Candidates clearly favours the ruling party. Presidential Candidates have to garner 25% of the votes in 5/8 of the Provinces as well as 50% of the votes nationwide. The opposition knew that were this ruling to be changed to allow for a mere national winner, then KANU would most definitely be doomed in the Presidential race.

Thus “the skewed allocation of areas loyal to President Moi was part and parcel of the continuing game of ‘tribal politics’ in Kenya”.³⁰³ It also ensured that the KANU regime’s attempted quest for hegemony was being undertaken in such a manner that it would be highly improbable for the ordinary people to know about these subtle strategies. When voters went to cast their ballots how were they to presume that, in fact, electoral engineering was, to all effects and purposes, counter-destructive to the notion of ‘free and fair’ elections and genuine multi-party politics.

These processes, as well as other strategies to ensure that KANU won the election, including intimidation of opposition leaders, propaganda etc, were, inevitably, a costly affair. According to *The Kenyan Socialist*: “the office of the President used 4.2 billion Kenyan Shillings of taxpayers’ money to rig Moi back to power”. This is a not insignificant amount of money, in a country reeling from the effects of mass poverty.³⁰⁴

³⁰² Barkan, p.1.

³⁰³ *Ibid*, p.603.

³⁰⁴ <http://freeyellow.com/members2>

CHAPTER FOURTEEN

CORRUPTION AND FRAUD IN KENYA

Corruption is another feature of Kenyan life which destroys the potential for democratization and ensures the continued alliance between economic, business and political elites at the expense of the ordinary people. It is a major cause of the increasing poverty and infra structural breakdown and contributes towards the lack of a democratically hegemonic regime in Kenya. Corruption is another major example of non-coercive methods employed by the regime to maintain their dominance. However, increasing exposes of corruption have served paradoxically, to increase the illegitimacy of the regime in the eyes of both the Kenyan public and International audiences (and hence donor nations) alike, and has thus contributed enormously to the erosion of the KANU/Moi regime's quest for hegemony. The setting up of *The Parliamentary Select Committee on Corruption*, which held its first public hearings on the 13 August 1999, with the prerogative of investigating the causes, identifying the perpetrators and recommending penalties for those involved in corruption,³⁰⁵ will hopefully prove itself superior to previous governmentally-appointed Commissions. If it is not authentically objective, this Committee will serve yet again to be a tool in the KANU regime's "soft-glove" arsenal.

However, if it does a thorough job, and corruption is indeed exposed and dutifully expunged, Kenya will be on the road to democratic hegemony (state-societal accord: which necessitates transparency, accountability and legitimacy).

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The Sunday Nation Online, August 15, 1999. *Sunday Nation* reporter, "Corruption: Public hearings being held".

Chapter Fourteen contains a discussion of what corruption is generally and what how it is perceived in the context of African states.

While corruption and fraud are endemic to the African continent, being deeply interwoven with the problematics of neopatrimonial rule, I should like to stress that corruption is by no means only an African phenomenon. It is merely the degree to which it is found in Africa that is perhaps greater.

One need only contemplate the potential corruption within International Organisations, especially within the financial and corporate worlds, in order to consider the enormity of corruption likely to exist there. Furthermore, countries such as America, while seemingly clean of corruption in comparison to Africa, are perhaps better able to disguise it due to their higher levels of economic and techno-structural development.

In other words, the poverty and infrastructural breakdown in Africa may serve to heighten one's awareness of the effects of corruption upon the Continent. America's corruption, and that of other Western powers, however, is more likely to be evidenced in the developing countries.. It is here, where, for example, they dump their toxic waste, or engage in arms trade and the exacerbation of civil wars for monetary gain.

Furthermore it is argued that the study of corruption is beset with analytical and practical difficulties in the African context because of the alleged problematic in differentiating between examples of genuine corruption and examples of traditional or cultural values which - when intermeshed with modern political values - metamorphose into "corruption".

Nevertheless, I would propose the following hypothesis: that corruption (like neopatrimonial rule) refers to the misuse of public resources for private gain. And that no amount of arguments that African corruption is due to cultural values, can get rid of this basic fact: corruption is corruption is corruption.

One ought to be reminded that corruption occurs both at the macro-level (abuse of state coffers and taxpayers' money) but equally at the micro-level. Micro-level corruption is not so serious in its implications but nevertheless it has a pernicious effect on the notion of civic accountability. In a situation whereby, simply to survive,³⁰⁶ the poor people must adopt "corrupt" methods, (by this one would imply such tactics as cheating, deceiving, bribing: simply in order to earn one's daily bread), one is hardly likely to find the quest for a hegemonic-democratic society being fulfilled.

I wish to explore the evidence of corruption in Kenya in order to highlight that its existence poses a fundamental threat to the consolidation of democracy in the country, specifically since the 1997 elections. According to journalist Matthew Engel, the corruption is on a mind boggling scale and is built into daily life. "The corruption of power in Kenya does not involve tin-pot politicians filching the contents of the odd hotel mini-bar. It involves tin-pot politicians filching the country".³⁰⁷ This would accord well with the experience of other African countries' levels of corruption, especially countries such as Nigeria and the Democratic Republic of Congo (DRC, former Zaire).

³⁰⁶ In Kenya, because corruption at the macro-level has rendered the majority of citizens impoverished, they have resorted to petty corruption as a survival mechanism.

³⁰⁷ Engel, Matthew, "Always something familiar out of Kenya", *Mail and Guardian*, November 1997.

It is alleged that Moi sits at the apex of a growing empire of graft. He is worth at least three billion dollars (this despite Andrew Morton's recent bibliography *Moi, the Making of a Statesman*, depicting Moi as a humble leader, a man of simple means and tastes, who likes nothing better than to sip tea while looking out over his fields (*shamba*). He has business interests which include 100 million dollars of prime real estate in Nairobi, a transport corporation, Kobil Oil Company, and a cinema chain with monopoly control over movie distribution in Kenya.

His closest allies are also implicated. Nicholas arap Biwott, for example, was embroiled in a huge corruption scandal revolving around the Turkwell Gorge Dam (and the bribing of contractors) which Moi conveniently ignored.³⁰⁸ The Turkwell Dam Project provides a classic case of corruption in Kenya, and though the scandal occurred in 1993 it is worth noting as it sets a precedent for the kind of corruption which was evident in Kenyan society prior to the 1997 election.

Daily Nation journalist, Kwendo Opanga, refers to the book *Africa: Dispatches from a Fragile Continent*, in which Blaine Harden argues that the Turkwell Dam Project was the dirtiest and richest deal ever undertaken. This was despite a feasibility study against it, because it was situated on an earthquake fault-line, and thus could quite obviously, not be carried through.³⁰⁹ Moi's other right-hand man, Saitoti, was also implicated in a even more notorious case of corruption. In an on-going court-case, Saitoti was named as being involved in the historic 5.8 billion Kenyan Shillings rip off at Central Bank via fake gold export compensation schemes to "Goldenburg International Limited".³¹⁰ The

³⁰⁸ Ayittey, *Africa Betrayed*, p.244-5.

³⁰⁹ Kwendo Opanga "Courtesy of their greed, Kenyans are in the gutter", *Daily Nation*, March 4th 1993

³¹⁰ <http://freeyellow.com/members2>

Goldenburg scam, which involved notorious Asian businessman, Kamlesh Pattni, together with some of Moi's closest confidantes, such as Biwott, and even the Big-man (Moi) himself, according to *Daily Nation Online* reports during July 1999, epitomised the depth of corruption existent in Kenya. Furthermore, it highlighted the complex relationship between leaders and their coterie; businessmen, and undemocratic (unaccountable) neo-patrimonial rule. Their scams, which are on a par with that of Goldenburg and Turkwell include the International Airport in Eldoret which cost a dazzling 90 million US dollars (while 46% of Kenyans live below the poverty line); the buying of a Presidential Jet worth a 'mere' 50 million US dollars and the establishment of an arms factory worth 25 million US Dollars. The implication of Moi and his son, as well as Biwott and Saitoti (amongst others), in July 1999, in huge amounts of embezzlement and graft, indicates that the decay in Kenyan society had only been exacerbated since the 1997 Multi-party General Election.

Such corruption, counterposed with the stark reality of poverty and suffering faced by the majority of Kenyans is undeniably antithetical to democracy (with its emphasis on participation/accountability and transparency) and genuine hegemony (state-societal accord). It clearly implies a lack of good governance, Constitutionalism and respect for the rule of law. Kwendo Opanga,³¹¹ captures the woe which has befallen Kenya, brilliantly suggesting that: "there exists in Kenya today a paratrooper class which is descending on anything and everything which promises monetary value. The paratroopers are money men and money breeds power".

³¹¹ Yes, I say renowned despite his being bribed by the KANU regime prior to the 1997 elections to tow the party line.

He further adds that, because power and the State are undoubtedly intertwined, the paratroopers' idea of the State is: "Simply a mechanism of protecting the slumber of the rich from the insomnia of the poor".

Sardonically he affirms:

It takes paratroopers to form a company called Goldenburg International to pretend to export non-existent gold from Kenya to non-existent destinations in Europe and the Middle East and obtain papers to show that the government should compensate them for this racket.³¹²

Corruption has seeped into every facet of Kenyan life. It reached its zenith at the time of Foreign Minister Ouko's murder in 1990 but had become endemic even during the days of Kenyatta. It will be recalled from the section on the *Saba Saba* violence above, that the killing of Ouko was alleged by Scotland Yard to have been prompted by his investigation into high level corruption among his fellow Cabinet Ministers, and that senior members of Moi's cabinet, in particular Biwott, were implicated. The fact that 12 people who had been involved in the Ouko trial, including judges and doctors, all died within a short space of time of "mysterious illnesses" served to highlight how afraid the regime was of this expose of their *modus operandus*. That Moi has remained antithetical to transparency even in

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Opango, Kwendo, "Courtesy of their greed, Kenyans are in the gutter." *Daily Nation*, March 4, 1993.

1999: he simply ordered the expulsion from Kenya of a businessman, Mr. Nasir Ibrahim Ali, of the Kenya Free Complex, who alleged he (Moi) had written letters to Arab tycoons asking for monetary assistance in his 1992 election campaign, and furthermore that he had been implicated in the 68 billion dollar Goldenburg scandal,³¹³ points to this inability to deal with such allegations responsibly and maturely.

The association of business men with KANU, Moi and the regime has been a pivotal aspect of the pervasive influence of corruption in Kenyan politics and society. Neopatrimonial rule, patron-client relations, ethnicity and bribery are part and parcel of the process of corruption. According to authors Bratton and Van de Walle, revelations of corruption in the 1994 annual report of the auditor general were “deeply embarrassing to the state elite. That the Moi regime has never been able to fully muzzle such reports is a tribute to the courageous civil-servants and journalists who risk their careers to pursue these investigations and to longstanding professional traditions within the Kenyan civil service”.³¹⁴ This at least points to a measure of autonomy between the state and the bureaucracy which was not so apparent in the earlier years of Moi’s regime, when the state, party and civil service became one and the same thing (as noted earlier).³¹⁵

³¹³ *Daily Nation Online*, August 2, 1999.

³¹⁴ Bratton and de Walle, *Democratic Experiments in Africa*, p.250.

³¹⁵ Widner, Jennifer, *The Rise of the One-Party State* deals with this theme in depth.

How apt are the following words with regard to Moi's regime:

The African despot maintains his power base by dispensing patronage or by appealing to "tribal solidarity" from his kinsmen, who in return receive the government posts.

There is no meritocracy - corruption runs rampant throughout the state. Institutions such as the civil service, the judiciary, parliament and the police break down and fail to function because they have been perverted.^{316 317}

"Rampant corruption has sapped the economy and widened the gap between a rapacious few and the sullen *wananchi* (citizens). Companies with links to Moi have skimmed monumental sums of government contracts in wheat, oil and land, and particularly off foreign aid".³¹⁸

The latter point is of huge significance - highlighting the paradoxical reality that foreign aid so often does not reach those for whom it was intended but instead serves to line the pockets of the elite enabling them to carry out their undemocratic rule without encumbrances. One has only to note how marvellously Mobutu sese Seko (of the former Zaire now Democratic Republic of Congo), succeeded in using foreign aid to serve his own interests, as well as the *Interahamwe* in the case of Rwanda's debacle.

³¹⁶ Ayittey, *Africa in Chaos*, p.208.

³¹⁷ Personal experience in Kenya, both prior to, during and after the 1997 elections, confirmed this experience of corruption. Institutions simply don't function as they should. To get anything done requires a bribe. Jobs are allocated to those who find favour with the Kanu regime or his ethnic group. Policemen must be bribed to render their services. Taxi drivers pay bribes to be able to carry more passengers than they should. Basic social services such as refuse removal and infrastructural improvements are not rendered to areas, despite residents paying their taxes, because the money is embezzled into the pockets of those in control. Those who are critical of this system are quickly silenced and soon apathy becomes the norm.

³¹⁸ Ayittey, *Africa in Chaos*, p.196.

When corruption is rampant , foreign aid can become more of a problem to the country than a help.³¹⁹

There was no way with such entrenched corruption at the level of both the State and the Nation, the climate of the 1997 elections could be democratic. Corruption, as with the scourge of “ethnic cleansing”, and the use of manipulative strategies such as electoral engineering and media propaganda, denigrates the positive effects which the holding of multi-party elections would have upon the prospects for democracy. Indeed, corruption destroys the hegemonic project as it ensures the dissipation of trust between state organs and societal ones.

According to Kenya’s Local Authorities’ Minister, Jembe Mwakalu, the growth and spread of corruption was directly proportional to the failure by civil society to address it. He argued in March 1999 that:

If corruption regresses into an ideology by state functionaries and their private sector counterparts, the resulting abuse and inefficient use of resources, waste and squandering is in direct proportion to the lack of mounting pressure upon the rulers by organised civil society.³²⁰

³¹⁹ However, it should be emphasised that, as shown by Bratton and de Walle, the level of aid dependence was inextricably linked to the level of democratization in African countries: such that the higher the dependence on aid the greater the democratization reforms. This was regarded as due to the conditionalities imposed by the donor governments. However they also state that the situation is somewhat ambiguous for: “If donors went so far as to impose explicit political conditions, aid recipients undertook less democratization” ... in short donor-driven transitions were problematic and led to ambiguous outcomes”. See *Democratic Transitions in Africa*, p.219. Refer also to section on NGO’s.

³²⁰ *Daily Nation on the Web*, Tuesday March 9, 1999.

Corruption is inherently inefficient and wasteful. If civil society adequately addresses it, as for example with the case of the Karura forest, the prospects for democratization will increase. As noted by Bratton and Van de Walle, change will come from below,³²¹ not from the elites who are too steeped in the ways of systemic corruption.³²²

However, this argument may not be as sound as previously presumed, especially with the recent writings of Chabal and Daloz, who, in their *Africa Works*, have argued coherently and vividly that corruption in Africa needs to be analysed differently in the African context. They realise that, while corruption may have a normative value (corruption is intrinsically 'bad'), it is in the African context, that the act of corruption may not necessarily be perceived as bad due to the nature of patron-client relationships.

They explain that: "Corruption in Africa concerns the whole of the population and operates essentially according to vertical relations of inequality those who do not show themselves sufficiently munificent following their appointment to public office are *ipso fact* deemed to be 'suspicious'. They are seen as either inept or selfish".³²³

³²¹ See Chapter 4.5 of this Dissertation (Regime transitions)

³²² With corruption so pervasive, one cannot help but ask whether perhaps it is the ideology of corruption which has assumed, the most obviously hegemonic nature in Kenya today: as in a strange way it is both the state and the society which have resorted to the rules of corruption, and predate upon one another using this common fodder.

³²³ Chabal and Daloz, *Africa Works*, p.102-3.

Thus, if someone uses corruption to benefit their constituency, this is regarded as justifiable, not only by the elites but by the grassroots themselves. Affluent and obviously wealthy patrons, have at least the symbolic evidence of their ability to assume the mantle of leadership. A good leader - one who can deliver - must be able to ostentatiously reveal his wealth. (Munificence). However it is also a prerogative that he share the spoils of his corruption, though this is necessary only amongst his own constituency. Outsiders will perceive his actions as corruption. His beneficiaries will not. This is evidenced in the Kenyan scenario, where most politicians (especially Moi and his closest inner circle) see the need to flaunt their wealth (especially through the use of repeated “harambees”³²⁴ - which are broadcast daily to the Nation) and to offer handouts in exchange for votes or support.

The argument portrayed by these authors is, I believe, fundamental to our understanding of why corruption pervades Kenyan society and perhaps helps to explain why the eradication thereof will be so very difficult. The major consideration is their argument that corruption will not go merely with a change of elite leadership, because the cultural factors which have nourished the corruption have tentacles in the very roots of society. Perhaps these cultural factors can be modified so that helping one's own constituency can be done in legitimate ways and without resorting to extravagant methods of embezzlement and graft (as evidenced by the Goldenburg, Turkwell Dam and Pattni sagas). I would also like to reiterate that while this argument behind the cultural dimension to corruption in Africa does have some merits, corruption itself is epitomised by colonialism, imperialism and neo-imperialism. These forces ultimately set the stage for the greatest evidence of corruption: in the sense of unfairly taking from others for the benefit of a few.

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fundraising events for individuals or communities in need of financial assistance

Simultaneously, I wish to argue that, although Chabal and Daloz's (*Africa Works*) theory may hold some weight, there is no escaping the fact that, as said earlier, corruption is corruption. It remains a vice, no matter how hard one wishes to explain it away.

Corruption at both state and international levels (macro-level corruption) as well as amongst ordinary Kenyan civilians (micro-level corruption), quite clearly distorts and undermines the realisation of an order both hegemonic and democratic.³²⁵

³²⁵

The placement of SAFINA leader, Sir Richard Leakey, into the position of head of the civil-service, in July 1999 will require time and rigorous analysis before it will be evident that it will help eradicate corruption in the bureaucracy.

CHAPTER FIFTEEN

THE NATIONAL CONVENTION EXECUTIVE COUNCIL (NCEC):

THE MAJOR COUNTER-HEGEMONIC FORCE PRIOR TO

THE 1997 ELECTIONS

A history of the National Convention Executive Committee is imperative for understanding the crucial role of lawyers and other non-state organizations in countering the hegemonic quest of the KANU regime. The NCEC has promoted the necessity of Constitutional reform as the key means by which to enable fundamental changes to disseminate throughout Kenyan society and thus to contribute to the consolidation of substantive democracy. The Council was the major counter-hegemonic force at the time of the 1997 elections and has continued in this role up until the time of writing (September 1999).

In November 1994, the Law Society of Kenya, the Kenya Human Rights' Commission and the International Commission of Jurists (Kenyan Section), assisted by other NGO's such as the Centre for Law and Research International (CLARION), co-operated to launch a 'Model Constitution for Kenya', which received wide attention across the land. Following this initiative and drawing together the energies of civil society groups and representatives of the religious sector, the *Citizens Coalition for Constitutional Change* (CCCC), was launched, with a broad mandate to agitate for constitutional reform.³²⁶ They were to embark on a civic education campaign to explain the proposed model to the public and compare it with the existing constitution. In 1996 the CCCC's invited representatives of Kenya's political parties to join them in a united body, the *National Convention Planning Committee*

³²⁶

The People, July 1997 (*The Citizen* supplement put out by the NCEC Secretariat).

(NCPC). The DP and Ford Kenya joined first, followed later by Ford Asili. The objective of this body was to plan and convene the holding of a National Convention to discuss constitutional reform. On the 28th September 1996, after 10 months of planning, the Committee launched its paper entitled “The Way to the New Constitution: Towards the National Convention”, which had its origins in the 1994 proposal for a model constitution.³²⁷ Simultaneously, the CCC continued to exist independently of the NCPC.

On April 4, 1997, the *National Convention* was held at the *Limuru Training and Conference Centre*, gathering together a diverse range of interest groups and sectors. These included the religious sector; professionals; pastoralists; retailers; artisans; the unemployed; the landless; victims of banditry and ethnic cleansing; the youth; the disabled and farmers. This was evidence not only of a broad counter-hegemonic project, but also of the existence of an embryonic civil society in Kenya.

There were 600 delegates and five thousand people who participated in this first Limuru meeting. Later, the results thereof were converted into the *National Convention Assembly* (NCA), led by the *National Convention Executive Council* (NCEC), and headed by Dr Willy Mutungu. A two-pronged strategy was embraced with there being a minimal agenda of reforms, specifically pertaining to the pre-election climate and a maximum agenda for a comprehensive transformation of Kenya from a “dictatorship to democracy”.³²⁸ Agreement was reached on the minimal constitutional, statutory and administrative reforms necessary to ensure freer and fairer elections in Kenya. These were as follows:

1. The Electoral Commission must be impartial.
2. The electronic media must be unbiased and accessible to all parties contesting the election.
3. All parties must be allowed to register.

³²⁷ *Daily Nation*, July 28, 1997 (Gibson Kuria’s article).

³²⁸ Kiai, Maina, p.189.

4. The requirement that public rallies and meetings require the issuing of a license from the authorities should be discarded.
5. Independent candidates should be allowed to run.
6. The eleven existent colonial-era laws should be scrapped.
7. A government of national unity should oversee the implementation of the maximum agenda.

In addition to these reform proposals, resolutions were formulated around broader societal issues such as employment generation programmes; the protection of slum-dwellers; the de-politicization of famine relief; the security needs of University students and the guaranteeing of the basic needs of all Kenyans.

Furthermore, it was decided that a National Standing Committee for Peace and Reconciliation should be created immediately and that a programme of conflict prevention at grassroots level be initiated.³²⁹ In addition, mass action to pressurize the government into heeding their demands, was embarked upon.³³⁰

³²⁹ *Daily Nation*, July 28, 1997 (Gibson Kuria).

³³⁰ *Citizen (ibid)*.

It needs to be stressed that, although political parties, including KANU, took part in the discussions, they were not included in the major committees of the NCEC. The above information points to the validity of journalist Maina Kiai's argument that "civil society had come of age in Kenya"³³¹ (contrary to the argument made by Chabal and Daloz (*Africa Works*) that civil society does not exist in the African context).

With such a diverse array of interests harnessed under the NCEC umbrella it was little wonder that Moi and his regime would seek to demonize the movement, labelling them as bloodthirsty, revolutionary, anarchic, power hungry and unpatriotic. At the rally in Nakuru, in August 1997, President Moi argued that the fact that the NCEC was on record as having said it intended to subvert the constitutionally-elected government of Kenya and set up another one, was tantamount to treason.³³² The Council appeared to pose an extreme threat to the Moi regime. The NCEC, as with the earlier movements calling for multi-party democracy in the early 1990's, revealed the power of broad-based societal movements in Kenyan politics. Lawyers, church groups and other non-political organizations, created a political space wherein the opposition could act. Thus, the Kenyan regime was unable to muster the same level of hegemonic control as had Mobutu's regime in nearby Zaire.

15.1 The Constitutional Review Committee

Prior to both the 1992 and the 1997 elections, the Oppositions' 'clarion' call was for Constitutional changes. This was made apparent in the sections on the NCEC and the IPPG above. It is thus crucial to realise the great impact a constitution can have on the democratization process. It is not merely an

³³¹ Kiai, M., p.1.

³³² *Sunday Nation*, August 31, 1997 (*Sunday Nation* team: "Debate rages on NCEC role").

arbitrary piece of paper, but an important edifice upon which a nation is built. South Africa's new Constitution for example, has done much to pave the way for a democratic order by insisting on certain norms, rights and duties which are fundamental to a democratic ethos. A thoroughly-reconstituted Constitution can embody the site of the triumph of counter-hegemonic forces. (Chapter 5.3 dealt with the question of Constitutions versus Constitutionalism in the African context).

Prior to the 1997 election, renowned Kenyan scholar, Ali Mazrui, argued that "President Moi's government is monarchical and riddled with constitutional deficiencies which make it incapable of conforming to multipartyism". He noted that the country's first constitution, initiated by the British at Independence in 1963 had led to "the current monarchical system whereby the powers of the Executive superceded those of parliament".³³³ It thus suited the KANU regime, as with many other regimes across Africa, to retain these outdated constitutional laws in order to bolster their Imperial presidency, corrupt and neopatrimonial modes of rule and usage of the state as a private enterprise for self-gain rather than as a resource for delivery to the public (refer to Chapter Two on the nature and history of the African state).

It is also important to consider the relationship between the Constitution, lawyers and the legal fraternity and to recall the power which the Kenyan Judiciary has had, (due to no small extent to its International links), in curbing the regime's power and corporatist nature, minimising its hegemony, and constantly challenging the state to reform along democratic lines.

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The Daily Nation on the Net, October 20, 1997.

It should be emphasised that, despite the IPPG's changes to the Constitution prior to the 1997 General Election, fundamental flaws remain, even at the time of writing (July 1999). In particular I would mention the following:

- The fact that the Bill of Rights is only one page in duration, whereas, South Africa's for example is an entire Chapter.³³⁴ This points to the limited consideration of the importance of Human Rights by the KANU regime, and highlights the undermining of a democratic ethos in Kenyan state-society relations.
- There is still no consideration of a Public Protector or ombudsman, which is a pivotal feature of a democratic constitution and which serves as a potent counter-hegemonic force.³³⁵
- While Section 79(1) allows all Kenyans to have the freedom of expression, this is nullified by three fundamental Acts: The Official Secrets' Act; the Preservation of Public Security Act, and the Penal Code.³³⁶
- The Constitution is incredibly short, since its reduction by Charles Njonjo, at the time of the 1992 Introduction of Multi-party rule, and the annulment of clause 2A. This served in effect as another "soft-glove" technique employed by the regime to quest for hegemony and minimise the potential impact of counter-hegemonic forces or the rise of an embryonic civil-society.³³⁷

³³⁴ Interview with law student and President of the Natal University (Pietermaritzburg) East African Association, July 19, 1999. Pietermaritzburg.

³³⁵ *Ibid.*

³³⁶ *Daily Nation Online*, July 19, 1999.

³³⁷ Interview with President of the East Africa Society, University of Natal, July 19, 1999. Pietermaritzburg.

15.1.1 The National Council of Churches and the Constitution Review Process

Although I discuss the role of the Christian Churches in a separate chapter dealing with societal organizations, it is still necessary to briefly mention the role of the Christian church in this important site of counter-hegemonic struggle: the Constitutional Review.

The National Council of Churches of Kenya (NCCCK), published a detailed account of their hopes for the Constitutional Review Commission in 1997. Entitled: "Towards a Just Comprehensive Constitutional Review: Free, fair and peaceful elections", and published in the *Daily Nation*, on September 9, 1997, this account covered all aspects of the Constitution and the Review Commission, both historically and content - wise. This was a clear example of the Churches' involvement in Kenyan politics (refer to section on the Churches as part of the counter-hegemonic project).

While the Constitution of Kenya Review Commission Bill was published in August 1997 by Attorney General Amos Wako, it was two years earlier, in January 1995, that the government had first promised that such a process would take place. In that same year the NCCCK had published their proposals for such a review, entitled: "Kenya Our Common Future: Constitutional and Electoral Reform: recommendations and programme of action". Despite this proposal the government reneged on their promises, and only after repeated pressure did they succumb to an agreement in 1997.

The NCCCK argued that: "The 1997 Bill is consistent with Kanu's position that the Constitution should be reviewed via a Constitutional Commission rather than a National Constitutional Convention or a Constituent Assembly". The exact difference between a Commission and a Convention is not exactly clear, but one would presume the former to imply a less broad-based and participatory process than that

of a Convention. The Churches major concern was that the Review Commission should not turn into a Commission of Enquiry, merely probing the problems, but that it ought to be facilitative and proactive. This was perceived as being essential for the consolidation of democracy because, as had happened so often in Kenya before, numerous commissions, task forces, presidential committees and such like had been set up, to no avail. They were merely “fig leaves” to fool the population and to stall genuine change.

The other major concern was that the President had too great a sway over the process, being able to appoint Commissioners at his whim. This was clearly antithetical to democracy. As they argued, it was paradoxical that: “a commission whose brief includes looking into ways of limiting the powers of the Presidency should itself be subject to the unchecked powers of that very institution”.³³⁸ Thus, they suggested that the Commission members be self - managing and allowed to appoint their own chairman, rather than have the president do so.

15.1.2 History of the Constitutional Review Commission

It was only after the *Saba Saba* day violence and immediately preceding the 1997 elections, that the Constitutional Review Commission was initiated, under the auspices of Attorney General, Amos Wako, to explore ways in which the old Constitution could be changed. At the second session of the Eighth Parliament on 31st March 1998, President Moi referred to the Constitution of Kenya Review Commission *Act* and allegedly stated that: “It is upon this house to assess the views of *wananchi* and decide whether the Act requires any further amendments. Representatives of Parliamentary Political Parties had a meeting this morning and agreed on the way forward”. This Act was implemented after

³³⁸

Daily Nation, September 19, 1997, p.24. “Towards a Just Comprehensive Constitutional Review: Free, Fair and Peaceful Elections”.

the holding of four meetings with Bishop Philip Sulumeti. These meetings were comprised of an amalgam of political parties, religious groups and civic organizations. Thereafter a 25-member Committee was appointed under the Chairmanship of Amos Wako.³³⁹

As so often in Kenyan politics, this Commission created much animosity, bickering, debate and counter - debate. By 1999 there were various calls by some Opposition parties to reject the Constitutional Commission as it was allegedly unrepresentative of the majority of Kenyans and was biased towards KANU. Considering the fact that KANU attempted to have more than their fair share of representatives on the commission board, (there are 13 allotments altogether) this was in all likelihood a fair assessment. On the 18th February 1999 an incident occurred which suggested the extent to which KANU members continued to play by undemocratic rules of the game and sought to maintain their illegitimate quest for hegemony. On that day, a consultative meeting on the formation of the Constitutional Review Commission held at Nairobi's County Hall, was stormed into by a group of 21 KANU delegates led by Professor George Saitoti. They failed to register for the meeting and disregarded Attorney General Amos Wako's insistence that KANU should only have 2 delegates not 21.

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Africa/law/org Online, Amos Wako: "The Constitutional Review Committee: a background to its formation. The 25-member Committee consisted of the following: Hon. Chairty Ngilu, Raila Odinga, J.K. Muyao, J.J. Kamotho, Richard Leakey, George Anyona, Nicholass Biwott, Rasgid Shakombo, Bonaya Godana, Kipkalya Kones, S.K. Musyoka, Martha Karua, Kiprono Ruto, Wanyiri Kihoro, Kiraitu Murungi, John Michuku, Mark Too, Mukhisa Kituyi, Gitobu Imanyara, P.K. Muite, J.L. Ole Sunkuli, Prof. Anyang'Nyong'o, Dr Adhu Awiti, A.N. Kathangu."

When Cabinet Minister, Shariff Nassir argued that: “We have all come here as KANU because we run this government”,³⁴⁰ it was clear that the regime still saw themselves as having a monolithic hold over the country and that in essence *de facto* one-partyism was still the underlying ethos of the post-1997 election government. By February 23rd, 1999, 23 Opposition MP’s (including Official Leader of the Opposition, Mwai Kibaki, Charity Ngilu of the Social Democratic Party, Ugenya Ford Kenya MP, James Orengo and Alego Usonga MP Peter Oloo Aringo) rejected the Constitutional Review and threatened to organise parallel reform talks. They maintained that, due to the rampant levels of corruption, increasing poverty, and government induced ethnic clashes, the Constitutional Review Commission (like the 1997 elections), was farcical and merely a ploy by the government to hide their secret agenda. By March 1999 the Constitutional Review Commission had reached a stalemate.³⁴¹ *The New African* confirmed this scenario in a succinct statement made in April 1999 that: “the stalemate persists. And Kenyans are not even arguing yet about changes in the Constitution. They are still arguing about procedures. As passions flare, arguments about personalities and procedures are all consuming and constitutional reform seems ever more remote”.³⁴²

In order for the Constitutional Review Commission to be truly representative, issues relating to the Constitution need to be available to the population at large, hence the relationship with the commission to the importance of an open media and a vibrant civil-society (this would include the need for civic education campaigns). As argued by the outgoing chairperson of the Federation of Kenyan Women Lawyers, Ms Nancy Baraza in March 1999: “More than 80% of Kenyans, including educated ones, do

³⁴⁰ *Daily Nation on the Web*, February 19, 1999 (“Kanu derails constitutional review talks”).

³⁴¹ *Daily Nation Web Site*, March 1-26, 1999.

³⁴² *New Africa*, April 1999, p.26.

not know anything about the Constitution".³⁴³ Unless all Kenyans are made aware, there is simply no way the Commission can be said to be representative of the Nation as a whole.³⁴⁴

In May 1999, another serious crisis occurred, revealing the threatening potential the Commission was perceived to have to curb the KANU state/regime's hegemony. Moi and his coterie (Biwott, Sunkuli, Kalonzo Musyoko, Joseph Kamotho) were particularly threatened. This crisis also alluded to a deepening crisis within the very regime itself, because some elements of KANU turned against Moi and his circle. Moi had announced that the Constitutional Review Process must go back to Parliament, by which he clearly implied a reduction in its broad-based strategy, which would allow for the opinions from across civil-society to be voiced and made effective.

This was the case because KANU dominated Parliament with 116 out of 222 seats. Moi's suggestion clearly revealed that he only wanted liberalization and not democratization such that the desire to

³⁴³ *Ibid*, March 28, 1999. ("Kenyans 'might protest in streets'").

³⁴⁴ It is of interest to note the variety of opinions (emanating from different political parties) relating to the Commission as put forward by the Africa Law Review v. The Labour Party of Kenya urged that the Commission should be totally independent of the presidency (point 4 of their mandate), and that Commissioners should be persons above party politics, holders of bachelor degrees in law, having seven years of legal experience (point 7). They urge for the inclusion of all the Church sectors and stress the vital role to be played by a National Civic Education Programme. The National Democratic Party urged that 30% of the Commissioners be women (point 4 of their mandate), which is a crucial point with relation to the democratization of Kenyan society - 54% of which consists of women. Ford Asili urged for amendments to the Constitution of Kenya Review Commission Act of 1997 calling for the number of members to be increased from 29 to 51 so as to provide wider representation of the diversity of Kenya's communities (point 1 of their mandate) an obviously crucial factor for genuine democratization to occur. KANU stressed the importance of catering for the interests of different communities, regions and religions (point 1 of their mandate).

maintain the status quo was paramount. As argued by a *Daily Nation* correspondent: “the suggestion by Moi and Kanu runs against the spirit of co-operation and dialogue that saw a multitude of stakeholders with divergent political views, put aside their selfish interests to arrive at the progress so far achieved towards the charting of a new Constitution”.³⁴⁵ However, what is of greatest significance is that this move deepened the divide between hardliners and softliners within Kanu itself such that a substantial number (60), felt this call of Moi’s was the rallying point for which they would leave the party and form a new one. Hence the formation of The National Democratic Party headed by the so-called “young Turks” of KANU, under the leadership of Chirengeto MP, Kipruto arap Kirwa. This increasing split could pave the way for a democratic counter-hegemonic project : revealing as it does the weakening cohesion of the ruling party and their increasing inability to maintain legitimacy even within their own ranks. The parrots were no longer able to sing in accord in a monologue of boring assent to the Chief Parrot, the Professor of Politics. The melody was becoming more varied, with dangerous undertones and new harmonies. Were the Constitutional Review Commission to be truly representative, it would be the channel and site for a new and viable hegemonic project.

CHAPTER SIXTEEN

EVIDENCE OF AN EMBRYONIC CIVIL SOCIETY

The contribution of societal organizations to the potential opening up of political space in Kenyan society and the undermining of KANU's stranglehold over the Kenyan nation, cannot be underestimated. This will already be obvious from the discussion of the NCEC/National Conventional Executive Council (which was a broad amalgamation of civil society organizations, opposition political parties and the Church movement).

A brief exploration of some of the major organs of what can be construed as civil society³⁴⁶ in Kenya today will follow, including the histories and characteristics of organs of civil society, such as women's groups, environmental lobbyists, students' organisations and the Churches, in order to ascertain to what extent they allowed for new forms of political participation in Kenyan society both before, and after, the 1997 elections.

It should be emphasised that these organizations do not form one organic bloc, in the sense that each has different levels of independence from the state or from other societal organisations. In some cases, as for example with the Environmental lobby groups, I would argue that the organisation is mostly independent of the state and thus deemed fit to form a genuine "civil society" movement, while in other cases, such as that of the Kenyan Lawyers or the Churches, there may be certain components of these organizations which do have state or regime involvement in the political sphere or are influenced by

³⁴⁶ (in the light of the current debates and discourse concerning the very nature of the state and civil society in Africa, as explored in the theoretical chapters above)

elite economic interests (in the economic sphere: which is inextricably related to capitalist interests both internal to the Kenyan state and its external of foreign appendages). Hence, it is important to decipher those components of “non-state organizations”, which are strictly outside the orbit of the state versus those who are paradoxically fundamentally related to it.

I would argue however that, despite the contentious nature of the concept of civil society in the African context, it is the best possible analytical tool to describe that network of institutions which are found perching between the state and the family, and which claim to represent the people in a legitimate manner rather than through coercion or top-down political behaviour, as is characterised often by the regime’s mode of governance. Simultaneously, it should again be reiterated that civil society is not represented by any organisations counterposed to the state, such as cultural or parochial bodies which may in themselves represent sub-sets of repressive customs and laws. Rather, civil society should be understood as comprising specifically those organizations which embody the ideals of autonomy and participation.

16.1 Professor Wangari Mathaai’s Greenbelt Movement

Environmental concerns and politics are inextricably linked, and in Kenya they are deeply related to top-level corruption and attempts at embezzlement and graft - because prime land is often dished out to people with links to the regime or to big business interests in order to make money for the ‘president’s men’.³⁴⁷

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Of course there are instances where prime land is used for genuine development or industrialization interests. But there is substantial evidence from newspaper and journal sources that this is mostly not the case.

The foremost group clamouring for Environmental rights and concerns is Professor Wangari Maathai's Greenbelt Movement. The strength of her organization is undoubtedly one of the best examples of the revitalization of civil society in Kenya today and the evidence of democratic forces attempting to counteract the KANU regime. It also highlights the strength of one woman's political clout within Kenyan politics, and in this regard both Maathai and Charity Ngilu deserve renown for their courageous and determined stand for democracy, human rights, justice and equality. Furthermore, it reveals the importance of organizations which are international in character, thus giving them a strength and resonance beyond the parochial borders of the sovereign state.³⁴⁸

Professor Wangari Maathai is internationally renowned for her environmental/political activity in Kenya. She is the founder of the Kenyan Greenbelt Movement, a winner of UNEP's "Global 500 Award", and a member of the UN's Advisory Board on Disarmament. She was a Presidential candidate in the 1997 elections.³⁴⁹³⁵⁰

The Uhuru Park Debacle

Professor Wangari Maathai managed to prevent Moi from erecting an edifice to his name in Uhuru Park, much to his chagrin. He lamented that a woman's place was not in politics.

³⁴⁸ Similarly to the Law Society of Kenya, with its alliance with the International Lawyers Movement.

³⁴⁹ <http://www.africapolicy.org/docs99/ken9901.htm>

³⁵⁰ I have had discussions with a variety of Kenyans about their opinion of Professor Wangari. While some believe she is an elitist, most people I interviewed, especially the women, believed she was a genuine activist with a worthy cause. They believe she has fought tirelessly against the governments' attempts at environmental degradation.

Nevertheless, it is of importance to note that she did have the power to halt his sultanic whims in this instance.

The Karura Forest

The case of the Karura forest is the most recent and most obvious example of these interrelated facets: ecology/big business/political incumbents/neopatrimonial rule/the democratic struggle/the rise of civil-society/student involvement/the empowerment of women.

After more than a year since the December 29 1997 General Election, on the 8th January 1999, Professor Maathai and 20 other protesters, including MPs and journalists who had gone to Karura forest to plant seedlings on land that had been cleared for development, were beaten up by a group of security guards (allegedly armed with machetes, clubs, whips, bows and arrows) despite a police presence at the scene.³⁵¹ This points to yet another example of the coercive nature of the Kenyan state and its likelihood to be defined as a “police state”. Considered in tandem with the brutalities of *Saba Saba* day, the Likoni and Rift Valley clashes this would seem almost undisputable. The KANU regime’s notion of rule was evidently para-military, coercive and violent. This provided further evidence of a weak African state; typical tactics of “strongmen” (Moi and his coterie); and the likelihood of such action initiating potential state collapse. In other words it is evident again of the use of illegitimate means to maintain the status quo, a means which ultimately serves to undermine the hegemony of the regime (in the sense that the genuine hegemony would convince the people that the regime was legitimate). With such brutal behaviour as witnessed repeatedly both prior to and after the 1997

elections, it is clear that unless the police force become independent of the ruling regime, genuine democratization will be impossible.

Amnesty International stressed the need for urgent action over the Karura debacle, suggesting that: "Private development of public forest land has been extremely controversial in Kenya, with senior government officials reportedly benefiting from the land allocations".³⁵² Confirming this opinion, a researcher at the University of Manchester argued that protests over the allocation of land to favoured politicians or businessmen are not new to Kenya ("landgrabbing") and that: "Dozens of forest plots were taken off the land gazette list and sold to companies with similar names, such as Ballistic, Missile, Tomahawk and Cruise for well-below market rates." He also revealed that "all the companies - which local newspapers say belonged to politicians with close links to Kenyan President Daniel arap Moi - had been registered on the same day at the same address and then sold to a consortium of Asian and Kenyan businessmen at real market prices for development of a housing estate."³⁵³ Landgrabbing, politics, business and the paramilitary are thus interconnected, and serve to highlight the web of features which comprise the quest for hegemony in Kenya under the KANU regime. Thus the counter-hegemonic forces (in their struggle to consolidate democracy in Kenya and drawing on the forces of civil society including women and the student movement) must take into consideration the complex interplay of these factors if they are to achieve their prerogatives: a counter-hegemonic quest.

³⁵² <http://www.africapolicy.org/docs99/ken9901.htm>

³⁵³ <http://209.196.163.147/online/1999/january/msg00829.html>

16.2 Student Groups

Kenyan University and Polytechnic students have played a crucial role in the revitalisation of Kenyan civil society by spearheading many protests aimed at the ruling regime, in particular prior to the 1997 elections and more recently in 1999, specifically with their collaboration in protests with the Greenbelt Movement and their subsequent suffering at the hands of riot police and 'unknown' gangsters.

Sometimes, however certain unruly students' resort to indiscriminate violence has been inimical to the interests of democracy. It should be noted that prior to the focus of this thesis, that is in the eighties, the Students' Union, SOTU, was the clamouring point around which student's concerns and programmes were voiced. However the Moi regime banned this Union, and student activists were thus forced to go underground. Particularly in the light of the 1982 coup, in which Luo politicians, student activists and university lecturers, as well as airforce personnel, were allegedly implicated, it is hardly surprising that the KANU regime would do so. However, as yet there is still no valid body through which the students can air their grievances. Clearly, this is a crucial component for the democratization of Kenyan society.

Students and the regime have been diametrically opposed to one another in recent years, particularly 1997, with police meting out harsh treatment to student activists. The Kenyan University Administrations are mostly controlled by supporters of the regime, or at least by academics who are paid by the regime, hence exacerbating the students outrage. In February 1997 student leader, Solomon Muruli, was found burnt to death (in an alleged suicide) in his room on the University of Nairobi campus. Previously, in November 1996 Muruli had been abducted and detained for five days before being dumped unconscious in a church compound after being questioned about his alleged links with SAFINA (the still an unregistered party). Muruli's fellow students and family members described him

as a quiet, religious person. Although not radical or revolutionary he was known to question the justice of the regime. For this act of questioning and seeking to stand for the truth, he was eliminated as a dangerous threat to society. Could his elimination help pave the way for a free and fair, level playing field prior to the elections? Surely not.

According to Amnesty International, Muruli was convinced that his abductors were police officers. A week before his mysterious death by fire he had positively identified a senior police officer at an identification parade as one of the men who had abducted him. At the inquest into Solomon's death held in Nairobi on 13th June 1997, it was also alleged that his abductors had told Muruli that they had targeted Professor Digolo, the dean of the Faculty of Education. Clearly he was not following the KANU line. It was thus highly likely that his death was a police-linked assassination. Whether Moi and his allies knew about the death or whether it was an autonomous security branch action, is yet to be unravelled. However, the death of Solomon Muruli, similarly to the assassinations of many people deemed to be threats to the regime, points to KANU's use of eliminative strategies to simply wipe out any counter-hegemonic forces. It is not hard to believe that Moi and his coterie work hand-in-hand with both the paramilitary and the Security or Intelligence branches in these undercover operations.

Other incidents of state violence perpetrated against students include the following: In March 1997, Anthony Chege, also a student activist, was shot dead by police officers as he walked along the street with two friends. He died on the way to hospital. His two friends were severely beaten and held by police for seven days.³⁵⁴ Later, in July 1997, Kenyan riot police repeatedly stormed into Nairobi

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Amnesty International Annual Report 1998 Online, p.4.

University, breaking down dormitory doors and clubbing students as the government attempted to stifle calls for political reform. According to journalist Lucy Hannan, “armed with slingshots and inspired by hopes of constitutional change, the students have repeatedly confronted the tear gas and live ammunition of the security forces”.³⁵⁵

16.3 Religious Movements

16.3.1 Churches

The Christian Churches have played an active and indeed pivotal role in the revival of civil society and attempts at democratization, although there has been a split between those groups fundamentally opposed to the regime, represented within the NCCCK (the National Council of Churches, Kenya) and those churches, who like their political counterparts, were coopted by the regime into accepting Kanu’s prerogatives (for example the Africa Inland Church, which is headed by Moi). Church-state relations in Kenya have varied with time. Under the Kenyatta era, the Church and State were on cordial terms, but with the Moi era, there were elements within the Church who became more and more discordant with the regime and more openly critical of it. The precise timing of this divulgence was in 1986, four years after the coup attempt and as a result of incredulity at Moi’s insistence on “queue voting”. According to Bratton: “in April 1990, Bishop Okullu raised the heat by calling for the removal of clause 2A from the Constitution, which (as noted previously) stipulated only one political party in Kenya and for procedures to allow for direct election of the president and a two-term limit. These ideas became rallying points for a popular upsurge. (Thus it was in fact) the church leaders who first placed

³⁵⁵ *Electronic Mail and Guardian*, July 10, 1997 (“Kenyan students targeted in violent crackdown”).

democratization on the national political agenda".³⁵⁶ The National Council of Churches of Kenya's role in the National Convention Executive Council gave the NCEC greater popular influence, considering the fact that Kenya is a predominantly Christian society and the fact that Moi himself is a avowedly Christian. The NCCCK has, in recent years, played a vital role in championing the cause of justice and has denounced the regime's corrupt and nepotic ways.

The NCCCK promotes an ecumenical brand of evangelism and service through education, publishing, broadcasting, relief, welfare and development projects. With thirty-two member churches and associations and a staff of over 370 persons at headquarters and regional offices, it is reputed to be the largest national religious fellowship in Africa. Immediately after the elections of 1997, in February 1998, eight bishops from Anglican and Presbyterian churches, called on the international community to stop internecine murder in Kenya, and stressed that many of Kenya's problems were related to the enormous powers - granted by the Kenyan constitution - that Moi wields.³⁵⁷ They thus urged Washington and London to put pressure on the government to commit itself to an all-party constitutional conference and to draft a new constitution for Kenya. This prompted President Moi to accuse them of plotting a revolution "as in the Philippines". Furthermore, he added that these clergymen were merchants of anarchy, who were betraying Christian doctrine!³⁵⁸ This made it quite obvious that there was a deep divide between the ruling regime and the NCCCK and that church-state relations had reached a level of enmity and discord of extreme proportions. The Churches' involvement in civil dissent therefore has great potential for the democratization of Kenyan Society and the assertion

³⁵⁶ Bratton, M., "Civil Society and Political Transition" in *State and Civil Society in Africa*, p.73.

³⁵⁷ Refer to Chapter Two (section on Constitutionalism) and Chapter Sixteen on the NCEC and the Constitutional Review Commission.

³⁵⁸ *Electronic Mail and Guardian Online*, February 24, 1998.

of a counter-hegemonic force. The recent furore (July 1999) and paranoia over the publicisation of the Moi - initiated Commission on devil worship, set up five years ago, seems to epitomise the government's penchant for reviving diabolic symbols as the *raison de' etre* for the problems besetting Kenya, and to divert peoples' attention from the real issues at hand. According to *Daily Nation* online reports from August 1999, non-traditional Christian organizations, such as Freemasons and Jehovah's Witnesses, and eclectic religions such as the Theosophical Society, were branded into the categories of devil worshipping. These unfounded allegations seem to form yet another tool in the arsenal of the "soft-glove" weaponry employed by the regime in their quest for hegemony.

In order for the churches to remain committed to a counter-hegemonic *operandus* it is important that they remain committed to grassroots participation and development, and for church leaders to minimise their elite interests. From personal experience I saw that some pastors were very keen on preaching to the poor shanty dwellers of Kawangware (as one example), the importance of their giving tithes to the church, money which clearly went into the pockets of the pastors to subsidise their luxurious lifestyles, expensive jewellery, smart cars and overseas holidays.

Bratton argues forcefully that: "the church is the only formal organization in Kenya besides the ruling party with a mass following and a capacity to span clan loyalties"³⁵⁹ This is an important point for it relates to the ability of the churches to perhaps provide a greater force for social change than the

³⁵⁹ Bratton, "Civil Society and Political Transitions", in *Civil Society and the State in Africa*.

political parties which have inevitably found themselves mired in a quagmire of ethnic and power conflicts. It is already evident from the NCCK's role in activating mass civil protest both in the 1980's and prior to the 1992³⁶⁰ and the 1997 elections, that it had considerable leverage within the realm of civil society and against the KANU regime.

16.3.2 Non-Christian organisations: The Muslim groups

With regard to the Muslim fraternity, here again there is a dichotomy between those groups who support the regime (such as the Supreme Council of Kenya Muslims), versus those who have played an active role against the government (as well as America with whom the government is perceived to be in cahoots) - as epitomised by the Imams' and Preachers' Council of Kenya.

The role played by the Islamic Party of Kenya, which is under the auspices of renowned radical Sheik Balala, who was sent into exile by the Moi regime, and returned in 1997, has played a crucial role in the counter-hegemonic movement. Perhaps even more so than the Christian Churches, certainly since 1994, the IPK can contribute towards a revolutionary counter- hegemonic quest, especially when one considers their anti-capitalist and Western imperialistic stance.

The controversial nature of this quest would clearly require more in-depth analysis than this thesis allows. Suffice it to say, that if, typically 'democracy' (in terms of procedural democracy) has gone

³⁶⁰ The NCCK magazine, *Beyond*, revealed vote purchasing and poll rigging at election time, leading logically to a full-blown criticism of the single-party state.

hand in hand with Western capitalist interests, then there may be some merit in the Islamic cause. But it would be impossible to attain an Islamic state hegemony, considering the multitude of religions, and the majority of them being Christian. Therefore the hegemony of *Sharia* law cannot be advocated.

16.3.3 The Interfaith Peace Movement

It is worth mentioning that there is also in existence an Interfaith Peace Movement, which has the power to consolidate and coordinate the various religious bodies as a force against the KANU regime. It consists of an amalgam of Christians, the Supreme Council of Kenya Muslims, the Hindu Council and other civil society groups. Another interesting and related movement, with spiritual rather than religious connotations is the recently formed (1997) “Chemchemi ya Ukweli” (Swahili for ‘Spring of Truth’), which metamorphised as an organisation promoting peace and justice through non-violent, yet active means - thus similar to Ghandi’s notion of “Satyagraha” (Peace-force or non-violent resistance). These two bodies have potential to play a role in the counter-hegemonic quest.

16.4 The Kenyan National Union of Teachers (Knut)

The role of the Kenyan National Union of Teachers, can also not be underestimated as a force which helped to inculcate a spirit of resistance to the state’s domiance, in particular just prior to the 1997 elections. Here, as with the environmental campaigns, teachers’ rights to improved salaries were galvanized into an essentially political and anti-regime issue, with the potential for radical/revolutionary fervour. The Kenyan National Union of Teachers has consistently used strikes and non-violent protests to challenge teachers’ low salaries and the so-called 8-4-4 education system.

With regard to the July 1997 KNUT strikes, *The Weekly Review* noted pertinently that: “indeed there were indications that the strike had the potential of turning from merely a bread and butter issue into protesters making broad political demands and starting to link their grievances to official corruption and mismanagement of government resources”. The *Review* further suggested that: “clearly the teachers hoped that the unrest would spread to other groups and attract mass support. (Indeed) they had deliberately timed the strike to allow them to build coalitions with other estranged groups”.

This is of utmost importance to the political analysis of the Kenyan scenario, in the sense that it reveals the strength of society within state organs (in this case the Education Department), to protest at that very state itself. In other words : the strength of the public sector to protest at those to whom they are allegedly beholden. Teachers’ strikes are a serious threat to the government because they disturb the education system and the holding of examinations. However, the government always has the wildcard of retrenchment to play with, should their options be stagnated.

16.5 Trade Unions

Although trade unions do not have much clout in Kenya, in particular because the Kenyan Central Organisation of Trade Unions, (COTU) is KANU - run and indeed infiltrated by members of the ruling regime,³⁶¹ there are certain signs that portend well for the democratization of this sector and the achievement of significant counter-hegemonic trade union forces. One significant example is that of the bankers’ strikes and the role of the Kenyan Bankers’ Employers’ Association.

³⁶¹ (COTU’s chairman is Joseph Mugalla, a Kanu Parliamentarian).

After the General Election of 1997, on the 27th February 1998, 15,000 bankers went on strike to demand the abolition of low interest benefit taxes.³⁶² As argued by *The Kenyan Socialist*: “the tax revolt by the Bankers was a clear signal to the KANU regime that Kenyan workers are no longer ready to accept attacks on their meagre incomes to pay for a crisis, largely precipitated by the corrupt, capitalist elite who dominate the government”. This points to a counter-hegemonic force of an intrinsically anti-capitalist nature, which, while controversial is, I believe, worthy of merit.

Later, the *Kenyan Socialist* added that: “the Bankers’ strike was earth-shattering (as) it provided proof the KANU state/regime cannot withstand an organized fight-back by a tiny cross-section of workers over issues mandated by Parliament”.³⁶³ It appeared that the strike action had significant power to shift the COTU body into taking a temporary radical and anti-establishment stand so as to pacify the Bankers, scrap the Bankers’ tax and avoid economic disaster. Thus, this example of the 1998 Bankers’ strikes points to the potentially counter-hegemonic vitality of strike action and mass protest, emanating from the workers, and in particular those involved in highly crucial economic sectors, upon which the livelihoods of the regime itself depends. It is these critical sites then, which can serve as important nodes of revolutionary and pro-democracy struggles.

16.6 Popular Protest

What I wish to emphasise under this section is the importance of non-organizational elements of civil-society in spreading political messages and in creating a “counter-hegemonic” force. Thus, I believe

³⁶² <http://freeyellow.com/members2>. As argued by a controversial online magazine.

³⁶³ *Ibid.*

that street actors, musicians, writers and preachers can and have all played a vital role in spreading the message of the need for democratization. From personal experience I recall the impact which a street actor, named Professor John, had upon Nairobians. In a subtle way, using parody and humour, he was able to mock and satirise the flaws of Moi and his regime, using cleverly disguised, indirect references to the incumbent and his coterie of close supporters.

Another indication that protest was simmering from within civil-society was evidenced in the music playing on "Matatus" (taxis): music which contained messages of anti-corruption and anti-injustice or oppression. For example, the music of Bob Marley and Peter Tosh contributes towards the politicisation of civil-society with their revolutionary words against injustice and tyranny. ("Emancipate yourselves from mental slavery, none but ourselves can free our minds, how long shall they kill our brothers while we stand aside and look ... cos' all I ever had, these songs of freedom"). In township cafes and bars, politics was relatively openly discussed in 1997. In libraries and universities, I also experienced such an openness. Even in Makeni District, the local villagers talked and debated politics in the village cafes or at the local brew shebeens. These positive signs would never have been possible prior to the 1992 elections, when any criticism was strictly censored and Moi's security personnel hiding in every nook and cranny. Obviously then, multiparty democracy did have positive offshoots not only in Kenya but throughout the Continent as epitomised by this upsurge in popular protest.

CHAPTER SEVENTEEN

NON-GOVERNMENTAL ORGANISATIONS:

Pro-establishment or counter-hegemonic forces?

There are a plethora of non-governmental organizations in Kenya, including both local and international ones. The *Kenyan Human Rights' Commission* would be an example of the former while the latter include such groups as *World Vision*, *Save The Children Fund*, *The United Nations*. These played a vital role in the democratization process prior to the 1997 elections, (especially through their liaison with the National Convention Executive Council), however their actions were curtailed by President Moi's constant propaganda war that NGOs were puppets of the West out to bring down the Kenyan state. He further stressed that any NGOs engaging in political activity would be banned. In 1997 some NGOs did receive such treatment.

Interestingly, by 1999 Moi was repeating the same old story, decrying those NGOs who mentioned politics, and arguing that such organizations had no right to meddle in political affairs. This argument was quite clearly nonsensical when one considers the inextricable link between these organizations (involved in for example, developmental issues, or women and children, or education campaigns) and the political domain.

Of course there are NGO's whose agendas remain inimical to the interests of democratization in Kenya. These are essentially bogus organizations who have used the 'holy mantle' of 'democracy' to further their goals and interests, and to get validation for receiving Western funding. Often they are in fact nothing more than capitalist ventures, with the financial interests of their creators their priority.

Philip Ochieng, *Daily Nation* correspondent, highlighted this phenomenon in an article entitled: "Is

West to blame for funding NGO con-men?", in which he ascertains that: "Since the beginning of the 1990s, there emerged hundreds of NGOs composed of nothing but con men and women posing as concerned jurists, election monitors, Press freedom champions, womens' libbers, anti-child labour groups, what not, all receiving very handsome regular donations from official and unofficial Western European and North American sources and all spending them without any form of accounting". Later he confirms that: "Nairobi alone swims in money ill-gotten in the name of democracy. The amount the genuine organizations get is a poor percentage of the total".³⁶⁴ Thus, it should always be borne in mind that non-governmental organizations in Kenya (as elsewhere), are not automatically democratic or promoting the process of democratization. Being outside of the domain of the government then is not sufficient condition for an organization to be deemed democratic. It is the way in which funding is used and whether the organization is transparent, accountable and has the interests of the grassroots at heart, which are the most important factors to take into account.

It is also of utmost relevance to consider the fact that the mushrooming of non-governmental organizations is inextricably linked to a number of factors: including the Western powers' structural adjustment programmes (SAPs), which have emphasised the need for a reduced state and hence the need for developmental aid to be channelled through some other means. It is pertinent to note however that the elites themselves often benefit from this system, and that it represents a form of continued neo-colonialism. Chabal and Daloz capture the quintessence of this argument thus: "Above and beyond the new discourse of NGO ideology, the political economy of foreign aid has not changed significantly. The use of NGO resources can today serve the strategic interests of the classic entrepreneurial Big Man

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Ochieng, Philip, "Is West to blame for funding NGO con-men?" *Sunday Nation*, April 6, 1997.

just as well as access to state coffers did in the past ... it is well known that there is an International Aid market which Africans know how to play with great skill.”

They conclude that the flourishing of NGOs is not indicative of a genuine growth in civil-society, so much as a clever ploy by individual entrepreneurs within neopatrimonial regimes to secure their continued financial dependence on external powers. They do however reiterate that there *are* instances where NGOs, or at least some of their personnel, are authentic in their cause and dedication to grassroots’ concerns and development.³⁶⁵

A full analysis of the NGO sector in Kenya would require more indepth analysis, which is not possible in this research.³⁶⁶

³⁶⁵ Chabal and Dalaz, *Africa Works*, p.23.

³⁶⁶ However, it can be said that, with reference to organizations such as the United Nations, which has its East-African headquarters in Nairobi; certainly the elitist agenda is very evident. From personal experience I saw for example that the United Nation’s Children’s Fund vehicles, while often roaming around the streets of Nairobi, were very rarely to be seen stopping and assisting street children. There was a lot of pomp and ceremony for every UN function, not to mention the sense of snobbery within the United Nation’s offices. Applying for a job or a career with the UN is not an easy task. One is likely to be informed that applicants are acceptable “only if they hail from Geneva”. There is a sense that the organization works within a tight-fisted orbit. Expatriates I met who had worked for the United Nations’ High Commission for Refugees in Nairobi, confirmed to me that they were paid high salaries, given expensive accommodation and luxury holidays, even while working in refugee camps.

It is thus necessary to engage in thorough empirical research regarding the nature of the (so-called) non-governmental organizations in Nairobi and other areas of Kenya. By so doing one might ascertain where they exist merely to boost the hegemony of the KANU regime (by being in cahoots with it), and where they are genuinely and diametrically opposed to it. The Kenyan Human Rights’ Commission would be one example of a thoroughly counter-hegemonic, non-governmental organization.

CHAPTER EIGHTEEN

THE 1997 ELECTIONS

The first problem with the election themselves was the timing of the election date and the fact that Moi left it until the last minute to announce his decision, thus buying time for his regime to be in a more influential position. To set an election on the 29th December is clearly problematic, it being the Christmas season, when urbanites return to their rural homes.

As discussed in Chapter Thirteen, there were problems inherent in the electoral/constitutional voting system which had been put in place long before the 1997 elections, but continued to wield influence. Roddy Fox's article on a "Bleak Future for Multi-Party Politics in Kenya" makes this apparent.³⁶⁷

The outcomes of the elections as gathered from the *Daily Nation* archives (Internet site), whose source was the Electoral Commission of Kenya, revealed that Kanu won 40.5% of the vote, the *Social Democratic Party* (Charity Ngilu) won 7.9% of the vote, and *Democratic Party* (Mwai Kibaki) won

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The 12 Presidential Candidates standing for the 1997 elections and their symbols, which are simultaneously amusing and instructive, were as follows:

Daniel arap Moi	-	Kanu	-	Cockerel
Mwai Kibaki	-	DP	-	Lantern
Charity Ngilu	-	SDP	-	Rhino
Kijana Wamalwa	-	Ford Kenya	-	Lion
Raila Odinga	-	NDP	-	Tractor
Martin Shikuku	-	Ford Asili	-	Two finger salute
Kimani Wanyoike	-	Ford People	-	
Katama Mkangi	-	KNC	-	Key
George Anyona	-	KSC	-	Dove
Wangari Maathai	-	LP	-	
Hamisi Jeffah	-	SPK	-	
Munyua Waiyaki	-	UPPK	-	

31%, *Ford Asili* (Raila Odinga) won 10.8% and *Ford Kenya* (Kijana Wamalwa) won 7.9%. Moi received 70% of the votes in the Rift Valley region, while Mwai Kibaki (DP) received 88.7% for the Central Province. Charity Ngilu won 33.3% for Eastern Province.

A breakdown of *National Assembly Members* is also indicative of the electoral spoils following the 1997 election

In *Nairobi Province* then, the DP won 5 seats, the Social Democratic Party 1, the National Democratic Party of Kenya 1 and KANU 1. Within Nairobi Province, Starehe went to the DP (Maina Kamanda), as did Kasarani and Embakasi. Interestingly, Westlands was won by Frederick Gumo representing KANU. This is, in my view, surprising, considering the fact that Nairobi Province is not a hot-bed for KANU.(Westlands may be). The exact reasons for this victory here are not known to me. Perhaps it was Gumo's personal credentials rather than his KANU candidacy.

In *Coast Province*, KANU won a high 17 seats, with the DP and SPK receiving one seat each. Referral to Chapter Eleven which analyses the Likoni Violence within the context of KANU's desire to win the Coast Province, helps to explain this vast contrast between KANU's success and the Opposition's loss.

In *North Eastern Province* KANU again won with ten seats, to SAFINA's two seats. In Eastern Province, there were 15 KANU seats, balanced by an opposition spread of 9 SDP seats and 8 DP seats. Some of the interesting features of Eastern Province include the fact that: Machakos town went to SDP (Jonesmus Mwanza Kikuyu); Mwingi North to KANU (Stephen Kalonzo Musyoka); Kitui Central to SDP (Charity Ngilu); and Yatta, Kathiani, Kitui South, Mwala and Makueni (Professor Paul Mulwa

Sumbi), also all to the SDP/Social Democratic Party. This victory represented a fundamental shift from the outcomes of the 1992 elections in which Ukambani was won by the ruling party.

In *Central Province* there were absolutely no KANU seats, indicating the prevalence of anti-government sentiment existent there.³⁶⁸ Thus, the DP (Mwai Kibaki) secured a prominent 17 seats, the SDP followed with 5, Safina with 3, Ford-People with 2 and the National Development Party of Kenya, one seat. Within this region, Kibaki won the Othaya seat. Kinangop and Kangema went to Ford-People, Matiba's October 1997 creation.

In *Rift Valley Province*, Kanu won an astounding 38 seats, with the Democratic Party winning a mere 7 seats and Ford Kenya only two. The area where the Democratic Party *did* win are crucial for understanding the ethnic clashes which have continued to prevail since the 1997 Election. The areas were: Laikipia East, Nakuru Town, Molo, Subukia, Kajiado South, Laikipia West and Naivasha. It is not surprising that these areas have been the main arena of political conflict between the Kikuyu (DP supporters) and the Kalenjin (Kanu supporters). It would also appear evident that the regime sought to punish these areas for not supporting KANU in the election. (Similar activities occurred in Ukambani, which also failed to support the regime during the 1997 elections).

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This would also confirm the trend in global political behaviour that the urban areas tend to be more liberalized/radical in their thinking, while it is the peripheral/rural areas, which often constitute the bedrock of conservative, *pro-status quo* support. Refer to Mamdani and Bayart's theories in Chapter Two which details the State in Africa.

In *Western Province* KANU and Ford Kenya were the only political parties which featured. KANU won with 16 seats and Ford Kenya came a close second with 9 seats.

In *Nyanza Province* a resounding victory went to the National Democratic Party of Kenya who won 19 seats (including Kisumu, Rangwe and Rongo), followed by 8 seats for KANU and 4 for Ford-Kenya.

While Moi doubled his share of the vote in the previous opposition strongholds of Nairobi, Central and Western Provinces and Nyanza, it is of interest to note that he suffered a defeat in the Eastern and Rift Valley areas. In 1992 he had prevailed in these two areas.

One of the most significant changes compared to the 1992 elections was, (as mentioned above) in Ukambani, the land of the Kamba-speaking people. This area is of particular interest to the author who lived there intermittently between 1995 and 1999. In 1992, KANU won the area, however, by 1997 they lost favour with the local populace, who saw that their developmental needs were not being met. A significant shift took place with the mushrooming of Social Democratic Party (Charity Ngilu), and Democratic Party (Mwai Kibaki) offices in the region. As with most of the parties during this and previous elections, the focus of the DP and SDP was on development deliverance. "Vote SDP for roads and schools and water and food" was the rallying cry. Ukambani has been a contentious area in terms of politics and famine control and is a neglected, underdeveloped area. Even in 1995, when for example, Makueni District was still somewhat in favour with the KANU regime; the roads were well-tarred and prospects for development looked increasingly hopeful, there were still no rural development programmes being implemented to introduce electricity or running water to households.

By 1997, the roads were in abysmal disrepair (also due to *El Nino* rains), and famine had gripped much of the area. Government officials at first lied about the famine, until it was politically imperative that they own up to the truth and admit the catastrophe facing the region. They then used the crisis as a media campaign to boost their own “do-good image”, in typical pre-election fashion.

Thus, they ensured that the media photographed them at strategic places, being seen giving generous amounts of food to starving villagers. What the media failed to point out was that, often a few kilometres away from the cameras, dead victims were being buried.³⁶⁹ Once again in 1999, famine has reached many parts of Ukambani, and one wonders to what extent the KANU regime will assist this region which has now clearly shown its preference for the Opposition. (Just as they have allegedly encouraged ethnic warfare between Kalenjin and Kikuyu in those areas of the Rift Valley which supported the DP (of Mwai Kibaki). (Refer also to the following sub-chapter on Makueni by-election violence 1999, in which KANU won, clearly through the use of rigging, intimidation and violence).

A brief look at some of the comments on the “freeness and fairness” of the 1997 General Election, are useful in terms of realising how it was further evidence of the (soft-glove dimension) quest for hegemony being undertaken by KANU.

Keesings Directory of Contemporary Affairs confirmed that there were numerous accusations of vote-rigging and fraud on the actual election day, December 29, 1997. International and local observers allegedly said that the level of irregularities (including ballot papers being sent to the wrong

constituencies, election officials failing to arrive, and polling stations opening later than scheduled) threatened to discredit the elections.³⁷⁰

In confirmation of the above, “Focus on Justice”, (an Internet-based organization), argued that : “ the election was filled with irregularities and in some key parliamentary seats, there was evidence of outright fraud”. They argued that, as with the 1992 elections, it was feared the 1997 election was: “simply an elaborate piece of theatre staged by President Daniel arap Moi and his ruling KANU party to convince international aid donors to release the millions of dollars they are withholding pending democratic changes.”³⁷¹

According to a Kenyan who participated in the monitoring of the 1997 elections in five Constituencies, the most blatant form of electioneering he evidenced was the bussing in of extra KANU supporters into certain areas.³⁷²

Furthermore, a postmortem meeting held by the *National Council of Churches of Kenya* (who had provided 7,000 observers), concluded that the elections were not free and fair. They too alleged widespread bribery up until polling day, mysterious disappearances of ballot boxes and intimidation of voters and Opposition MP’s. *Focus on Justice* also alluded to the police harassment of journalists; brutal dispersement of pro-democracy rallies; arbitrary arrests of pro-democracy and human rights advocates; continued ill-treatment and torture of prisoners, and expulsion from university of student

³⁷⁰ *Keesings*, December 1997, p.41949.

³⁷¹ www.focusonjustice.org/project/001/001

³⁷² Personal interview with a Kenyan Pastor, Pietermaritzburg, May 9, 1999.

pro-democracy advocates as further evidence that the election's playing - ground was by no means free and fair.

Other evidence included the fact that the Moi government refused an offer from the Danish government to use clear ballot boxes - a method which had been successfully appropriated in Ghana's 1997 elections (this would alleviate the problem of "stuffing" ballot boxes); the fact that irregularities were so obvious elections had to be extended for a second day; and the fact that Safina was timeously registered only one month before the election, thus giving them the barest minimum time to organise effectively and hence excluding them from the Presidential race.³⁷³

However, there were some positive factors to be noted. Foremost, observers emphasised that the 1997 elections were a vast improvement on the 1992 ones.³⁷⁴ Not only did all parties participate, despite threats (particularly by Matiba) to boycott elections and burn voters cards, but there was also a 68% turnout. Furthermore, while in 1992 there were only 5,000 domestic monitors, in 1997 there was a group of 28,000 under the auspices of the *Catholic Church*, the *National Council of Churches in Kenya* and the *Institute of Education for Democracy*. This factor, together with the use of resident diplomatic personnel familiar with Kenya to assist the election campaign,³⁷⁵ boded well for its success on the score of being democratically accountable. There were also International monitors, United Nations and Amnesty International included.

³⁷³ <http://www.focusonjustice.org/projects>. Safina was formed in 1995. The word is Swahili for Ark. Headed by Richard Leakey, it is a broad-based opposition party. Its meetings have been repeatedly disrupted, its leader and members beaten up on numerous occasions, its literature confiscated. Moi regularly blamed Safina (as with the NCEC, hawkers, foreigners and NGO's) for all the problems of violence and poverty in Kenya.

³⁷⁴ *Inseleko* - Diakonia Council of Churches Newsletter, March 1998.

³⁷⁵ Barkan, Joel, "Toward a New Constitutional Framework in Kenya", p.221.

Basically it was decided that, despite the flaws in the election, it was in the country's interests to declare them "free and fair".

Opposition leaders, Raila Odinga and Mwai Kibaki, respectively of the National Development Party and the Democratic Party, argued that they would not accept the results of the election if Moi was the winner.³⁷⁶ Throughout 1998 and at the time of writing (March 1999), they continued to reject the election results because Moi had won.³⁷⁷

18.1 The Aftermath of the 1997 Elections

18.1.1 Moi's post-election cabinet

Although at the inauguration of his final term of office, President Moi promised all the right things such as an end to corruption and tribalism, better fiscal management and speedy measures to repair Kenya's dilapidated infrastructure, education and health systems, the authenticity of these claims was tainted by the cabinet re-shuffles which he simultaneously initiated.³⁷⁸ (and by the reality of events which were to unfold after the election, including continued ethnic violence in the Rift Valley, continued police brutality against pro-democracy activists, continued corruption, neopatrimonial rule and authoritarian modes of governance).

³⁷⁶ *Keesings*, December 1997, p.41949.

³⁷⁷ <http://www.africaonline.co.ke> (*Daily Nation* site).

³⁷⁸ *Sunday Independent*, January 11, 1998.

Tactical appointments of cabinet ministers

The problems with the new cabinet were, firstly, that it consisted only of KANU's elected members of parliament, and, secondly, that no Kikuyu or Luo members were appointed to it. It was thus hailed by political observers and diplomats as a "cabinet of politics and payback with no real stars who reflect his inauguration promises", and by Richard Leakey, founder of the *Safina Party*, as a 'political, rather than a technocratic cabinet a balancing act to try and maintain KANU for the next election'".³⁷⁹

Constitutional Tampering

Musalia Mudavadi, the Finance Minister - was replaced by a party hardliner, Simeon Nyachae, (a former water development minister with little financial experience) and given a post as Minister of Agriculture, while George Saitoti was sidelined from the prominent post of Vice-President to the Ministry of Planning (to date - March 1999 - no new Vice-President has been named and the reasons for this remain unknown and utterly absurd when considering the normal functioning of a modern political system. What Moi's rationale for this decision might be, remains obscure to political observers. There are however, insinuations that it is his fear of the ethnic factor within KANU and that he doesn't know what MP (from whichever ethnic group) would consistently maintain the status quo rather than seek to oust him and his fellow cronies on an ethnic card.

In a *Daily Nation* article (February 24, 1999), it was reported that Moi has been sued by a Supreme Council of Muslims of Kenya official, Munir Mazrui and Safina founder member, Khelef Khalifa, for failing to appoint a Vice President. They argued that the Attorney General as the legal advisor of the

³⁷⁹

Sunday Independent, January 11, 1998 (Herbert, Ross, "Moi's New Cabinet gives the lie to his fine promises").

government, ought to have advised Moi on the need to appoint a Vice President. “Mr Munir and Khalifa argued that the failure by President Moi had precipitated a constitutional crisis and a state of anarchy was in the making should the office of President fall vacant any time. Furthermore, it infringed their constitutional right which entitled them to have a President, a Vice-President and a cabinet”.³⁸⁰ In March 1999, Moi finally appointed Saitoti as the Vice-President in a startling move after increased pressure from politicians such as Ford-Kenya MP, James Orengo. Obviously, he could think of no safer option than to merely re-appoint his old Vice-President, even though there were rumours that he was threatened by him. ‘Better the devil you know than that you don’t’ was perhaps his guiding motto?

The new cabinet provided further confirmation of the danger in seeing the holding of multi-party elections as a *sufficient* condition for democracy within the context of an incumbent leader who continues to adopt neopatrimonial and semi-dictatorial modes of rule, despite having being allegedly ‘freely elected’ back into his position as ‘supremo’. In the bitter words of Stephen Ndegwa: “Kenya’s 1997 Multi-party elections were a disappointing confirmation of the extent to which the country’s democratic transition has stalled; there is little hope that the Institutional structures inhibiting democratic consolidation will be abandoned”.³⁸¹ These Constitutional arrangements were yet further proof that the KANU regime was unwilling to relinquish their illegitimate quest for hegemony.

³⁸⁰ *Daily Nation on the Web*, February 24, 1999. (Francis Thoya, “President Moi sued again over VP’s post”).

³⁸¹ Ndegwa, Stephen, “The Incomplete Transition: the Constitutional and Electoral Context in Kenya”, p.2.

Furthermore, the fact that so few women were elected into positions in parliament, points to the need for a more genuine transformation of Kenyan society in the realm of gender equity

18.2 Continued Violence/Ethnic Clashes. By-election violence with specific reference to Makueni District

In April 1999, nearly two years after the December 1997 National Elections, by-elections were held in various areas, including Makueni District. What occurred here serves as a useful example of how the regime resorted to coercive and violent methods thus undermining both the quest for hegemony and the establishment of democratization by reinforcing its illegitimacy and the divide between state/regime and society. Thus, despite the holding of multi-party elections, and the increasing liberalization of the media since 1992 and particularly after the 1997 elections, in essence the state remained patrimonial and authoritarian, rigid and afraid of any threat to the status quo.

The by-elections were marred by violence and intimidation, such that the results of 1997 were reversed in many areas, giving KANU the victory they had had in 1992. The Social Democratic Party was severely affected in Tigania West and Kitui South, where their supporters and leader (Charity Ngilu) were injured by stone throwing KANU supporters, no doubt paid to carry out the deed. It was alleged that they argued they were retaliating against Ngilu for detaining a certain teacher Mr Mumina, who have been accused by her of bribing voters at the Ikanga location and of rigging the election.³⁸² As with the case of the Karura forest and other incidents, riot police merely watched as Ngilu was attacked,

³⁸² See *Daily Nation Online*, April 26, 1999. "Charity Ngilu injured by Kanu youths in poll violence", and "Election violence stifles democracy" and also *Daily Nation Online*, April 29, 1999. "Kanu election victory sparks violence".

revealing quite markedly the continued linkage between KANU politicians and the military arm of the state. The regime was clearly using coercion to assert its hegemony, rather than play by the legitimate rules of the game. Again, one can see how neopatrimonialism, and corruption served their purposes.

The consequences of this victory will be indicative of the current state of affairs in Kenya. If the SDP fails to secure winnings in its strongholds, then the military might of the regime seems to have greater clout than the actual reality on the ground. How to mobilize support for opposition parties in the face of violence and intimidation, is clearly not an easy task. Until the military are an independent force and not necessarily KANU supporters, democracy cannot blossom.

CHAPTER NINETEEN

CONCLUSION

My concluding Chapter is structured along the following lines:

- *Kanu's failure to achieve its attempted quest for hegemony in the context of increasing counter-hegemonic forces and the rise of civil society and popular protest movements.*
- *Prospects for democratic consolidation in Kenya since the 1997 elections.*

What are some of the conclusions that can be drawn from this investigation of African States and of the Moi era in Kenya? In what ways has the KANU regime failed in its quest for hegemony? To what extent has KANU's resort to coercive methods undermined its legitimacy and contributed to the potential collapse of the state, anarchy and impending civil disorder? What are the prospects for the consolidation of a substantive democracy in Kenya?

I have highlighted the fact that Africa's problems are complex and multifaceted, stemming from both internal and external factors, from both pre-colonial or indigenous/autochthonous issues (such as 'tribalism' or the ethnic dimension), to colonial factors (the monopolizing of power by foreign countries and their hegemonic sway over traditional modes of governance, as well as the imposition of racist and elitist systems of rule) to the problems encountered under neo-colonialism which include neopatrimonial rule, nepotism, patron-client relations, corruption, the erosion of the rule of law and a free civil society, and the role played by elite leaders themselves. I have also shown that the problems of leadership are not only to be evidenced at the level of the ruling regime, but also by Opposition party leaders themselves.

In addition I attempted to reveal that the KANU regime, particularly under Moi, failed to secure hegemony in the sense that it failed to legitimate its rule and establish an accord between state and society. Rather, the regime resorted to violence, ethnic manipulation, and intimidation to ensure its coercive-based power. Where the KANU regime resorted to propaganda to attempt to mould a hegemonic view of the legitimacy of their rule, they were indeed partially successful. However, increasingly the propaganda has failed to fool people, and furthermore, the liberalization of the press as revealed in Chapter 12.1 has inaugurated an unprecedented barrage of criticism of the regime from Kenyan journalists, notably those from the *Daily Nation* and *The People Weekly*.

For a regime transition to go beyond mere liberalization and the holding of multiparty elections, and for genuine democratization, or the consolidation of democracy to occur, there needs to be an emergent leadership which is not elitist and corrupt but which has both grassroots support and membership and which strives for the upliftment of the poor and marginalized. In this way, both the economic and psychological features fundamental to democracy will be better ensured.

What one needs to strive for is the blending of a notion of hegemony with that of the democratic ideal. In other words, a workable, or orderly democracy, requires a hegemonic regime. By this I clearly do not imply the endorsement of capitalist-liberal democracy, but rather the attainment of a radical African democracy, blending the realities of the capitalist world order with the virtues of a socialist vision; the lessons from Western political history as well as those from African history itself.

I agree with Ogot's argument that:

"In a situation where democracy does not address the community's demands and does not generate new bases for social integration and collective identity, the influence of populist or fundamentalist movements in the country develops or heightens, leading to

new authoritarian regimes. Kenya must create a shared normative order for the day-to-day renewal of trust in the promises of democracy if the populist-authoritarian cycle is to be broken. This entails the forging of new institutions and the restructuring of the socioeconomic system. And the fundamental question which must be raised is whether Kenya is any less neo-colonial economically, culturally and intellectually as a result of the reintroduction of the multiparty system. The economy is being managed according to the dictates of the World Bank and the International Monetary Fund (IMF). A frontal attack on poverty is essential. Also there is a need for mass participation in the political process. At the moment it is a democracy of the elite, by the elite and for the elite. This yawning chasm between the elite and the masses must be bridged".³⁸³

Democracy, as reiterated countless times, cannot flourish in an economy that is failing to thrive and thereby to nurture its citizens.

Thus, the role of the International market system and in particular that of the IMF and the World Bank, is inextricably related to the prospects for democratic consolidation on a genuine level in Africa and Kenya specifically. Julius Nyerere captures the argument in a forceful manner, positing the notion that it is the very fact that there is no democracy at the international level which has had a trickle-down effect upon the subordinate states of the 'so-called South': "In the world at large", he maintains, "there is neither International democracy nor any clear centre of authority at which the poor can direct their protests". He reveals that the poor and dispossessed are thus inclined to lay all the blame for their woes on their governments while being ignorant of the role of international market forces and American and

Western interests, which equally impact on their prospects for improved living - both economically and politically. There is thus a need to assess International economic conditions in tandem with local government policies, to note the nuanced relationship between external and internal elites, International and local actors, the centre and the periphery.³⁸⁴

Perhaps it is only with a radical restructuring of these external dimensions and the conditions they impose on African states, together with a thorough purging of corruption within the state itself, and a new mode of governance based on both foreign and traditional African ideologies, that some headway will be made. There is a need for compromises and balances. The world we live in is now a “global village”. One cannot advocate a wholesale rejection of Western values nor of traditional ones. Both have their wisdoms and insights as well as their flaws. The major point which I am seeking to emphasise is that democracy at the local/Kenyan level in terms of typical “multi-party democracy”; the holding of regular (free and fair elections); will be unfruitful in terms of impact on the majority of Kenyans, unless there is a radical and revolutionary restructuring of the global economic order.

Apart from these broad factors which are crucial to the democratization of Kenya, and the implementation of a new authentically hegemonic order (by which to reiterate I imply state-societal accord) I would also add the following factors as necessary in Kenya:

- It is quite clear that the major two problems facing Kenya today are the Constitution and the incumbent President. These two issues are, inevitably, related, because it is the Constitution which places the President above the law and thus enables him to manipulate the political environment to his own intents and purposes. Thus it does not matter whether the President be Moi or Odinga or Matiba or whoever, unless this fundamental flaw is addressed there cannot be

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See Julius Nyerere, “Are Universal Social Standards Possible?”, in *Dokumentation, epd-Entwicklungspolitik*, 12/98, p.39.

genuine change in Kenya. At the same time there is no doubt that Moi himself needs to go. As an incumbent, who has overextended his stay and ruled by typical neopatrimonial means, resorting to ethnic "divide and rule" strategies together with propaganda and corruption to maintain the regime, fresh Presidential leadership is a vital necessity. His henchmen, including the likes of Saitoti and Biwott, (also known as "Total Man") who have been implicated in serious allegations of corruption, fraud, assassination plots etc, will also have to be removed from their positions of power before radical change can possibly take place.

- I believe the National Conventional Executive Council needs to have increased powers and a greater mandate to act out its policies. It has the potential to unite both political and civil society actors and forge a united momentum for democratization. In particular, the role of the National Council of Churches needs to be thoroughly utilised as a counter-hegemonic force, with no resource to cooption.
- The Constitutional Review Commission needs to be adequately representative of all political parties and other sectors of society and needs to promote radical and far-sweeping changes in the Constitution. These changes must of necessity include getting rid of clauses which have allowed for certain ethnic groups to receive proportionally higher seats in Parliament (electoral gerrymandering), as well as those clauses which give undue power to central government over local councils (as referred to in the section dealing with the problematics of the Opposition in Nairobi City Council following the multi-party elections of 1992). Moi's notion (May 1999), that the Review Commission be handed back to Parliament is clearly inimical to the interests of democratization and must be fought at all costs. It is not plausible to say that the people are not politically expert and therefore not able to participate. It is the people who are the nation, who are the edifice of the political scenario and who have every right to voice their opinions. Obviously, it is the Constitutional experts and lawyers who will be given ultimate responsibility for re-writing the Constitution and dealing with all the intricate niceties such a task entails, but

the people have every claim to be part of the debate, discussion, remoulding and reformulating process. Hence my approval at the time of writing (June 1999), of the NCEC's call for mass demonstrations and strikes in order to protest against this decision made by Moi. Are MP's above the people, or are they there to serve the interests of the people? If the latter there should in all sincerity be no valid fear of widening the Review to extra-Parliamentary channels.

- The Opposition needs to show a united front, forego ethnic bickering, and promote a culture of tolerance, democratic leadership and respect for ordinary Kenyan citizens. While this is easier said than done, especially when considering the fact that ethnicity has become such an important tool in Kenyan politics, the ideal remains a worthy one and ought to be striven for. It will not happen overnight, but will require slow and painstaking attempts to revive a sense of national unity. Considering how Kenyans were able to forge this unity at the time of the Nairobi bomb in August 1998, this is not an impossible dream. A common sense of adversity (just as under colonialism), helped forge a rekindled national spirit.
- The scourge of corruption needs to be halted and eradicated in a systematic process, preferably with International observers to ensure objectivity. Government implemented anti-corruption boards are unlikely to instil a notion of impartiality and accountability.
- Economic development is vital to encourage democratization and minimize ethnic conflict (which flourishes when resources are scarce, or maldistributed). By economic development I imply more than mere improved GDP, but a genuine redistribution of resources such that it is not only the elites who benefit at the expense of the masses (sustainable development). Employment programmes will need to be implemented. As mentioned above, economic development will require a wholesale revision of the international economic order occurring in tandem with a national Kenyan programme. As argued pertinently by Horace Campbell in *Democracy, Human Rights and Peace in Africa*: "in the short run, the transition to democratic

forms in Africa will not be easy, since cultural and political repression emanates directly from the economic dependence in which Africa is presently entrenched".³⁸⁵

- There is a need for a truly free and fair media, including not only the print media but also the broadcast media. KBC and KTN need to be completely liberalized in accordance with International norms of transparency and accountability.
- Wisdom should be attained by Kenya's new generation of leaders, from the history of pre-colonial Africa, as well as that of current village existence, in order to learn political lessons that can add to the Western concepts of democracy and governance.
- The role of women in the political domain needs to be improved, such that a fair representation of women occurs within Parliament. Unless this occurs, Kenya cannot be said to be democratic.³⁸⁶
- An expansion of civic-education campaigns would be worthwhile, including the holding of workshops to promote cross-cultural and multi-ethnic dialogue and reconciliation (especially amongst the groups affected by the prolonged ethnic clashes in the Rift Valley) fundamental to the forging of a common Kenyan nation and a revived sense of the valuable notions of *Uhuru* and *Nyayo*. This would relate also to the issue of the Constitutional Review Commission in that before the people can participate in the process they must be informed about the Constitution: its history, structure etc.
- Finally, an expansion of Kenyan professionals needs to be ensured the brain drain has had a serious impact on the levels thereof, especially in the fields of medicine, law and research) in

³⁸⁵ Campbell, Horace, *The State and Democracy in Africa*, Chapter 5.

³⁸⁶ *Ibid*, "Progressive African women are at the forefront of breaking the silencing narratives of democracy and human rights by raising new questions and creating new sites of politics. In this regard it can be said that the women's movement has become the site of the most intense struggles for peace, democracy and people's rights. The women's movement has pointed out that it represents a major force in the democratization of social relations".

order to end the reliance on expatriate expertise, which is detrimental not only to the economy of Kenya, but also to the self-esteem of the ordinary Kenyan.

All these points may appear highly idealistic and impossible to attain, but the goal is worth striving for. While I am aware of the limitations to the prospects for rapid and fundamental change in Kenya,³⁸⁷ with respect to the kind of problems and political realities facing all African states, in particular relating to the typical *modus operandus* of politicians (patrimonial), and the intrinsic historicity of this operandus. What I am emphasising is that the cultural roots to patrimonialism and corruption, cannot be wiped away as if they never existed. Nor are they necessarily 'wrong' in themselves.

The question is one of compromise, understanding of grassroots reality and an honest critique not only of abuses of power but of cultural factors which may impinge upon transformation. I would advocate a solution that is neither based upon wholesale cultural relativism, nor on the propagation of a universalist "know-it'all", Western democratic style programme. However, this is the modern world, and constitutions and political parties constitute the tapestry of modern politics. Hence I believe that the major goal for Kenyan society is that which the National Conventional Executive Council (NCEC) is striving for: thorough Constitutional change and a new political order. As I argued previously, it is the Constitution and the Constitutional Review Commission which constitute the pivotal sites of the counter-hegemonic struggle and the bedrock upon which a new substantive democracy ought to be based.

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Ken Post (in "The State, Civil Society and Democracy in Africa", *Discourses on Democracy*, p.137) emphasises the need for cautious optimism, arguing that "experience and intelligence warns us that man's progress in freedom will be piecemeal, slow and undramatic. Revolution may be necessary for taking a society out of an intractable quagmire, but it does not confer freedom". The words to ponder thoughtfully then are piecemeal, slow, undramatic. I believe that this is what we have to struggle for and expect in our championing of justice in Kenya, while at the same time being careful not to settle for apathetic and passive modes of rebellion.

The Pharaoh and his entourage must let his people go so that the new may be born. (Or is it the people that must let the Pharaoh go?) While the interregnum continues, the morbid symptoms of poverty, infrastructural breakdown, incompetence and corruption, bribery, sycophancy, ethnic rivalry and warfare, injustice, a biased media, internal party bickering and scapegoating of hawkers and other innocents, will continue to feature abundantly in Kenyan life. It is however, encouraging to note that counter-hegemonic revolution has already appeared in small ways.³⁸⁸ This was made evident in the preceding chapters, with reference to the role of the NCEC, some elements of the Opposition parties and certain sectors of the embryonic civil society.

Significant shifts have taken place, especially with the fact that increasingly, elements with KANU itself have become critical of Moi's incumbency; the NCEC has continued to function as a movement despite attempts to stifle it; the media has been liberalized to a greater extent; Popular protest movements have flourished and civil society - in the form of such organizations as the Greenbelt movement, lawyers' organizations and the Churches (NCCK³⁸⁹), as well as perhaps most significantly the workers themselves (through strike action despite the States control of the Central Organization of Trade Unions COTU), have provided a critical sanction upon state authority to abuse power. With

³⁸⁸ It will be recalled that revolution does not occur in a dramatic, bloody even' but rather in a piecemeal, uneven process of change: over a '*longue duree*' restructuring takes place with some steps towards progress and simultaneously drawbacks and setbacks.

³⁸⁹ At the time of writing, October 1999, 700 Catholic Bishops mounted a concerted campaign to protest against Moi's refusal to allow the Constitutional Review process to be open to the public. I believe that the Catholic Church has had and will have a fundamental role to play in bombarding the old regime.(as with their impact upon the apartheid regime and Latin American dictatorships - think of Archbishop Romero's role) With the politico-economic clout of the Vatican behind them, together with the fact that thousands of Kenyans are Catholic, they have the ability to form a core part of the counter-hegemonic forces. (Daily Nation online, 1 Nov 1999, "700 Bishops tell Moi to step down", by Nation Team.)

regard to the latter I would concur that it is of paramount importance that: “the idea of a workers’ party be put forward as a viable political force which can unify the Kenyan masses and play a revolutionary role in the struggle against neocolonialism currently represented by the dictatorial regime of Moi”.³⁹⁰ Like the churches, workers’ parties are able to proffer cross cultural and multi-ethnic alliances within an edifice of class (rather than religious) solidarity.

I do believe that the potential for the consolidation of democracy³⁹¹ in Kenya is there (like the biblical parable of the mustard seed waiting to flourish). It is a path which the variety of Kenyans themselves will forge vigilantly in their own unique way, combining the wisdoms of old and new teachers, African and Western political histories and models of democracy and governance. As Oginga Odinga argued at Chester House in 1991, prior to the holding of the first multi-party elections:

“There is no doubt in the minds of most Kenyans, that we need fundamental changes in this country. We need to establish a government that is truly acceptable, legitimate and responsive to the peoples’ needs. We need to establish a government that is led by men and women of integrity; people committed to national development and not the looting of the national economy. There is also no doubt that Kenyans want these changes to come peacefully, by Constitutional means and not a military *coup d’etat* or guerilla warfare”.³⁹²

However, while Odinga might believe in peaceful change, in accordance with Gandhian principles of non-violent resistance, it may be argued, as in the case of South Africa or the Latin American countries,

³⁹⁰ *The Kenyan Socialist*, (Okoth Oseve, “Bankers Strike: Confronting the system”), <http://freeyellow.com/members2>

³⁹¹ (a hegemonic democracy: implying state-societal accord) .

³⁹² *Decolonization and Independence in Kenya, 1940-1993*, p.243.

that a political ideology of a just war is in cases legitimate and necessary for a fundamental shift in the status quo to be implemented. When military might is a regime's only effective method of maintaining power, it is perhaps only by military might that it can be ousted. The alternative is to win the hearts and minds of the military men which might imply the necessity of a *coup d'état*.

Obviously, if Constitutional change is radical and sufficient enough to allow for genuine transformation (and not mere facade liberalization to please the foreign countries and to appease the quest of the reform movement); a repeal of old laws, and elimination of constructs which act as impediments to ethnic tolerance and electoral fairness (such as constitutional gerrymandering); then this would be the best scenario. I am of the opinion that violence tends to have a nuclear-chain effect, and that non-violent (but also non-passive) modes of resistance are best. This is epitomised by, for example, the vitality of protest movements: Greenbelt, Kenyan National Union of Teachers, The Congress of Kenyan Trade Unions and a host of other organizations which have remained vociferously critical of the government. This would include also the Kenyan Law Society, the Kenyan Human Rights' Commission and the Kenyan National Council of Churches. The National Convention Executive Council itself paves the way for radical, militant (but non-violent) protest against the state. By continuously bombarding the shaky edifices of Moi's neopatrimonial regime (bolstered up by his henchmen - Biwott and Saitoti), as evidenced in their series of rallies and strike actions prior to the 1997 elections, and throughout 1998 and 1999, these organizations have indeed begun to contribute to the downfall of the regime.

The bombardment needs to continue resolutely before the Castle Walls can be thoroughly invaded and the enemy conquered. As argued vociferously by Harrison Nthenge Nguyo in a 1995 *Daily Nation* article: "We the common Kenyans shall not be intimidated nor demoralised. We shall fight to the bitter end for total liberty and emancipation from the chains of economic and political bondage".³⁹³

At the same time there is no reason why outsiders cannot contribute to the promotion of justice in Kenyan society by voicing their criticism of the regime, encouraging the adherence to norms of human rights and accountability, but also to the broader notions of genuine transformation and redistribution of power in Kenyan society. The legacy imparted by the “rhizome” state, neopatrimonialism, neo-colonialism, sycophancy, corruption and nepotism upon the Kenyan nation needs to be grappled with, thoroughly explored, and understood. This will enable it to be gradually eroded and replaced with edifices that can sustain the nation and all her people rather than only adherents of the Pharaoh’s whims.

In essence the KANU regime failed to solve its problem in a manner conversant with the definition of hegemony. This is evidenced by the collapse of the Kenyan state (revealed by infrastructural breakdown, corruption, rampant poverty and unemployment), and the increasing dissatisfaction, not only of political parties and members of the elite such as lawyers and teachers, but also of the ordinary people. This was evidenced by the ability of the National Convention Executive Council and the Kenyan National Council of Churches in managing to galvanise support for mass action, including strikes and street protests particularly in the 1999 *Saba Saba* day activities.

The old is dying and it is absolutely imperative that the new is born so that anarchy is averted and Kenyans’ dignity and self-empowerment restored.

"Aluta Continua"
(The struggle continues)

"Hakuna Matata: Kila kitu kitawa sawa sawa"
(Don't worry: Everything will be alright, alright)

Sarah Lucy Kearney/Mutheu/Wanjiko/Simba Mdogo/Mama Kamania

December 1999

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- Amnesty International Publications (Kenya) *VAVW African Studies *Kenya Human Rights Initiative: Cornell University Centre for Religion, Ethics and Social Policy

Relevant Kenyan newspapers on the Internet include:

- *All Africa Press Services*
- *The East African*
- *Kenyan News*
- *The Daily Nation and Sunday Nation* (including archives and Election Coverage Special)
- *The Weekly Review*
- *The Economic Review*
- *Karengata Chronicle*
- *Kenya Factbook 1997-8*
- *Results of the Kenya Election 1997*

Publications dealing with the African continent generally include:

- *African Intelligence*
- *African Studies Quarterly*
- *Pan African News Agency*
- *Features Africa Network*
- *The Electronic Mail and Guardian*

APPENDIX

**MICRO POLITICS: TAWA VILLAGE,
MAKUENI DISTRICT, UKAMBANI**

What I wish to portray in this appended section is my personal experience of the vibrancy and dynamism of political life in Kenya from a village perspective.

While living in Tawa Village, Makueni District,³⁹⁴ in both 1995, but more relevantly in 1997, prior to the National Elections, I was able to witness first hand, evidence of African-style democracy or political accountability. Despite access to mass media, such as radio and television, political information was disseminated in a lively and functional manner prior to the 1997 elections. Both KANU and Opposition candidates (in particular the SDP and the DP), campaigned either by holding rallies in the central market place, or by driving around the district in vehicles with gramophone speakers on the top, conveying their messages to all and sundry, both those inside their homes and those labouring in the fields.

Very few people could thus claim to be apolitical in the sense of not knowing that an election was taking place and who the various candidates and their policies were.

* *Politics of the Men*: Bars and shebeens proved to be centres of political discussion amongst the men. Newspapers were read and lively debates ensued. There was a constant interest in the political affairs and a quest for finding a solution to the problems of underdevelopment facing the District and village. There was a certain consensus among the majority of people that they had had enough of corruption as epitomised by KANU rule, but at the same time many people remained convinced that Moi was the man to lead them. There was no better alternative it was claimed by some.

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(Which is one of the major districts in Ukambani, the land of the Kamba people).

* *Politics of the Elders*: The Kamba clansmen and elders are responsible for promoting a just system, morality, accountability, respect etc, in conjunction with Kamba religious/philosophical beliefs.

Regular clan and elders meetings serve the purpose of local government in the sense of ensuring that justice is meted out in the local domain.

However, from personal experience the elders did not necessarily have the kind of political clout necessary to wield authority in all cases. For example, if a woman had a dispute with her husband, and sought the elders conflict-resolution skills, the elders, while pressing for family meetings and discussions, were unable to enforce their ruling or decisions due to lack of enforcement agencies (military clout?)

* *Politics of the Women*: Womens' political activity was evidenced at regular household meetings or use of the village clinic as a central meeting place, especially prior to the 1997 election and in particular relating to the womens' mobilising campaign for Charity Ngilu and the Social Democratic Party.

Women made concerted efforts to strategise their campaign to promote Charity and the SDP as the person to vote for, for Ukambani.

* *Another* major means of transmitting political messages prior to the 1997 elections as well as during the by-election in Makueni District in December 1997, just prior to the National Elections, posters for KANU and SDP were stuck up in Tawa village and in the neighbouring villages of Kakenge and Mwani in order to promote the parties in a visual manner to the populace.

* It should be noted that, while I personally saw no evidence of violence; bribery, especially by Kanu officials, was noted. It was not uncommon to hear of villagers being given 100 shillings for a day's promotion of Kanu in rallies held in Tawa and the neighbouring villages of Mwani, Kakenge and Mboni.

What were some of the major political problems witnessed?

The core and fundamental problem which I witnessed was indeed the apparent failure of the KANU government to deliver on their promise of development aid. Thus the area remains underdeveloped in terms of roads, pre-primary schooling, water facilities, telephones that are functional, electricity, recreational facilities: such as proper sport facilities or library. Nevertheless, the village is fully functional, comprising of a marketplace, shops, hardware stores, a book-shop, clothing and shoe shops, tailors and cobblers places of work, cafes and kiosks, bars and shebeens, churches, political party offices, schools - both primary and secondary, a post-office, hospitals and clinics, and access to transport ("matatus"). Kerosene and firewood are the main sources of energy.

Oppression of women is also a problem in the area, as evidenced by the fact that women do most of the work, including field labour and domestic work. Many of the men are unemployed, though they may work very hard as farmers on their shambas. Lack of recreational facilities and poverty has led to a high level of alcoholism in the area. The men claim that there is nothing else for them to do than to frequent the local brew shebeens where they engage with one another in conversations ranging from the personal to historical to political. Of course it is very rare to see women attending such meetings as they are house bound.

I am not advocating that this is necessarily problematic: drinking in itself does not constitute a problem if the work is done and then relaxation in the shebeen; the problem is when men resort to drinking at the expense of family responsibilities. This is a rare occurrence but when it does occur in the area, the

woman of the household is likely to suffer greatly. Women I met, whose husbands did have drinking problems, felt oppressed and mistreated, but there seemed no means of escape for them as they were economically bound to their husbands, and with young children to care for they were further house-bound. Some of the educated women, such as teachers, preferred to lead single lives or to live as unmarried mothers, rather than depending on men for their livelihood. They were fiercely independent and keen to leave the village for a 'better life beyond'. Such factors do not augur well for democratization in the sense of people realizing their full potential. Furthermore, the level of poverty is not conducive to a creative life, in the sense that daily life mostly revolves around survival needs: ploughing, cultivating, securing food.³⁹⁵

However, it must be reiterated that, despite poverty, there are many activities which are pursued which do add to the vibrancy of life in Tawa village. Soccer matches are held in fields, choir groups practice in church halls, school-girls and boys have cross-district drama fairs, children watch movies once a month in the village market-place. Disco dances are held at times, children play together while herding the animals or washing down at the river.

There is joy and happiness, laughter and singing. Envision the hills of Tawa, Kakenge, Mwani and Mboni, the beautiful shambas and the mango trees, avocado and pawpaw trees, the cultivated terraces on the way to Likima, the beautiful sunsets, the wonderful array of colours in the marketplace, from materials to fruits of all sorts; the old men with their top-hats, the big black bicycles riding down the dust roads, children pushing their hoola-hoops, women carrying their babies on their backs to the marketplace or firewood on their heads; the vision of families working on their fields together: ploughing and cultivating; the sharing of resources amongst those who are less fortunate; the awareness of spiritual needs and the love and care for children.

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Refer for example to Introductory section which introduces the concept of democracy and the notion that its thorough implementation cannot be realised without a solid economic foundation.

This picture is painted to show that all this constitutes a grassroots political reality in Kenya. It is my belief that what I have experienced in Tawa village has enabled me to put the academic discourse into perspective. It has enabled me to appreciate more deeply the lessons to be learnt from Africa itself and the fact that Africans hold the key to their own livelihood. I am wary of foreigners who 'come in' to the area, claiming to know everything about development or democracy, and yet have had no practical experience of the grassroots reality of African (Kenyan) life. Of course not all foreign aid workers are so presumptuous and I am sure many have contributed greatly to Kenyan politics and development. However, the point I am making is that the village people of Tawa are innovative, hard-working and self-sustaining, if at times passive about the need for development (But this was I presumed due to the levels of poverty). It is they who have mastered the art of survival under tough conditions: they who have mastered agricultural productivity in a region deemed unbearable. There is no crime, rape is almost unheard of and corruption less visible than in Nairobi. On the whole, village life is probably more conducive to democracy in the sense of accountability via regularly held village meetings, elders' forums, shebeen gatherings and discussions passing amongst field workers, and the respect for human dignity which is evidenced.

Nairobi life on the other hand is generally one of individualism, corruption, bribery, 'grab where you can', con-artistry; disrespect for human dignity evidenced by the lack of courtesy shown to people in the streets or on public transport, and survival of the fittest. However, there is also a spirit of dynamism and vibrancy and of cultural exchange, especially at the level of church and educational institutions. If you are an elite, Nairobi life has a great deal to offer and no doubt the benefits of capitalism and democracy would be felt by one, but if one is doomed to be poor, life in the city is far worse than that in the village. It is a gruelling struggle against hunger, crime and exploitation, as well as the ugliness of terrible living conditions, epitomised by heaping mounds of rubbish and sewerage and abominable roads.

Can a poor person in Nairobi, living in the hellish climate of suburbs such as Eastleigh or the slums of Kibera or Mathare really be able to benefit from the rhetorical talk of “good governance and democracy”, unless their conditions are improved and they too have access to the democratic cake?

It is difficult to reconcile capitalist forces which are essentially (and of course ironically)³⁹⁶ anti-democratic, individualistic (and Western), with communal village life which is non-capitalist, more egalitarian, accountable, agriculturally based and very much enmeshed with the notions of the importance of family, clan and loyalty to land. Of course a straight dichotomy between village and town life would be dangerous, because rural life is not necessarily one of blissful harmony (refer to Mamdani's notion of the rural/urban divide as discussed in the introduction).

There are also elements of “class conflict” here, whereby for example richer farmers, or businessmen working in the village, will be quite content to exploit the humble villager in their own “capitalist” interests. It should also be remembered that capitalism has penetrated these rural areas to some extent and that even here, Western influences cannot be denied. One has only to notice the prevalence of coca-cola signs, pictures of Western movie models pinned on kiosk walls, the influence of Western music, the American films shown in the marketplace, and the access to television, magazines, newspapers and novels.

In addition the ‘relative backwardness’ of the rural areas is not necessarily conducive to ‘democratic’ values, but may instead promote the continued use of more ‘feudalistic’ notions of governance. *Poverty and ignorance are not conducive to full democratization, even with the existence of communal spirit . They can keep the spirit trapped in a continued cycle of desperation and boredom.*

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Capitalism and democracy have been seen to go ‘hand in hand’, in the sense that the upsurge in democracy occurred simultaneously with the flourishing of capitalism, the demise of Communism (end of the Cold War); the globalisation of market forces. Perhaps there should be two kinds of democracy: capitalist (individual rights predominate), and communitarian democracy (the community also matters)?

As discussed previously, the very essence of African governance seems to be culturally tied to notions of patrimonialism, such that corruption and embezzlement by the elites whether in the city or in the rural areas, is not necessarily frowned upon, so long as the patrons are able to 'deliver the goods' to their clientele. This argument was most thoroughly pursued by Chabal and Daloz in *Africa Works* where they argue that 'munificence' is regarded as a virtue that leaders ought to aspire towards in order to actualise their potential to deliver to their constituencies. What I am trying to do then is to promote a reconciliation between Afro-positivism and the dangers of Afro-romanticism. It is important to blend an awareness of the positive lessons to be learnt from village and city life with a critique that is as objective as possible, and that takes into account the perceptions of the problems as perceived by the villagers and city-dwellers themselves. In my opinion, genuine democratization would imply a compromise between the values of traditional African life and those of Western modernity. From the former one would acquire the values of community and sharing as well as accountability. From the latter one would acquire the value of education, human rights, (and duties) especially women's rights,³⁹⁷ acceptance of cultural diversity, tolerance, and a greater awareness of 'the world out there'. Village life tends to be incredibly insular and self-focussed.

Hence one could say it could become a small little arena of democratic functioning, but within the context of a common culture and language ie: (with particular reference to Tawa village) the Kamba language and people. Whether this 'democracy' would function were Ukambani to suddenly be flooded with Kiyuyu and Masai and Luo and Luhya, is highly dubious, especially when one considers the factors of poverty and limited resources. Such cosmopolitanism which occurs at the city level, adds to the complexity of political reality: hence the need for constitutions and civil rights and cross-ethnic organisations, such as the Greenbelt movement, Women's and Student's movements, teachers' and Labour movements amongst the myriad other organisations which potentially challenge state hegemony.

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As argued at the *Arusha Conference* in 1990, there is a need to shake off the lethargy and traditional beliefs that are impediments to development, especially the customs and cultural practices that undermine the status of women in society". *Discourse on Democracy*, p 305