POLITICAL PARTY INSTITUTIONALIZATION: A CASE STUDY OF KENYA

A thesis submitted in fulfilment of the
Requirements for the degree of
DOCTOR OF PHILOSOPHY

RHODES UNIVERSITY

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March 2013

ABSTRACT

This thesis explores the nature and extent of political party institutionalization in Kenya. More specifically, it focuses on the four dimensions of party institutionalization, namely organizational systemness, value-infusion, decisional autonomy and reification. The study itself is largely located within the historical-institutionalist school of thought, with particular emphasis on the path dependency strand of this theoretical framework. However, the study also employs a political economy approach. It recognizes that the development trajectory of party politics in Kenya did not evolve in a vacuum but within a particular historical-institutional and political-economic context. The thesis advances the notion that those current low levels of party institutionalization that are evident in almost all parties, and the relatively peripheral role that they have in Kenya's governance can be traced to Kenya's colonial and post-colonial political history, the resource poor environment and the onset of globalization

ACKNOWLEDGEMENTS

First and foremost, I wish to express my profound gratitude to Professor Louise Vincent, my supervisor and mentor, for her intellectual guidance, support, encouragement and for reading several versions of this thesis and providing feedback. I would like to thank the Department of Political and International Studies, Rhodes University, for providing a vibrant intellectual home and stimulating environment; Professor Fred Hendricks of the Faculty of Humanities for his valuable advice; and Professor Paul Bischoff for his intellectual insights. I am very grateful to the University of Nairobi for offering me a base during the course of my field work. I am indebted to Professor Bujra of the Development Policy Management Forum for opening doors and for his encouragement and support. My heartfelt gratitude goes to the many interview respondents, who so generously took time to provide valuable insights on the inner workings of political parties in Kenya. My sincere appreciation goes to my friend and brother, Maurice Otieno, for his diligent support throughout. Much appreciation to Dr. Nathaniel and Mrs Eunah Makoni for their unwavering love and support; and Mr. Jonathan Maina and Mr. Nickson Odoyo for their thought provoking political views and support. I am grateful to my god parents, Mr Simon and Mrs Joyce Kazembe and Mr Mpumelelo Moyo, as well as Fathers Lawrence Dhaka, Paul Mayeresa, Martin Solma, and pastor Gerald for the much appreciated spiritual guidance. A big thank you to my parents in-law, Mrs Dawn Negonde and Mr. Charles Malijani, for their love and encouragement. I thank my uncle Casper, Aunt Modesta and my many loving aunties, uncles, cousins and friends for their support. I thank my grandparents, Ambuya Zenda, Sekuru Enoch Zenda and Sekuru John Price Damson for their love and belief in me. I am profoundly grateful to my sister Chiedza Danha and her husband Dzika Danha, for their love, friendship and constant support. I am grateful, for the love, friendship and encouragement from my sisters Evert and Errol Malijani, Kudakwashe Munangati and my brothers Simba Jani, and Gaz Danha, and Nyika Mutemeri. I am eternally gratefully to my parents, Drs. Naison and Dorothy Mutizwa-Mangiza, my role models, for their unconditional love, advice, support and encouragement. Finally, I wish to express my deepest gratitude to my beloved wife Elaine, my soul mate and the love of my life, without whose support, encouragement and patience, I could not have completed this thesis. Her love and

unreserved encouragement made her both the rock and roots that kept me grounded. Finally, the opinions expressed in this thesis are entirely my own and I take full responsibility.

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LIST OF ACRONYMS

AA	Abaluhya Association
ABAKO	Alliance des Bakongo
ADA	African District Association
ANC	African National Congress
BAT-Kenya	British American Tobacco- Kenya
CCM	Chama Cha Mapinduzi
CGD	Centre for Governance and Development
CIPEV	Commission Investigating Post-Election Violence
CMD-K	Center for Multiparty Democracy
CORD	Coalition of Reform and Democracy
DP	Democratic Party of Kenya
EAA	East African Association
EAF	East African Federation
ECK	Electoral Commission of Kenya
FERA	February Eighteenth Movement
FORD-Asili	Forum for the Restoration of Democracy-Asili
FORD-Kenya	Forum for the Restoration of Democracy-Kenya
FORD-People	Forum for the Restoration of Democracy-People
FORUM	Forum for Non-Parliamentary Parties
GEMA	Gikuyu Embu Meru Association
GNP	Gross National Product
GNU	Government of National Unity
GWWCA	Gikuyu Wakamba Wataita Central Association
HRW	Human Rights Watch
ICC	International Criminal Court
IDEA	International Institute of Democracy and Electoral Assistance
IEBC	Independent Boundaries and Electoral Commission
IED	Institute for Education and Democracy
IFP	Inkatha Freedom Party
IIEC	Interim Independent Electoral Commission
KADU	Kenya African Democratic Union
KAMATUSA	Kalenjin Maasai Turkana Samburu Association
KANU	Kenya African National Union
KASA	Kenya Africa Socialist Alliance
KAU	Kenya African Union
KAU	Kenya African Union
KCA	Kikuyu Central Association
KCHR	Kenya Commission for Human Rights
KENDA	Kenya National Democratic Alliance
KFRTU	Kenya Federation of Registered Trade Unions
KHAA	Kisii Highlands Abagusii Association
KICC	Kenyatta International Conference Center
KNBS	Kenya National Bureau of Statistics
KNCHR	Kenya National Commission for Human Rights
KPU	Kenya People's Union
KSC	Kenya Social Congress
LDP	Liberal Democracy Party
LSK	Law Society of Kenya

LU	Luo Union
MADU	Mombasa African Democratic Union
MFAF	Media Focus for Africa Foundation
MMD	Movement for Multiparty Democracy
MPLA	*Movimento Popular de Libertação de Angola*
MRND	*Mouvement Révolutionnaire National pour le Dévelopement*
NAK	National Alliance Party of Kenya
NAPP	Nakuru African Progressive Party
NARC	National Rainbow Coalition
NARC-Kenya	National Rainbow Coalition Kenya
NCCK	National Council of Churches Kenya
NDAPA	Nyanza African District Progressive Association
NDC	National Delegates Conference
NDI	National Democratic Institute
NDP	National Democratic Party
NDP	National Development Party
NEC	National Executive Committee
NKA	New Akamba Union
NKCA	North Kavirondo Central Associaton
NPK	National Party of Kenya
ODM	Orange Democratic Movement
ODM-K	Orange Democratic Movement Kenya
OPIC	Olof Palmer International Center
PDG	Democratic Party of Guinea
PMDB	Brazilian Democratic Movement
PNS	Party National Score
PNU	Party of National Unity
PPDT	Political Parties Disputes Tribunal
RDR	*Rassemblement Democratique Republicain*
RECESSPA	Regional Center for Stability Security and Peace in Africa
SDP	Social Democratic Party
SNZ	Sub-national Authoritarian Zone
TADU	Taita African Democratic Union
THA	Taita Hills Association
TNA	The National Alliance
TPLF	Tigre People Liberation Front
UDM	United Democratic Movement
UMA	Ukamba Members Association
UNDA	United National Democratic Alliance
UNDP	United Nations Development Programme
UNIP	United Independence Party
UNITA	National Union for the Total Independence of Angola
URP	United Republican Party
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics
YKA	Young Kikuyu Association

CHAPTER 1. INTRODUCTION

This thesis is a modest attempt to try and understand Kenya's experience with party institutionalization. It argues that the prospects of individual party institutionalization in Kenya have been and still are, to a large degree, tied to the historical institutional context (i.e. colonial and post-colonial state), the socio-economic environment and the exigencies of globalization. These three factors have all had a lasting impact on party development in Kenya.

1.1. Why is the Study of Party Institutionalization Important?

Some twenty odd years after the onset of the 'third wave of democratization' (see Huntington, 1991) many countries in the developing world are yet to witness an era of democratic consolidation. As the cases of Ivory Coast, Guinea-Conakry, Zimbabwe, Central African Republic, Madagascar and to a lesser degree Lesotho show, the existence of a multiparty system and regular elections is not enough to stave off the occasional eruption of political violence in electoral contests. Whilst constitutions may be the foundations of societies, they can only do so much in making sure the house does not crumble. Political parties are the bricks and mortar that support that entire structure. Whilst foundations may determine where the walls should be, they cannot make the walls stand if the bricks are of poor quality.

If parties are to be able to perform the roles of representation, integration, political education and socialization, recruitment and training and, in the case of opposition parties, making government accountable, it is necessary that parties institutionalize. In other words, political parties must undergo a process that sees them become 'established in terms of both integrated patterns of behaviour and of attitudes or culture' if they are to make democracy a permanent feature in the contexts in which they exist (Randall and Svasand, 2002: 12; Randall, 2006: 4). Moreover, if opposition parties are to be viable alternatives to the governing parties, then their institutionalization becomes paramount, as these parties need to be seen as genuine alternatives by the electorate.

Further, the prevalence of dominant and predominant party systems in Africa may also pose dangers to democracy. This may be partially attributed to an unlevel playing field and also to the poor institutionalization of opposition parties in developing countries. The common scenario of having a dominant or predominant political party amidst a

plethora of comparatively weak parties is an all too common in Africa. The Botswana Democratic Party (BDP) in Botswana, the Chama Cha Mapinduzi (CCM) in Tanzania, the Mozambique Liberation Front (FRELIMO) in Mozambique, the Popular Movement for the Liberation of Angola (MPLA) in Angola, to name but a few, are all examples of parties that have come to dominate their political systems without electoral turnover ever having taken place.

Similarly, the notion of dominant parties perpetuating their dominance primarily through an efficient exploitation of the advantages of incumbency is also not a new phenomenon. Dominant parties in power have been known to use their access to state resources to fund their activities, to project themselves through their control of state media and even to acquire new members through "poaching" from the opposition. Due to the propensity of single dominant parties to become virtually inseparable from the state overtime, this greatly increases the likelihood of an authoritarian system emerging, or re-emerging (Mozzafar, 2008; Southall, 2006). Suffice it to say, there has been a growing realization that political parties have a key role to play in processes of democratic consolidation.

Democratic consolidation in turn may be defined as a 'political regime in which democracy as a complex system of institutions, rules and pattern incentives has become the only game in town' (Randall and Svasand, 2002a). Randall and Svasand contend that in addition to being established in constitutional terms, the consolidation of this political regime must be manifest in the behaviour of political actors and the attitudes of the citizenry at large.

1.3. Theoretical Foundations

In much of the writings on party institutionalization in developing countries, a lot of emphasis has been put on party system institutionalization, i.e. looking at whether the party system is fragmented, inchoate and/or frozen (Lipset and Rokkan, 1967; Mainwaring, 1979; Dix, 1992; Kuenzi and Lambright, 2001, Mozzafar and Scaritt, 2005). However, there has been comparatively little in-depth analysis of the nature of party institutionalization in developing countries. As Randall and Svasand (2002a) as well as Basedau and Stroh (2008) note, there is a tendency to speak of party system institutionalization and the institutionalization of individual parties as if they were one and the same, because both are seen as desirable in the long run. However, whilst party

system institutionalization may have an impact on party institutionalization, it does not follow that the institutionalization of individual parties will translate into an institutionalized party system. Basedau and Stroh (2008:6) corroborate this by noting that 'a system includes the relations between its elements and hence is more than just the sum of its elements'.

In analysing Kenya's experience with party institutionalization, this study builds upon the typology of party institutionalization advanced by Randall and Svasand (2002a) and Randall (2006). In so doing, it pays particular attention to themes such as party organization, party discipline, ethnicity and party violence, as means of assessing to what degree parties in Kenya exhibit the traits of organizational systemness, value-infusion, reification and decisional autonomy, which are viewed by Randall and Svasand (2002) and Randall (2006) as reliable indicators of assessing the degree of party institutionalization. Further, this thesis will also try to gauge what impact Kenyan parties have had in trying to promote democratic consolidation. In accounting for what they posit as being responsible for poor party institutionalization, Randall and Svasand cite the socio-economic environment, the impact of globalization and historical institutional experiences such as legacies of colonialism and authoritarianism on the subsequent development of political parties. They also put particular emphasis on the nature of party origins because as, Duverger (1951: xx.iii) affirmed, 'Just as men bear all their lives the mark of their childhood, so parties are profoundly influenced by their origins'.

Since the reintroduction of political pluralism in Kenya in late 1991, quite a few writings have come out on political parties in Kenya. Contributions to come forth in this area have been from Makali (1996), Kanyinga (1998), IED (1998), Throup and Hornsby (1998), Owuoche and Jonyo (2002), Nyukuri (2002), Wanjohi (2003), Kanyinga (2003), Wanyande (2003), IDEA (2006), Oloo (2007), Oloo (2010) and Wanyama (2010). As shown by the list of contributors above, there is no scarcity of writings on political parties in Kenya. In most of these writings there is unanimity on the poor state of political parties in terms of their structures, their practices both internally and externally as well as their overall contribution, or lack of, to advancing democratization. Whilst numerous articles and papers have been written on political parties in Kenya, there have been gaps in the literature which have not been addressed.

Although there is an appreciation of the constraints on parties, in terms of the political, socio-economic and cultural environment, the deficiencies of Kenyan parties are still viewed as being largely self-inflicted. Kanyinga (1998b: 87) asserts:

> The political parties that have been formed due to the expanded space have had their potential punctured by contradictions internal to their own organization: elite factionalism and leadership rivalry have acted in the main as factors responsible for their decline and for their negation of popular demands.

Some of the problems facing political parties are the result of their own actions or inactions, depending on what the problem is. The conduct of party nominations, imposition of candidates on the electorate and the exclusion of particular segments of the population, such as the youth and women, all leave a lot to be desired. However, in privileging the resultant challenges of 'agency' in analyses on parties, there is always a risk of overlooking challenges presented by structural factors.

In much of the literature on party origins, whilst mention is made of the role that the international community played in getting the Kenya African National Union (KANU) government to disestablish the one-party system, next to nothing has been written on what impact the changing international context has had upon various aspects of party development. In particular, little has been written on what impact the end of the Cold War has had upon the ideological development or lack of, for that matter, on Kenyan parties. Further, whilst a lot has been written regarding the poor state of discipline within these parties, there has been no systematic exploration as to what challenges beyond the throes of personalism have been responsible for weak discipline in many parties.

Another area of research that is conspicuously absent in Kenyan stasiological literature is the role that political parties may have had in instances of electoral violence. Although Muller (2008), Kagwanja (2001), Murunga (2008), Kagwanja (2009) and Kanyinga (2009) have all provided fruitful insights on political parties, apart from the works of Mwagiru et. al. (2002), virtually nothing has been written that has reflected on the connection between violence and parties. This is surprising, considering that virtually every election since 1992, except 2002, has been marked by violence in the pre- and post-election periods when parties are generally most active.

1.3. Aims of Thesis

The ultimate aim of this thesis is to establish what the barriers to party institutionalization in Kenya have been and what the consequences of weak

institutionalization are for democratic consolidation in Kenya. This thesis sought to achieve these aims by answering the following questions:

- What were the origins of political parties in Kenya?
- What types of party organization currently exist in Kenya?
- To what extent do they perform traditional party functions of recruitment, mobilization, socialization, articulation and aggregation and political education?
- Why is it that parties formed to contest elections are sometimes abandoned and new parties formed by the same party members, despite the electoral success of the former parties?
- Is there some confusion between dictatorship and party discipline on the one hand and legitimate dissent and indiscipline on the other hand?
- What are the challenges that political parties have faced in trying to enforce discipline?
- What are the characteristics of ethnic parties in Kenya?
- How can the development of ethnically oriented parties in Kenya be explained in the post-single party era?
- Why has it been difficult for political parties to counteract ethnically oriented party politics?
- Is there a connection between political/electoral violence and political parties in Kenya?
- If so, to what extent can this be attributed to the levels of institutionalization that Kenya's political parties have?
- What has been the impact of recent legislative changes in Kenya upon all of the above?

1.4. Hypothesis

The analysis in the following chapters is informed by a number of underlying assumptions as regards party institutionalization. The first assumption is that:

The history matters! Antecedent historical conditions usually present actors with a specified range of course-options in a particular period of time. This period of time that shall be referred to as a "critical juncture" may have a lasting impact on subsequent development over the course of time. Policy choices or course options adopted by political actors at particular periods tend to generate a particular set of institutional patterns (be it in the form of a coalition, institution, government etc.) that essentially sets these political actors on a particular historical trajectory that endures overtime. As institutional patterns spawn 'increasing returns' to the dominant clique of actors that pursued the particular course-option in question, the resultant changes in equilibrium, that are manifest in power asymmetries, may in turn produce 'reactive sequences'. In other words, these policy choices which may benefit one particular set of actors may

generate resistance amongst those disenfranchised by the choices and result in a power struggle as the latter group seeks to alter those policies.

This thesis argues that certain traits that currently define political party organizations in Kenya are necessarily the outcome of particular course-options and processes in Kenya's relatively *long duree* of political development. Decisions taken in the colonial period, particularly the late colonial period, the Kenyatta years and the Moi era, have all had significant ramifications for party development in successive years, following the formal return of political pluralism. Such policies have shaped parties in terms of structure and practices and, to an extent, put them along particular trajectories of development. In essence, this study holds that party development in Kenya to an extent has been path dependent.

The second major assumption of this thesis is that the socio-economic context of poverty and inequality in Kenya has also had a profound impact upon party development. In the absence of state funding or funding from other institutional sources, party organizations cannot rely on the contributions of ordinary rank and file party members, who themselves are difficult to identify. Consequently, because of these challenges, opposition parties in developing countries in Africa and Asia are likely to rely on the patronage of their party leader or wealthy businessmen who may act as political "godfathers". The sources of funding actively shape the structure of the parties and the way that they are managed and run. All this has a profound impact on the organizational systemness in any political party.

The third assumption that underlies this thesis is that reconfiguration of events at transnational level, i.e. the end of the Cold War, coupled with the relationship that developing countries have to particular actors such as international financial institutions and donor states of Western Europe and North America also greatly influence the political parties in terms of their policy options. Due to a relationship characterized by a dependency on financial assistance, many of the new governments that replaced previously autocratic regimes, such as the Movement for Multiparty Democracy (MMD) government in Zambia that replaced the United National Independence Party (UNIP) government of Kenneth Kaunda in 1991, found themselves in a position where they became the implementers of the very policies that they had been previously resisting in their struggles for political pluralism. Given this deprivation in ideological content,

parties in developing countries struggle to provide 'value' to members beyond more instrumental and parochial concerns.

1.5. Methodology

In carrying out the research for this thesis, methodological triangulation was used, as no one data collection method was considered adequate by itself to answer the research questions. Triangulation was used to strengthen and validate data collected through other methods. The methods considered appropriate included document review or analysis, face-to-face and telephone interviews as well as observation. In order to understand and contextualise the political parties in Kenya, extensive document review of secondary data was carried out for the literature review and throughout the period of the research. Document review was the primary and preferred data collection method given the nature of the study. Most of the issues under study were of a historical nature. Face to face and telephone interviews were considered important because leaders of the political parties that participated in the elections held since 1992 are still alive and some were willing and available to provide rich personal information on their experiences and perceptions. While on field work in Kenya, there were opportunities to attend workshops where pertinent issues were discussed and observation became an important data collection method. For the purposes of gaining a good understanding of the role of political parties in the democratization process in Kenya, a qualitative approach, specifically within the tradition of historical explanatory approach, was adopted. This entailed examining the role of institutions (institutional framework) and agents (parties).

1.5.1. Sources of information and data

(a) Literature review

Due to the fact that the study focuses on the themes of party organization, party discipline, ethnicity and political parties and violence as means of trying to gauge the degree of institutionalization in Kenyan political parties, this study adopted a thematic literature review. As such, an extensive and thorough review of relevant literature on the themes above was undertaken. Most of the literature was drawn from journal articles, conference papers and key texts on political parties and party institutionalization.

(b) Desk/content analysis of secondary sources (documents)

In preparing to carry out document review, an extensive list of documents to be reviewed was drawn at the beginning, and during the course of the research, new documentary sources were identified and these were subsequently reviewed. A thorough analysis of various written materials pertaining specifically to Kenya was conducted. Amongst the materials reviewed are various party manifestos, from 1961 when African parties were legalized until the present day. The desk research also involved an analysis of relevant sections of Kenya's old and new constitutions, respectively, that outline the role of political parties and the recent Political Parties Act of 2007 (revised in 2011), government commission reports, documents, letters and memos, as well as communiqués issued by the international community via embassies based in Nairobi. Archive materials, in the form of records of parliamentary proceedings in the Hansard and media documentaries on historical and contemporary Kenyan politics were also consulted. Appendix 1 at the end of the thesis presents a complete outline of all the archival materials consulted.

Other sources of information analysed included books on Kenyan history, biographies, journal and newspaper articles, research and conference papers, and opinion pieces on the Kenyan political system, elections in Kenya, democratization and governance and the Kenyan party system. Relevant data from the Kenya Bureau of Statistics were also analysed.

(c) Field research

The field research was conducted over a six-months period, from June to November 2010. In order to gain access, it was necessary to go through the gate keepers, in this case, the Government of Kenya, through the Ministry of Education. I had to apply for permission to conduct research, a requirement for all foreign researchers. The permission by the National Council for Science and Technology was given on the 9th of September 2010 (see Annex 3). The researcher used three main methods for collecting data: document analysis, face to face and telephone interviews; and observation. In order to determine who to interview, it was necessary to carry out sampling.

1.5.2. Sampling techniques

In order to determine who to interview, a number of sampling techniques were considered and deemed unsuitable for this research. For example, random sampling was considered inappropriate because the population of interest to this research is very specific. The main sampling method used was the targeted sampling technique, or

purposive sampling, in which selection is made in line with a known characteristic. For this research, key political parties, individuals and entities that have been key players in struggles for political reform between 1992 and 2013 were selected for interview and analysis. It was felt that this particular sampling technique was relevant on account of the fact that the activities of political parties in Kenya are dominated by what may be described as a privileged few. In particular, the researcher sought to identify the key players in the four electoral periods that form the focus of the study: 1992-1997; 1997-2002; 2002-2007; and 2007-2013. However, the sampling was also careful to include some smaller parties not represented in parliament so as to make the study more representative of the different types of parties that are present in the country's electoral milieu. The list of party officials interviewed is shown in Appendix 4.

Given the fairly dynamic political environment that emerged between 1992 and 2012, there have been a number of entities (parties and CSOs) that have contributed to political debates at various points over this 20 year period but that are now defunct. To address this challenge, and as mentioned earlier, the researcher also made use of snowball techniques in securing access to key individuals who were part of these now non-existent organizational entities, and those that had retired from politics. It was hoped that through this approach, the dynamism within this historical period would be better understood. Individuals in this category that were interviewed included the Honorable Justin Muturi (former organizing Secretary of KANU and now the Speaker of the National Assembly, as of 27 March 2013), Honourable Joseph John Kamotho (former Minister of Education and Secretary-General of KANU and Liberal Democratic Party [LDP]) and Honorable Simeon Nyachae (former leader of FORD-People and KANU life-member and cabinet minister). Appendix 1 shows the individuals and politicians interviewed as a result of the snowball technique.

Face to face and telephone interviews

A large amount of primary data was collected through face to face interviews and telephone interviews of political leaders using semi-structured questionnaires. In identifying the political parties and party officials to be interviewed, the researcher used lists of registered political parties held by the Centre of Multiparty Democracy, Kenya, and by the Office of the Registrar of Political Parties (See Appendices 1 and 2). Both also provided contact details of party officials, including addresses and telephone

numbers. Interview schedules were prepared on the basis of this. In addition to this, the researcher also made use of the snowball technique in securing access to retired politicians.

All interviews were guided by a basic questionnaire (shown in Appendix 4) in order to ensure that all essential information was obtained. The researcher piloted the questionnaires on a small number of people to assess whether they were clear and easily understandable. Some of the questions were open-ended while others were close ended. Some were factual questions while others were opinion questions. Care was taken to avoid leading questions.

The interviews were very important in getting first-hand information from key political leaders and in providing qualitative depth to the research. They were useful in that it was possible to read respondents' non-verbal gestures. The researcher almost always sought clarification or elaboration depending on the responses of the interviewees. The researcher asked questions in a clear and standardised way and recorded these carefully. Rich data was collected from these interviews and in most cases the interviews went for longer than initially agreed because the respondents had so much to say. In cases where the respondents were unavailable, telephone interviews were conducted. These turned out to be cheaper in terms of travel but in a few cases, it was not possible to get the respondent the first time. Some were good enough to phone back, but in some cases, the interviews had to be abandoned after several attempts.

Observation

The researcher also relied upon observation during the six-months of field work. The writer got the opportunity to observe forums on improving elections in Kenya. The researcher was lucky enough to be invited to a workshop organized by The Centre for Multiparty Democracy on Electoral Reform. It brought together various stakeholders, including political party representatives, civil society activists, members of the Interim Independent Electoral Commission (IIEC) (now the Independent Boundaries and Electoral Commission, IBEC) on the 10th and 11th of November 2010 at Panafric Hotel, Nairobi. The theme of this workshop was "Public Forum of African Elections".

Prior to the commencement of field work, the researcher also attended a workshop held by the Africa Peace Forum entitled "A People's Voice in Electoral Reform Agenda" that was held at the Panafric Hotel, Nairobi, on the 7th of January 2010. Another political party meeting observed was the Democratic Party of Kenya recruitment drive in October 2010. During these events, the researcher looked, listened keenly and soaked in the atmosphere of the workshops and took notes. As in the case of interviews, the researcher was part of the social context and may have influenced the observed behaviour to an extent by his presence. However, in both cases, although the researcher had introduced himself as a researcher, participants did not appear to be too concerned by this and it is possible that the effect of the researcher's presence on their behaviour was minimal. The value of the rich insights and deep understanding gained during the observation outweigh the negative impact of the possible 'contamination' or bias caused by the researcher's presence. The researcher's entry was relatively uneventful because he had previously worked as a researcher with the The Centre for Multiparty Democracy on Electoral Reform which hosted one of the workshops and also invited him to the other. The researcher was also able to observe the operations and behaviour of political parties through televised news items, in addition to visits to political party offices.

1.5.3. Challenges encountered during field work

A caveat to the research is that not all political parties that were targeted in the initial sample were reached for the study due to difficulties experienced in locating and contacting a number of them. In particular, the researcher did not succeed in locating the offices of FORD-Kenya and FORD-Asili. In the case of the former, the researcher went to what was the long-standing address of the party but, upon arrival, was informed that the party had been evicted from the premises. In searching for the new offices, the researcher also met an individual who described himself as a party "member" who had also experienced difficulty in finding the new offices. Despite repeated attempts to locate the FORD-Asili offices in Upper Hill, and further attempts to contact the party via mobile phone, the search was not successful.

The other challenge in meeting top officials of some political parties stemmed largely from the fact that several of them were members of cabinet in the Grand Coalition government of the Orange Democratic Movement (ODM) and the Party of National Unity (PNU) and its affiliate parties. Despite several attempts at trying to secure

appointments for face to face interviews with the late George Saitoti (Chairman of PNU), Kiraitu Murungi (Secretary-General of PNU), Peter Anyang-Nyong'o (Secretary-General of ODM), Henry Kosgey (Chairman of ODM), Charity Ngilu (NARC Party leader), Uhuru Kenyatta (at the time Chairman of KANU), and William Ruto (former Deputy Party Leader of ODM and current party leader of the United Republican Party) through both the party headquarters and through their personal assistants at their cabinet offices, the researcher was regrettably unsuccessful.

Similarly, attempts to secure appointments with party leaders not in cabinet also proved unfruitful. Of particular significance in this respect were: Martha Karua, the party leader of the National Rainbow Coalition-Kenya (NARC-Kenya); Paul Muite, the party leader of Safina; and Nick Salat, the Secretary-General of KANU. However, the researcher was fortunate enough to speak to Mr. Mwandawiro Mghanga (Chairman of SDP) via telephone interview.

Further, attempts to contact those leaders who were MPs through their parliamentary offices equally proved challenging, as their extensions went unanswered. A spirited attempt was also made to try and secure an interview with retired President Hon. Daniel Toroitich arap Moi through some of his trusted associates. Unfortunately this attempt was also unsuccessful (See Appendix 4).

In addition, the researcher also experienced significant difficulty in trying to speak to officials within a number of political parties. The researcher was unable to get any member of ODM-Kenya to answer questions, despite repeated attempts and appointments both via telephone and visits to the party headquarters. In the case of NARC, the researcher went to the party headquarters on at least two occasions, only to find the premises closed.

1.5.4. Ethical challenges

In addition to the challenges above, challenges of a more ethical nature were also encountered. An overriding challenge during the research was the sensitivity of interviewing individuals belonging to parties that had been involved in the post-election violence following the December 2007 elections. By the time the field work started, four political leaders (two from PNU and two from ODM) had already been indicted by the International Criminal Court (ICC) in The Hague for various crimes against humanity.

However, the fact that the researcher was not a Kenyan national tended to work as a mitigating factor, as interviewees felt freer to talk about issues such as ethnicity and political violence.

Moreover, due to the fact that some issues dealt with by the research were particularly sensitive, there emerged the issue of whether to name or not to name interviewees. Although much of the information was already within the public domain, the issues were still ongoing as individuals who had been adversely cited as possible culprits had not at the time of writing been put on trial and there was the very real prospect that any perceptions of misrepresentation and or defamation of character could be viewed as libel and potentially result in litigation.

Despite Fielding's (1982) contention that researchers must do away with the practice of anonymity as a means of minimising falsehoods, and his idea that statements issued by public figures are always "on record" (see also Fielding 1993), the researcher opted to follow the advice of Crow and Wiles (2008), who noted that researchers should "…consider participants' safety and well being and also various legal and regulatory and professional frameworks to which they are subject". The researcher did also not want to be irresponsible and spoil the chances of getting access for future researchers. In light of this and the concerns raised above, the researcher took great care not to refer to those mentioned as key players in violence by name.

The second ethical dilemma had to do with some information obtained from the famous website Wikileaks. Use of information from this particular domain was particularly challenging, as it consisted of leaked highly confidential diplomatic cables from American embassies in host countries across the world to the State Department in Washington DC. Due to the fact that this data was not officially de-classified by the US government, the information presented particular challenges for the writer as the sources could not be used without permission, even though potentially containing rich information and data. In addition, the fact that the Wikileaks phenomenon broke out during the research presents not only this writer with a unique challenge of attribution, which is unprecedented, but arguably the espistemic community at large. To avoid any complications, the writer chose to use these sources of information only as reference

points to ascertain the thinking of the diplomatic community with regard to Kenyan politics.

1.5.5. Reliability and validity

In trying to ensure reliability and validity, the researcher employed methodological triangulation. As mentioned earlier, the researcher sought to establish the validity and reliability of the research findings through different methods of data collection, i.e. document review, face to face and telephone interviews and observation. In this way, it was possible to cross-check and validate information obtained through interviews against what was already known through documentary review of secondary data.

As indicated earlier, the main challenges encountered during the research included: the failure to secure interviews with the leaders of a number of key political parties, partly as a result of obsolete or non-existent physical addresses; the sensitivity of interviewing members of parties involved in the post-election violence of 2007 and 2008; the dilemma of whether or not to use Wikileaks as a source of information and data; and that of naming political leaders who were interviewed.

1.5.6. Concluding remarks on methodology

As mentioned previously, the research data was collected from both primary and secondary sources. These included material ranging from government reports and parliamentary Hansard proceeding to newspaper reports and opinion pieces. With respect to primary data, the researcher relied upon face-to-face and telephone interviews that were conducted with the aid of semi-structured interview schedules. Data obtained from these methods was supplemented by information gathered through various methods of non-participatory observation that ranged from attendance of workshops and public forums, through visits to party offices, to television news and televised press conferences.

Further, the researcher utilized targeted sampling techniques in which parties that were key players in the different electoral periods between 1992 and 2012 were sought for interview. However, as mentioned, the researcher was also careful to include small political parties not represented in Kenya's legislature. The researcher also made use of the snowball sampling technique as a means of trying to negotiate the edifice of gatekeepers that posed a challenge in the way of accessibility.

1.6. Chapter Outline

The thesis is organized into eight chapters, including this introduction. Chapter two, the literature review, focuses on the current literature on party politics. It pays particular attention to the functional role that political parties play in processes of democratic consolidation in general and, more specifically, the role that parties play in African democratic development. It also outlines the various theories and typologies that have been used regarding party institutionalization. Further, it contains miniature literature review sections related to the succeeding thematic chapters on: party organization; party discipline and party politics; ethnicity and party politics; and political violence. It concludes by focusing on historical institutionalism and path dependency as an analytical tool for explaining political party development and the process of institutionalization in developing countries.

Chapter 3 provides the historical context of the study. It contains an in-depth analysis of the origins of political activity amongst indigenous Kenyans. It traces the development of party organization right from their nascent origins in 1921 with the Young Kikuyu Association, straight through to the single-party years, up until the formation of various political parties between 1992 and 2013 following the return of the multi-party system. The chapter also examines the roles that the colonial institutional context and the subsequent post-colonial state have played in party development, in terms of policy and practice.

Chapter 4 reviews various party types in terms of their origins, functions and their structural characteristics in Kenya. The chapter also reviews the roles that socio-economic context as well as the broader politico-legal framework have played in literally shaping the fortunes and structure of political parties. It also looks at the consequent rise of personalism and how this affects the ability of parties to perform their functions of mobilization, aggregation, articulation and socialization and education.

Chapter 5 deals with the issue of party discipline in Kenya. The chapter starts off by looking at the current challenges that party organizations in Kenya have been experiencing in terms of party defections and the failure to adhere to party constitutions and other rules and regulations. The chapter examines the experience of party discipline in the Kenyatta and Moi eras. It then proceeds to evaluate the situation in the first decade following the return of political pluralism and the broader challenges of

discipline. It does this by looking at the historical processes and policy decisions that contributed to the current state of confusion within parties. The chapter finally investigates and identifies other challenges that were encountered in the enforcement of party discipline.

Chapter 6, which is on ethnicity, begins by looking at the different types of ethnic parties that exist in Kenya. It then proceeds to look at the experience of ethnicity in Kenyan parties since 1992 and what effects this has had upon party organization. This section is then followed by one that seeks to explain the development of ethnicity in Kenyan party politics since the late colonial period. It then tries to analyse the challenges that parties have faced in trying to counteract the strong influence of ethnicity on their development and functioning. Finally, the chapter evaluates the impact of the Political Parties Act 2007 (revised 2011) on the attempt to transform ethnic parties into national parties.

Chapter 7, which focuses on political violence, looks at the relationship that parties have had to political violence by looking at various instances of both political and electoral violence from the single-party era up to 2007. It then focuses explicitly on the experiences of electoral violence in 1992, 1998 and 2007/08, with the aim of trying to establish to what degree political parties as entities, and not merely political elites or the state for that matter, were responsible for this violence. It then tries to establish if there is a correlation between the degree of institutionalization that a party has, as seen through the lenses of organizational systemness, and the nature of electoral violence a party may be associated with, or implicated in.

Chapter 8 presents the main conclusions of the research. It summarises the major findings and relates them back to the major hypotheses and research questions that informed the thesis from the outset. It then explains what the implications of the research for theory and policy are. Finally, the chapter proposes a number of suggestions for future research, so as to cover areas that were beyond the scope of the present thesis.

CHAPTER 2. LITERATURE REVIEW

2.1. Introduction

In discussions about democratization, it has been emphasized that the presence of autonomous civic organizations is an essential prerequisite (Dahl, 1989). In the aftermath of the Cold War, a lot of attention was paid to the role that civil society organizations played in advancing the democratic processes. This emphasis on civil society came against the backdrop of a perceived decline in the relevance of political parties in democratic processes (Bartolini, et al, 1998: 520; Diamond and Gunther, 2001: 3). However, whilst the integral role of civil society cannot be overlooked, civil society organizations cannot be considered as substitutes for popular representation in government[1] (Montero and Gunther, 2003). Doherty (2001) emphasises the indispensable role of political parties in advancing democracy. He says:

> Strengthening civic organizations, which represent the demand side of the political equation, without providing commensurate assistance to political organizations that must aggregate interests of those very groups, ultimately damages the democratic equilibrium. The neglect of political parties, and parliaments, can undermine the very democratic process that development assistance seeks to enhance (Doherty, 2001: 25-26).

He asserts that when developing countries experience political turmoil, the underlying issues are often to do with the poor state of political parties in these contexts (Doherty, 2001:29) and the failure to formulate effective policies (Aldrich, 1995; Gunther 2003).

2.2. The Role of Political Parties in Democratic Consolidation

In the liberal democratic literature, political parties are thought to 'structure the popular vote', integrate and mobilize the mass of the citizenry, aggregate diverse interests, recruit leaders for public office and formulate public policy (Mair, 1990: 1; USAID, 1999: 7-8; Randall and Svasand, 2002a; Gunther and Montero, 2003; Randall, 2007). Parties have also been conceptualized as agents of 'institutional legitimization' (Wildenmann, 1986: 6) and as a conduits that link the state with the citizenry (Mair, 1990:2).

[1] Although the idea of party decline had been noted quite early by Kircheimer (1966) more categorical assertions did not emerge until later (cf. Waltenberg, 1998). In the years following 1989, parties have been faced with many challenges. With the rise of social movements, single issue lobby groups and the emerging trend of e-government, in conjunction with societal changes globally, political parties are no longer the only sole entities for political civic engagement.

Blondel (1990) argues that political parties operate at three levels, namely, at the societal level, at the level of a political system and at the level of people's day to day lives. At the societal level, parties are thought to channel political conflicts (see also Welfling, 1973: 54-58; Sartori, 1977: 56; Kelley, 1992:31)[2]. At the level of the political system, political parties are thought to articulate the views of the citizens whilst mobilizing them and assume their role in either government or as legitimate opposition (Blondell, 1990; Kelley, 1992).

In summation, there is almost, if not unanimous, agreement in the political literature on the indispensability of political parties in the promotion of democratic governance. Despite this general recognition in industrial democracies, there has been, in recent decades, a general perception of a decline in parties (Katz et al, 1992; Mair, 1994; Scarrow, 2000; Dalton, 2005; Whitley, 2009). Arguments surrounding this phenomenon have been varied, ranging from the distrust of political parties to increased affluence and the emergence of a post-material culture (Gunther and Montero, 2003)[3]. Arguably, the decay of political parties points to the bigger challenge of political parties in fulfilling their political functions. The weakening of political parties may not only undermine the relationship between the electorate and the state, but it may also undermine democracy itself (Doherty, 2001; Whitley, 2009).

2.2.1. Political parties and democratic consolidation in Africa

With the achievement of independence in Africa, political parties in essence became the principal instruments through which these emergent states attempted social cohesion (Neuberger, 1971; Randall, 2007). From a socio-economic perspective, it had been previously argued that due to the absence of clearly defined economic classes in Africa, there was no need for political pluralism (Neuberger, 1971: 287)[4]. Another legitimizing reason that was put forward in defence of the single party state was the idea that political pluralism would exacerbate ethnic divisions and possibly lead to secessionist tendencies,

[2] Welfling cited in Janda (1993).

[3] In this instance the term post-materialist values denotes a value system in which the quality of life and self expression gain primacy over economic and physical security. For more on this see Inglehart (1977)

[4] The notion of class has for the most part been contested in Africa. Leopold Senghor, of Senegal, Sekou Toure of Guinea and Tom Mboya of Kenya all argued that the variations in wealth amongst the rich and the poor in Africa were not so great so as to warrant distinctions along class lines in the Marxist sense.

as in the case of Nigeria (Coleman and Rosberg, 1964; Tunteng, 1973; Makumbe, 1998; Suttner, 2003; Kriegler, 2006; Barkan, 2006).

However, far from creating a sense of social cohesion, several one party-state systems degenerated into apparatuses of authoritarian personal rule, which served principally as a mechanism of surveillance and social control; that effectively failed to quell pernicious forms of ethnicity (Widner, 1993; Bujra, 2005, Wanyande, 2005; Barkan, 2006). With the relegation of the political party to a mere appendage of the executive in post-colonial Africa, interest in African parties and party systems declined markedly (See Erdmann, 2007: 35).

However, since the 'second wave' of democratization that has swept across much of the African continent during the last two decades, there has been a renewed interest in political parties. It has been argued that prospects of democratic consolidation from processes of democratic transition have been stymied by weak political linkages between the state and the electorate (van de Walle and Butler, 1999). With the exception of the dominant ruling parties, political parties in Africa appear to be the least trusted political institutions in the continent (Africabarometer, 2004; Basedau et al, 2007; Chege, 2007). Parties in Africa have been described as bureaucratically weak, with poor organizational structures, as lacking in permanent membership base, programmatically diffuse, highly personalistic, and highly ethnicized. In sum, African political parties are fluid and not institutionalized (Randall and Svasand, 2002a; Erdmann, 2007; Gymah-Boadi, 2007; Randall, 2007).

Political parties in Africa are also thought to be poorly regulated, characterized by pervasive clientelist networks and poor internal democratic practices (Erdmann, 2007; 37; Gyimah-Boadi, 2007: 25-26; Teshome, 2009: 3). Chege et al (2007: 54) have described political parties in East Africa as being caught up in a trend of continuous 'fusion and fission', as there has been a tendency of some political parties splitting up, whilst in other cases formerly antagonistic parties merging. It has also been thought that political parties in Africa are only sustainable at the level of elites, as they have been viewed as vehicles through which national elites acquire access to state power and resources (Chege, 2007). Lastly, African political parties have been criticized for not having clearly distinguishable

ideologies, thus depriving voters of clearly discernible choices[5]. Given these characteristic weaknesses of political parties in Africa, what role have they played across the continent?

Randall (1988: 183-187) identifies regime stability as one of the central functions that political parties perform in Africa. She also explains that political parties provide regimes with legitimacy through their ideologies, act as mediums of political recruitment and hence platforms for social mobility and, finally, interest aggregation (ibid.). On the latter function, she notes that political parties also influence policy through their ways of formulating programmes, supervision of policy implementation, political socialization and mobilization of the citizens in the initiation of self-help schemes (ibid.)[6]. Julius Kiiza also notes that whilst the judiciary and the legislature perform the functions of 'horizontal' accountability, political parties for their part perform the function of vertical accountability by making government answerable to the electorate (Kiiza, 2005: 4). Judging from the high turnout at elections in most African countries, it is clear that parties at the very least offer citizens a more desirable alternative to military juntas. However, an assessment of the actual role that political parties have been playing in advancing a democratic agenda across Africa leaves a lot to be desired (Randall and Svasand, 2002b).

Having reviewed the general role of political parties in democratic consolidation, the sections below look first at the literature on party institutionalization, and then on literature regarding four themes by which party institutionalization may be assessed, namely: (i) party organization; (ii) party discipline; (iii) ethnicity and party politics; and (iv) political parties and violence. Moreover, in the light of the fact that at the beginning of each of the chapters on these four themes, there is a fully fledged literature review section, what follows below is a brief overview of the literature to be found in the main body of thesis.

[5] The necessity for having a distinguishable ideology has been questioned and African societies have been described as being devoid of salient classes (See Neuberger, 1963: 287). In addition, it could also be stated that the challenges that face African countries are well known by the party actors across the board. Within a post-cold war context it becomes questionable whether ideology and not party programmes matter.

[6] See also Salih (2003: 4), IDEA (2007: 20) and Erdmann (2007: 39).

2.3. Party Institutionalization

It has often been stated that in order for democratic consolidation to take place, there must be party system institutionalization (cf. Key, 1964; Dix, 1992; Mainwaring and Scully, 1995). The interest in party institutionalization could be attributed to the notion that political parties when institutionalized would be able to make greater contributions towards democratic consolidation (See Diamond, 1989; Dix, 1992; Rueshemeyer et al, 1992; Mainwaring and Scully, 1995; Randall and Svasand, 2003; Basedau and Stroh, 2008). Given the axiom of Schattschneider (1942: 1) of democracy as being 'unthinkable save in terms of parties', it would be difficult to imagine how political parties would consolidate democracy through their functions if they were not well institutionalized (Basedau and Stroh, 2008: 5-6).

Key (1964: 200) notes the importance of party competition as a means of ensuring government alternation (cited in Kuenzi and Lambright, 2001: 438). Bratton (1999: 550) asserts that "Mass politics in new democracies are shaped, more powerfully than by other factors, by the availability of political institutions that link the citizen to the state. Basedau and Stroh maintain that 'it seems reasonable to argue that more institutionalized parties perform more favourably as regards their functional duties than less institutionalized parties do" (Basedau and Stroh, 2008:6). It has further been argued that in order to foster confidence within the democratic process, there is a need to ensure the longevity of key political institutions linking the state and citizens.

In measuring political party institutionalization, Rose and Makie (1988: 536) claimed that '…a political party was judged to have become institutionalized if it fights three national elections. A group that fails to do this is not an established political party but an ephemeral party'. While party survival between elections is the first step towards party institutionalization, this cannot be the sole criteria of party institutionalization, as it is possible for a party with poor linkages to contest three consecutive elections. Huntington (1968:12) argues that in addition to stability, political parties must 'acquire value' (See also Sleznick 1957). Similarly, Angelo Panebianco posits that institutionalization is the process through which an organization slowly loses its character as a tool: it becomes valuable in and of itself and its goals become inseparable and indistinguishable from it (Panebianco, 1988: 49). He argued that this would be determined by the degree of 'systemness' and autonomy from its [party's] environment (ibid.).

However it could be argued that an organization with high degrees of systemness and of autonomy from its environment can merely be considered as an established organization and not necessarily an institutionalized one. Janda (1980: 171) appears to recognize this by noting that institutionalization could be observed by the '…extent to which a political party is reified in the public mind, so that it exists as an organization apart from its momentary leaders whilst regularly engaging in valued patterns of behaviour'. Central to this idea is the notion of linkage that a party organization has with its environment and that the reification of the party in the public consciousness could be equated with the value that the party has in society (See also Janda, 1993; Randall and Svasand, 2002c)[7].

Whilst this particular perception of party institutionalization is directly related to the idea of having stable roots within society, it neglects to take into account the internal dimension of political parties. The failure of the party rank and file to adhere to party rules and regulations, it could be argued, is also symptomatic of poor institutionalization (Randall and Svasand, 2002c). Accordingly, Randall and Svasand (ibid.) perceive political party institutionalization as the process through which parties become '…established in terms of both integrated patterns of behaviour and of attitudes or culture' (ibid.: 12). Emphasis in this case lies in the idea that there are internal processes, i.e. the rate and degree to which set rules and regulations have been internalized, and external processes that refer mainly to the relationship that the party has with other entities within its environment, i.e. society and other institutions (ibid.).

This view also builds a four dimensional typology. One axis looks at the internal and external aspects of institutionalization whilst the second one looks at the structural and attitudinal aspects, respectively. As such, the internal structure can be measured by 'systemness', i.e. the 'routinization' and the development of main conventions guiding behaviour (ibid.: 13)[8]. The second measure of internal institutionalization or the attitudinal aspect can be observed through the concept of "value-infusion". This

[7] The case of the diffuse peronist party organizations in Argentina that are organizationally weak but have become so strongly identified in the public consciousness with 'peronism' can seen as an example of reification without strong organizational systemness.

[8] It is important to note that too much systemness may not be good for political parties as they need to be able to adapt accordingly to changes in their respective environments. For additional information on 'systemness' see Panebianco (1988).

describes the degree of commitment that members of a party have beyond "instrumental and self-interested incentives" (ibid.: 13) for participation.

The external dimension of party institutionalization looks at 'decisional-autonomy' (ibid.: 13), namely the degree to which a party is able to determine its own policies without interference or undue influence of any other organizations that it is associated with.
The attitudinal aspect of external institutionalization is found in the concept of 'reification', which refers to the 'extent to which the party's existence is established in the public imagination'. (ibid.: 14).

	Internal	**External**
Structure	Systemness	Decisional Autonomy
Attitudinal	Value-infusion	Reification

Table 1. 'Dimensions of Institutionalization' (taken from Randall and Svasand, 2002c: 13)

Having discussed the main elements of political party institutionalization, what other factors contribute towards party institutionalization?

In their discussion of party institutionalization in emerging democracies, Randall and Svasand (2002c) contend that the origins of the party, the availability of resources, the relationship between the party leaders and the party, factionalism and clientelism, all play a major part. Whilst they do cite the origins of political parties amongst the other factors that determine the degree of political party institutionalization, they fail to give adequate attention to the impacts of longer term processes of political development on political parties themselves.

It has been noted that the origins of a political party may have a strong bearing on the overall character of the party (Duverger, 1955; Panebianco, 1988; Randall and Svasand, 2002c). Duverger (1955) makes a distinction between political parties that are "internally" created, i.e. emerged naturally out of legislative coalitions, and 'externally' created parties, i.e. those that have emerged from extra-parliamentary processes, i.e. the extension of suffrage (cf. La Palombera and Weiner, 1966). In this particular perspective, externally

created parties are seen as being more centralized, ideologically coherent and with greater discipline compared to the internally created parties which are relatively decentralized (Duverger, 1955; LaPalombara and Weiner, 1966).

Similarly, Panebianco (1988) notes that the level of party institutionalization has to do with whether a party originated from a process of penetration, i.e. whether the party was established at the centre and penetrated towards the periphery or whether the party emerged spontaneously (i.e. various organizations came together to form one party). Whilst most political parties in Africa developed externally and in most cases in reaction to repressive colonial government or repressive nationalist governments, the process of penetration cited by Panebianco does not appear to have been applicable to much of the developing world and to African countries in particular (Randall and Svasand, 2002c). With the exception of those parties under the one party-state system that were able to exert a national presence of sorts, most political parties in Africa have not been able to penetrate into other regions beyond their immediate strongholds (Randall and Svasand, 2002b; Erdmann, 2007). Whilst this may be partially attributed to issues such as ethnicity and resources, problems such as personalism and the counter-democratic culture seemed to be related to party origins. Can African political parties be considered as mirrors of their historical development?

Mohamed Salih (2003) contends that weak development of African political parties can be attributed to historical and other contextual factors. He asserts that 'Substantively, political parties are products of historical circumstances that contributed to their emergence. In this sense the substance of political parties mirrors the social, economic and political relations in society, although the forms could be the same' ibid.: 5). Thomas Hodgkin is even more succinct in his views, as he says 'African parties are essentially products of a colonial situation' (Hodgkin, 1961: 21). He goes further to say 'Up to a point the 'colonial situation' is liable to promote one-party dominance. So long as the ending of the status of subordination appears to be the main political issue, there is a tendency for a single party to emerge' (ibid.: 22).

The role of past events in shaping present processes cannot be ignored, particularly in the case of political institutions. It can be generally observed that in the cases of regime change, specifically the re-introduction of multiparty politics, the new opposition parties

and movements have either been led or strongly influenced by disgruntled elites associated with previous authoritarian regimes (Gill, 2000; Suttner, 2003). The main idea behind this phenomenon is the notion that the disgruntled elites who break from authoritarian regimes have been socialized into a political culture that may be a hindrance to democracy (ibid.).

This socialization can be attributed to the structure of state institutions that were either inherited from colonialism or created in the post-independence era. This is confirmed by Said Adejumobi, who says that the '… statist character of colonial rule, which survived the era, was later to determine the object and terrain of electoral competition' (Adejumobi, 2000: 63) The personalization of power in many successive ruling and opposition parties in Africa, it could be argued, may well be a learned behaviour from the days of single party rule. Adejumobi goes on to say:

> … although the decolonization project was woven around democratic principles and ideals of self-determination and social justice, the emergent political elites were educated and socialized under a highly centralized and authoritarian order. This was to later affect their post-colonial political behaviour (ibid.).

In trying to get a better sense of party institutionalization in Kenya, it is perhaps more apt to understand the various aspects of the concept. In so doing, the **party organization** itself will be reviewed in terms of its scope (territorial penetration and social reach) (see Randall, 2006). Further, in assessing the issue of internal coherence amongst various party organs and structures, in addition to adherence to party rules, the study will analyze the level of **party discipline** and internal democracy as indicators. Moreover, the study will also seek to undertake an analysis of **ethnicity and political parties**, as well as **political party violence**, as additional means of gauging the internal and external dimensions of institutionalization, i.e. systemness and value infusion (internal), as well as decisional autonomy and reification (external). As Mehler (2007) notes, the effective use of violence is a pointer to the organizational capacities of parties that produce violence. With the emergence of a number of militias associated with parties across the African continent, including in Kenya, it would be interesting to see what the relationship between parties and these militia groups is.

2.4. Party Organization

A careful look at much of the literature on party institutionalization reveals that there is generally a conspicuous absence of discussion on party organization and its relationship to the concept of institutionalization. In looking at the ethos of party organization, it becomes clear that there is no singular conception of what a party organization should look like. As Gunther and Diamond (2003) note, there are several 'species' of parties that exist and not all of them perform similar or equivalent functions. They then present a typology of various party types based upon 'formal organization', 'programmatic commitments' and 'strategy and behavioural norms' (ibid.: 171). They also assert that parties are not formed in a vacuum and that peculiarities of their physical disposition are necessarily products of the contexts in which they originate.

Similarly, in lamenting the structurally thin appearance that most parties in Africa exhibit, Mohammed Salih (2003) also asserts that, fundamentally, political parties are products of their environment. In line with this notion, Burnell (1998) highlights the important role that funding plays in promoting healthy party competition. Further, Janda (2005) also illustrates the impact that party law and the various types of party law have upon the development and subsequent institutionalization of political parties.

2.5. Party Discipline

Following Huntington's 'Third Wave' thesis, writings on political parties have tended to put a significant amount of emphasis on internal party democracy and only scant attention to the concept of party discipline. This is particularly true in the case of African political parties, which, as mentioned previously, are often criticised for being disorganized and undemocratic and lacking in discipline. This preference to focus on internal democracy over and above party discipline can, in essence, be traced to what ostensibly is an inherent tension between the two concepts (See Johnson, 2003; Jaensch, 2004).

In the case of the former, there is an underlying emphasis on individual liberty to express one's opinion and to disagree with decisions taken by the party as an expression of one's democratic right. In the case of the latter, however, the notion of collective responsibility is often emphasised, whereby strict adherence to the party line is emphasised strongly, against a backdrop of rewards for compliance and punishment for deviation.

A recognition of this tension led to attempts in Marxism-Leninism to reconcile the two notions via the democratic centralist thesis. This notion held that open debate and the expression of diverse opinions on any matter were possible prior to a vote on the matter, after which the decision taken by the majority was absolute and all members were bound by it through the idea of collective responsibility. However, Tourish (1998) notes the tendency of democratic-centralism to descend towards authoritarianism and tyranny. Whilst to some degree the negative view of democratic-centralism may be responsible for the poor emphasis placed on party discipline in democratizing contexts due to past experiences in the former Soviet Union, there is still very much a need for party discipline. Castaneihra and Cruzen (2009) argue that party discipline provides voters with information regarding policy preferences.

To an extent, the levels of party discipline are contingent upon whether a presidential or parliamentary system is in existence. There is consensus that parliamentary systems are characterised by higher degrees of discipline. Sartori (1994: 94-95) argues that parliamentary government could not function in the absence of cohesion and discipline.

However, in distinguishing between cohesion and discipline, Gianetti and Laver (2005) note that cohesion constitutes "emergent coordinated behaviour". This is said to arise through legislative and electoral incentives. Discipline for its part, is more of 'enforced cohesion' emanating from the internal decision-making processes within parties.

2.6. Ethnicity and Political Parties

Theoretical analyses on ethnic parties tend to conceptualise ethnicity as either being primodial (Shils, 1957; Geertz, 1963; Davidson, 1994) or instrumental (See Wallerstein, 1987; Smith, 1981). The primordialist view tends to see ethnicity as being a bounded and fixed phenomenon, in which cultural group identity is underpinned by a common genetic heritage that is manifest in kinship ties (van de Bergh, 1978).

Conversely, the instrumental school of thought sees ethnicity and culture as being socially constructed. It also considers the state of belonging within a group to be achievable as much through processes of ascription as through ancestral heritage, due to the fluid and evolving nature of cultural groups through processes of cultural diffusion and intermarriage. Politicised ethnicity refers to a process where ethnic identity is

negatively mobilized by political elites in such a way as to cause harm to members of other ethnic communities (cf. Ajulu, 2002).

Elischer (2008) identifies two types of ethnic based political parties, namely, mono-ethnic and multi-ethnic or congress parties. The former refers to those party entities that tend to be dominated almost exclusively by a single ethnic group. The latter can be subcategorised further into distinct types of multi-ethnic parties, namely *multi-ethnic alliance parties* and the *multi-ethnic integrative parties*. The first of these two congress types are in essence strategic unions whose sole purpose for existing is the perceived electoral advantages. Due to this single purpose focus, these entities are generally ephemeral. Conversely, m*ulti-ethnic integrative parties* are formed with the intention of promoting cohesion amongst the different ethnic groups represented within the party. Such unions tend to survive longer, even beyond electoral upsets (ibid.). Elischer notes that the verification of whether a party is mono-ethnic of multi-ethnic can be achieved through the use of *leadership composition*, *party nationalization score, and national coverage*. These concepts are fully reviewed at the beginning of the chapter on Ethnicity and Party Politics in Kenya.

2.7. Party Violence

In much of the literature on political violence, there is a conspicuous absence of writings discussing the possible relationship between political parties and political violence (Sattar, 2008). In the limited literature on this issue, the connection between political parties and political violence is discussed broadly under the rubric of electoral violence (ibid.).

This lacuna in the literature may be attributed to particular conceptualizations on politics that see violence as anathema to politics. Despite Von Clausewitz's famous maxim of 'war is merely a continuation of policy (politics) by other means' and the fruitful contributions of classical writers such as Hobbes and Machiavelli and post-colonial works by Frantz Fanon (see Fanon, 1962), that posit the inextricable links between violence and politics, the former perspective prevails *a la* Arendt (Arendt, 1969).

In line with Hannah Arendts' thinking that violence is inherently apolitical, there has developed a view that political parties as agents are the bridge between the governing class and the governed, and are entities that systematize and allow for the benign

competition for power, as opposed to the use of force (see Blondel, 1990). However, Gunther and Diamond (2003) cite the example of anti-system parties and political parties that routinely employ violence to achieve their desired ends. However, despite this, there have been growing incidents that have seen political parties implicated in acts of political violence, electoral and non-electoral. As such, the present study will examine the extent to which political parties in Kenya can be linked to instances of political violence.

2.8. Conceptual Framework: Justification for Approach Used

> Men make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of all the dead generations weighs like a nightmare on the brain of the living (Karl Marx, 1972 [1852]: 245-246.).

In analysing the institutionalization of political parties in Kenya and their role in democratic consolidation, this study adopts a historical institutional approach. Since the end of the Cold War, there has emerged a plethora of studies on political change emphasizing the role of political elites in the process of political and social transformation. Linz and Stepan (1978; 1996), O'Donnell and Schmitter (1986), de Palma (1990), Karl (1990), and Shain and Linz (1995) all affirm human agency by highlighting the strategic choices made by political elites in political and social transformation processes. The tendency to privilege the role of human agency over structural factors has been fairly dominant in recent years, such that political dysfunction, particularly in Africa, is often reduced to the action or inaction of the continent's political leaders.

Although the role of agents in changing political circumstances cannot be denied, this school of thought is often advanced with very little consideration of the role that structural factors play in political processes. Mahoney and Snyder (2001: 10) note the tendency of rational choice or 'voluntarist' approaches to treat political elites as 'isolated from social structures', and to create '… a blind spot to the potential causal role of macro level factors'. They proceed to note that '[f]rom this perspective, only micro-level, social group and leadership factors seem necessary to explain regime change'. (ibid.).The explanatory power of actor-oriented approaches to politics appears to be lost when it comes to explaining the continuity of political practices in situations where there has

been regime change. It is within this context that this study sought to use the theory of path dependency as conceptualized by Mahoney (2001).

2.8.1. Path dependency

Path dependence theory refers to conditions in which an option (i.e. in the form of a policy, institution, coalition or government) that is chosen from among other choices, during a critical juncture, results in the development of a particular configuration of institutional arrangements and patterns that persist over time (Mahoney, 2001: 112). Institutional endurance is thought to spawn reactive sequences, whereby institutional agents 'respond to prevailing arrangements through a series of predictable responses and counter responses' (ibid.: 113). Whilst political elites, acting in their capacity as rational actors, may have causal impacts on processes of political change, it is important to recognize that they do not make strategic choices in a vacuum, but rather within the contexts in which they operate (Steinmo et al, 1992; Thelen, 1999).

Similarly, it is also important to note the lasting impacts that institutions have upon human behaviour and subsequent events that take place even long after these institutions have ceased to exist. The role of institutional structures in shaping human agency has been documented by Steinmo et al (1992), Inkenberry (1994), Thelen (1999) and Mahoney (2001).

The underlying ethos in the broader historical institutionalist tradition is that institutions *shape* the interests of the agents operating within them (See Zysman, 1994: 244). Once institutions are created by agents, their presence and subsequent operationalization may have a lasting impact upon subsequent events (Thelen, 1999). However, the approach has not been without its critics. It has been criticized for emphasizing the role of structures at the expense of the critical role of agency within social and political change processes (See Mahoney and Snyder, 1999). Further, the approach has also been criticized for its tendency to privilege macro-level processes of development to the exclusion of micro-level processes, which are also important, if not equally so.

Despite these criticisms, the work of Merkel et al (2006) in which they analyze five partial regimes that constitute political regimes through the historical institutional approach has been shown to be useful in understanding medium and micro-level processes. Moreover,

this approach has been useful in understanding the development of party-systems (see Duverger, 1966; Rokkhan and Lipset, 1966) and also in understanding the development of individual parties themselves (Panebianco, 1988). Panebianco (1988: 50) affirmed that:

> A party's organizational characteristics depend on its history, i.e. on how the organization originated and how it consolidated, than upon any other factor. The characteristics of a party's origin are in fact capable of exerting a weight on its organizational structure.

As can be seen from the above, a process of 'lock in', as it were, may result from the determinism of a party's beginnings (see also Gunther and Diamond, 2003).

2.8.2. Applying historical institutionalism in the African context

Questions have arisen over the applicability of historical institutionalist approaches to African politics. Due to the tendency of this approach to privilege formal institutions, its explanatory power in a context where formal institutions traditionally have not been considered of much importance in politics has been called into question (Chabal and Daloz, 1999; Erdmann et. al., 2011).

Closely related to this is the issue of time-frame. Given the fact that the trajectories that eventually produced parliamentary democracy in Britain and fascism in Germany, Italy and Spain spanned over centuries, would the comparatively short experience with rational-legal institutions that virtually all African countries have had, save for Liberia and Ethiopia, be enough to yield any firm conclusions in support of this approach?[9]

However, Goran Hyden affirms that 'In Africa, as elsewhere, the path or paths to development and modernity are dependent on historical institutional context' (Hyden, 2008:1). Similarly, Erdman et. al. (2011:11) note that 'the timeframe required for an application of historical institutionalism is not fixed *a priori*. It depends on the outcome that we want to explain' (see also Pierson, 2004: 79). Erdman et. al. (2011) proceed to make a compelling case for the applicability of historical institutionalism, and go as far as to show how the concept may be applied in the African context.

Further, Daniel Posner and Daniel Young document, empirically, the increasing number of cases whereby adherence to the 'rules of the game' has been adopted by African states

[9] See Pierson (2004)

(Posner and Young, 2007). More to the point, there have been a number of studies whose conceptual underpinnings borrow extensively from institutionalist literature. A case in point is Mamdani's classic *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. In addition is the work of Kathryn Firmin-Sellers, which is on the divergent paths of development between Ghana and Cote d'Ivoire, in which she evaluates the legacy of Nkrumah's urban-bias to Houphet-Boigney's preference for southern agricultural interests in shaping the political-economic situations in both countries, respectively (Firmin-Sellers, 2000).

A more recent contribution by Gita Subrahmayam utilises the path dependency concept as a means of analysing the divergent development of party politics in India, Pakistan, Nigeria and Kenya (Subrahmayam, 2006). Subrahhmayam finds that British colonialism, through physical control and economic extraction undermined colonial democratization in these four countries. She further contends that social cleavages, elite strategies, the responses of indigenous leaders to these strategies and institutions, as well as the formation of political parties also had a fundamental bearing on the eventual historical trajectory that each country was put on. In particular, she suggests that the duration of autocratic rule also had a direct impact on the eventual system of government adopted in the post-independence period (ibid.). Those countries with a longer history of autocratic rule, tempered by intermittent periods of electoral competition and short democratization periods before independence, tended to develop undemocratic regimes and weakly institutionalized political parties.

2.9. Concluding Remarks

This chapter has provided a brief review of the literature that formed the foundation of and provided guidance to this study. The review started with literature on the broader issue of the role of political parties in democratic consolidation. It then moved on to literature on political party institutionalization. With respect to the latter, four key dimensions of political party institutionalization were highlighted, i.e. systemness, value infusion, decisional autonomy, and party reification.

Because the study uses political party organization, party discipline, ethnicity and party violence as means of determining the level of political party institutionalization in Kenya, the literature on these four themes has also been reviewed briefly. The literature review is brief because each of the subsequent chapters on party organization, party discipline,

ethnicity and party violence starts with a more comprehensive review of the relevant literature.

Finally, the chapter presented the conceptual framework of the study, i.e. historical institutionalism, weighing the advantages against the disadvantages of this framework as assessed by leading authors.

CHAPTER 3. HISTORICAL CONTEXT

3.1. Introduction

The general elections held in Kenya in December 2002 were seen as a very historic event in the country's political history. They were historic in that they marked the end of the Kenya African National Union's (KANU) forty year hegemonic control over the state. The defeat of KANU, in the 2002 polls by the National Rainbow Coalition (NARC) was nothing short of astounding, considering the fact that KANU had all the advantages of incumbency such as privileged access to the state machinery, strong rural linkages and respectable urban networks, financial muscle and superior logistical support compared with NARC, which was a loose coalition of former political foes formed only six months before the election[10].

As Kenyans went to the polls on the 27th of December 2007, the atmosphere across the country was relatively calm, amidst much anticipation regarding the outcome of the presidential race. Kenyans had gone to the polls with a great determination to cast their votes and bring about 'real' change, as the Rainbow administration of the past five years was perceived by a significant segment of the population to have largely failed to deliver on a number of promises that its members had given in the run up to the 2002 General Election. Barely 48 hours later, Kenya was catapulted into a state of pandemonium.

Immediately following the announcement of the presidential results, the country was plunged into one of the most serious waves of violence in its post-independence history. The declaration of the incumbent, Mwai Kibaki, as the victor against his long time arch rival, Raila Odinga, in the presidential contest was perceived by the Orange Democratic Movement (ODM) leaders and their supporters to have been a blatant act of election rigging. The vehement rejection of this result by Raila Odinga's ODM, in conjunction with a public confession of the same by a returning officer from one of the polling stations in the Rift Valley Province, immediately cast the election results in serious doubt.

[10] Up until 2002 KANU had been Kenya's ruling party since independence, having first been led by the founding father of independent Kenya, the late President Jomo Kenyatta until his death in 1978. Daniel Toroitich Arap Moi, Kenyatta's number two, succeeded him as the leader of KANU and as President of the Republic and was responsible for the formal introduction of one-party authoritarian rule. His term in office lasted 24 years. NARC was formed in September 2002 and brought together four parties. These were the Democratic Party (DP), led by Mwai Kibaki, the Forum for the Restoration of Democracy in Kenya (FORD-Kenya), led by the late Michael "Kijana" Wamalwa, the National Party of Kenya (NPK), led by Charity Ngilu, and the Liberal Democratic Party, led by Raila Odinga.

The confusion surrounding the elections was further intensified when Samuel Kivuitu, the chairman of the Electoral Commission of Kenya, categorically stated that he did not know who had actually won the presidential election, despite having sworn in President Kibaki for his second and final term two days earlier.

The post-election chaos that followed the disputed presidential results culminated in the loss of over 1000 lives and the displacement of 350,000 people from their homes in the Rift Valley. The post-election violence that occurred saw the commission of unimaginable atrocities by ordinary citizens. Neighbours turned against neighbours, friends against friends, as people who belonged to the president's ethnic group, the Kikuyu, amongst other groups who were suspected to have voted for the President's Party of National Unity (PNU), were systematically targeted for violent attack and murder. Similarly, in revenge attacks, individuals suspected to have voted for Odinga's ODM party also bore the brunt of violent attacks and murder in PNU strongholds.

The failure of the Electoral Commission of Kenya to bring clarity to the situation, and the failure of the Kenyan security forces to effectively deal with and contain the escalating violence, exposed the weak underbelly of Kenyan state institutions, precipitating not only a governance crisis but a crisis of legitimacy. Whilst the unwillingness of ordinary people, in the wake of the violence, to heed to the passionate appeals of the police and government officials was indicative of a general loss of confidence in political leadership and state institutions, it was also indicative of a loss of confidence in the political process. This was particularly apparent as a resolution to the crisis was only reached through the external intervention of Kofi Annan, the former Secretary General of the United Nations.

Although the crisis can be attributed to numerous factors, such as deep seated inequality, including inequitable access to land resources and a complex interaction of socio-economic factors, at its heart, the crisis had to do with a failure in the political process, as evidenced by the disconnect between the state and the ordinary Kenyan citizen. The failure of the political process to effectively meet the demands of the citizens and deal with their grievances in turn had its genesis in policy decisions that were made between 1963 and 2007 (Okello and Owino, 2005).

3.2. Governance of Kenya, from 1963 to 2013

At the advent of independence in 1963, Kenya was a strong state with a robust economy and well functioning institutions (Wanyande, 2005: 44-45). Between 1963 and 1973, the economy grew at an average rate of about 7 percent per annum (ibid.). The agricultural and manufacturing sectors, between 1964 and 1970, attained an average growth rate of about 4 percent and 8.2 percent respectively, (ibid.). According to the Republic of Kenya Second Development Plan, the statistics on health, education, housing and nutrition showed a steady rise in the overall socio-economic welfare of the average Kenyan citizen (Onjala, 1997:63).

At independence, Kenya also inherited a small but dedicated and professional civil service (Kyle, 1999: 198; Wanyande, 2005: 45). An evaluation of the socio-economic development indices between 1963 and 1978 shows a very positive trend of growth in various spheres of the economy (Bujra, 2005:26). While an analysis of the GNP per capita figures during the same period is indicative of an increasing rate of inequality (Bujra, 2005), predictions in 1963 were that Kenya would be the shining example of good governance in the region (Wanyande, 2005:45).

However, at the end of 2002, which marked the end of President Daniel Toroitich arap Moi's 24 year reign in office, Kenya had attained a reputation as one of the most poorly governed countries in Africa (Throup, 1987; Throup, 1993). Although the attempts to 'indigenize' capital in Kenya in the mid-1960s and early 1970s were motivated by noble intentions, the result over time was that the state was held captive by agents of accumulation, who helped to fuel the rent-seeking culture and grand corruption in the country (Bienien, 1974: 4; Ajulu, 2000; Anyang-Nyong'o, 2002: 93; Bujra, 2005: 21). The transformation of Kenya from a developmental state to a rent-seeking state in the 1980s was characterized by grand corruption, a severe decline in the rule of law and the pilferage of national assets in the form of land grabbing and other forms of impunity (Wanyande, 2005:50).

The excesses of the ruling elite, which gradually eroded the capacity of state institutions to effectively and efficiently provide services to the citizens, eventually led to the intensification of patron-client relations in Kenya. This parallel linkage between the ruling elite and the electorate was not only an attempt by the members of the ruling party

to maintain political support amidst a general decline in their legitimacy, but it also served to undermine formal linkages that the leaders had with their supporters through the party apparatus. The cumulative result of this mode of governance was that by the late 1990s, 60 percent of Kenya's population lived below the poverty line (Wanyande, 2005: 51). It was against this backdrop of a failing state, characterized by high inequality, rising unemployment and poverty and oppressive rule that Kenyans went to the polls in 2002 and decisively voted for change - albeit after two false starts after the reintroduction of multipartyism in Kenya.

The election of Mwai Kibaki, under NARC, was broadly viewed with a lot of optimism. This apparent 'triumph of democracy over tyranny', also marked a watershed in Kenyan politics, as a government was able to assume the reins of power with 61 percent of the popular vote, something that had not happened since the independence election of 1963 (See Prunier, 2008). Although political pluralism had been introduced ten years earlier, the electoral triumph of NARC in the 2002 elections effectively put an end to KANU's hegemonic control over the state.

Mwai Kibaki's ascension to power as the third President of Kenya saw many positive changes introduced, including the expansion of democratic space and the introduction of free primary education. The establishment of the Kenya Anti-Corruption Authority, the creation of the Bosire Commission (that was mandated to investigate the biggest corruption scandal in Kenya's post-independence history) and the accession of Kenya to the African Peer Review Mechanism[11] in March 2003 were all thought to be positive signs of Kenya's commitment to good governance (see Country Profile on Kenya produced by the USA Library of Congress, 2007). This was reinforced further through president Kibaki's apparent laissez-faire leadership style, by which he chose to avoid the micromanagement of government business. His aversion to the creation of a personality cult also appeared to be a clear move towards the depersonalization of power[12].

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[11] The African Peer Review Mechanism can be described as an instrument created by the African Union's New Partnership for African Develop (NEPAD) for promoting good governance.

[12] Musila (2010: 282) notes that the Kenyatta/Moi style of leadership was framed by what she terms the 'geronto-masculine framings of power'. She asserts that this paternal authoritarianism was visually characterized by the use of signature props, such as Kenyatta's flywhisk and Moi's *rungu* (baton). These props, she argues, served as potent 'iconographies of power' (ibid.). Consequently, it could be argued that the conspicuous absence of any cultural props that signified traditional authority on Kibaki's person was seen as a clear break from the past.

Similarly, the referendum that took place in November 2005 that aimed to bring in a new constitution but which was defeated by 57 percent of the population was perceived to be a manifestation of a maturing democracy. Ostensibly, all these occurrences appeared as a sign that the country was firmly moving on the road towards democratic consolidation. During this period, the country also appeared to be charting a new path of economic prosperity, as economic growth rates between 2005 and 2007 averaged between three and four percent and reached seven percent by the end of 2007 (Kenya National Bureau of Statistics, 2009). The government's new found efficiency in tax collection also provided the government with a lot of revenue for the national budget, through which they could pursue serious spending on a number of government programmes and projects.

However, despite these positive developments, the same government was increasingly viewed with displeasure by a segment of the population. The feelings of disillusionment felt by a significant segment of Kenyans in the run up to the December 2007 general elections can be attributed mainly to the perceived failure of the Kibaki administration to translate many of the economic gains made during the 2003-2007 period into qualitative improvements in people's overall welfare, on the one hand, and, on the other hand, the perceived retreat of the state in its engagement with citizens beyond basic service delivery. The perceived 'absence' of the state was personified in the aloof leadership style of the president. In comparison to his predecessor, Daniel Arap Moi, Kibaki was not considered to be a master politician and he did not attempt to portray himself as such. As mentioned prior, although Kibaki's focus on *maendeleo* (development) was lauded across the social and political spectrum, his apparent aversion to *siasa* (politicking), in the light of the events of 2007/2008, later came to be viewed as a major flaw[13]. Columnist Mutahi Ngunyi, in what now appears to have been a prophetic insight, had this to say about Kibaki:

> I submit that our good president is virtuous to a fault. And because of his goodness, his government has only attracted evil. In fact he is likely to experience the worst calamities in the history of our politics. But he can change the tide by

[13] An article titled 'Moi and Kibaki: Contrasts in State security' noted the Kibaki's hand-off approach *vis a vis* national security led to lapses in information ' it is possibly this hands-off approach leading to a palpable information gap that has exacerbated levels of insecurity in the country" (*The Standard,* November 25th 2012).

> dropping his princely principle of zero tolerance to politics (*Sunday Nation*, February 27th 2005).

Whilst the creation of the office of the Government Spokesman, the NARC administration's way of communicating official government policy to the public, could be viewed as an attempt by the government to professionalize its communication, it would appear that the President thought that this would be sufficient to communicate with the public at large[14]. This clearly was not a successful substitute for the traditional forum of engagement between the state elite and the citizen which takes place within the confines of the political party. The discontinuation of public rallies and other popular forums such as *harambee*[15] in which ruling elites and the electorate usually interacted left a glaring disconnection between the two. This became apparent when the NARC administration found itself at pains in it attempts to communicate to the electorate its governance record.

The breakdown in communication between the citizens and the state can be traced to the inadequacies of political parties in Kenya. Kenya's history with political parties has been a chequered one. Political parties in Kenya have been viewed as both havens for political dissenters as well as instruments of division, incitement and conflict. Although Kenya has made significant strides in the march towards democratization the same has not been true for the development of political parties. Political parties in Kenya have been portrayed as being highly personalistic, ethnocentric, structurally fluid and generally unable to structure and systematize the agency of political actors (Kanyinga, 1998; Anyang-Nyongo, 2002: 90-91; Bujra, 2005: 22). As a result, the Kenyan state has at times appeared to be more responsive to the demands of external actors than to its own citizens. In the absence of strong vibrant political institutions through which the electorate could vent out their frustrations and convey their grievances directly to ruling elites and hence influence policy, the only other alternative beyond communication in the media was through protest.

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[14] During President Moi's tenure in office, official protocol regarding the communication of major decisions was not always adhered to, as the President would arbitrarily communicate major government decisions on the roadside during tours, without consultation with his Cabinet, or at political rallies (Odhiambo-Mbai, 2003).

[15] The term *harambee*, which literally means 'pulling together', was a self-help approach towards local development strongly encouraged by President Jomo Kenyatta. Community residents in rural areas would pull together the resources they could to fund local development projects. The remaining balance would usually be contributed by politicians and, in some cases, by the Government.

In environments where political participation is not structured or tempered by political parties, the likelihood of violent conflict increases (Lebas, 2006; Stepan and Linz, 1996; Corrales, 2001). As indicated earlier, this research aims to discover the extent to which the political parties in Kenya can be said to be weakly institutionalized and characterised by personalism, and to provide an assessment of what the consequences for democratic consolidation are when the party system in a less developed context works differently to the ideal typical model of party systems in the conventional liberal democratic literature. However, in order to do this, it is necessary to look at the historical development of political parties in Kenya.

3.3. Genesis and Development of Political Parties: The Pre-independence Era

Although the formation of political parties in Kenya is often discussed from 1942 onwards, which is the year in which the Kenya African Students Unions transformed itself into the Kenya African Union, the first multi-ethnic political party, the roots of political organization can actually be traced back to the emergence of the Kikuyu Central Association in 1921.

3.3.1. From KCA to KAU: political organization between 1921 and1953

Although Winston Churchill, whilst passing through Kenya in 1907, once remarked that "Every white man in Nairobi is a politician and most of them are leaders of parties", the nascent beginnings of political organization amongst Africans can only be traced back to a mass meeting held on the 31st of May 1921 (Kyle, 1999: 16). The meeting that took place on that day was called in response to the pro-settler policies of Sir Edward Northey, a British general who was determined to transform the British protectorate into colony (ibid.: 16). The policies that were designed to promote white settlement in Nairobi saw many Africans forced from their native reserves to work on public works schemes (ibid.: 17). This action, which brought Africans into the formal economy, was the result of poll and hut taxes that were introduced and enforced over the Africans. The meeting itself had been called to address an imminent reduction in wages (Kyle, 1999; Maina, 2004:95). The Young Kikuyu Association (later the East African Association)[16] was formed in response to labour grievances that members of Kenya's largest ethnic group were experiencing.

[16] The Young Kikuyu Association was renamed the East African Association after it formed an alliance with the Young Baganda Association and a number of Indian organizations that were

The introduction of various ordinances and laws, such as the Crown Lands Ordinance of 1902[17] and the Masters and Servants Law of 1904, were instrumental in the formation of other political organizations such as the Young Kavirondo Association, Ukamba Members Association, the North Kavirondo Central Association and the Taita Hill Association (Kinyatti, 2008; Odinga, 1969:24). Due to what were termed as subversive and seditious activities, the leader of the East African Association, Harry Thuku, and other senior members of the organization were arrested in 1922 (Kinyatti, 2008:14; Kyle, 1999: 19). The EAA eventually transformed itself into the Kikuyu Central Association (KCA) in 1923.

There are two conflicting accounts on the nature of KCA. The first is concerned with the reason why EAA transformed itself from a multi-ethnic political organization into one advocating the issues of the Kikuyu. Spencer (1985: 61) states that the decision to become the KCA was a voluntary one that was reached upon the advice of the Chief Commissioner of Native Affairs who had said that since they were all from Fort Hall[18], the continued use of the name EAA would be misleading. However, Kinyatti (2008: 48) and Odinga (1969: 28-29) asserts that the organization was forcefully restricted to being a regional party. The second area of disagreement is centred on whether the KCA was a truly representative organization of all African interests. One account of the KCA portrays it as a moderate organization mainly concerned with protecting the interests of an emerging Kikuyu petit-bourgeoisie and that advocacy of 'common' grievances was used as a means of popularizing the organization (Spencer, 1985: 63-64; Muigai, 2004; 200; Kyle, 1999: 26). Conversely, Kinyatti (2008: 48) states that the KCA '…was a national anti-imperialist movement in thought and practice'. He cites the oath, *Muuma wa Tiri,* (oath of the soil) that was used as an '…instrument to strengthen the unity, commitment and discipline of its leadership and cadres as well as an instrument for 'politicization, education and mobilization'…' (Kinyatti, 2008:51). What is clear, however,

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advocating for better rigthts. This was done to reflect the multi-ethnic nature of the union (see, Kyle, 1999: 18; Kinyatti, 2008: 37; Odinga, 1969: 24).

[17] The Crown Land Ordinance 1902 refers to law that legalised the expropriation of land from Africans to create the White Highlands that stretched from Central Province, through the Rift Valley, to the boundaries of Nyanza Province in the west.

[18] Fort Hall, (now Murang'a) is a district in Central Province located to the north east of Nairobi. Central Province is seen as the home of the Kikuyu.

is that the KCA eventually came to advocate for the pressing issues facing the Kikuyu, such as the loss of land (Kyle, 1999).

In 1928, the Muiigwithania Newspaper, which was affiliated to the KCA and edited by Johnstone Kamau *wa* Ngengi (Jomo Kenyatta), emerged. It openly argued for the reclamation of ancestral land that had been annexed by the budding settler community and against forced labour restrictions (Kyle, 1999: 27). Much of the agitation that followed from the KCA was centred on the right of Africans to participate in consultations on boundary creations within the African land areas, the right of African land owners to possess title deeds, African representation in the Legislative Council (Legco), the release of detained former EAA members and the abolition of *kipande*[19] (Kinyatti, 2008:53; Muigai, 2004: 202; Spencer, 1985: 60-70).

Initial attempts by Jesse Kariuki, Joseph Kang'ethe and Jomo Kenyatta (KCA) to raise the plight of the Africans living in an around Nairobi had been met with considerable resistance by the colonial administration. This resulted in the decision by the KCA to send Kenyatta to Britain in 1929 to present the African grievances directly to the British Government (Elkins, 2005; Kinyatti, 2008: 54; Spencer, 1985). The KCA continued to agitate for the return of land stolen by the colonial authorities in Nairobi. However, due to its increasingly militant stance, it was banned in 1939 and several of its leaders were arrested[20]. Up until it was proscribed the KCA had been an active organization; it had gone beyond its district confines and had established branches across the country that allowed for the recruitment of new members (Kinyatti, 2008: 53). The party had also been successful in forging working alliances with a number of other political associations, such as the North Kavirondo Central Association and the Taita Hill Association and the Kavirondo Taxpayers Welfare Association (Kinyatti, 2008: 65; Mwakikagile, 2000: 111; Spencer, 1985).

[19] The *kipande* was a small metal container worn by Africans around the neck that contained their identity particulars. The *kipande* effectively restricted peoples' movement.

[20]The contentious issue of female circumcision had become a galvanizing point for the Kikuyu, through which they expressed their dismay at what was perceived to be an unwelcome intrusion into their culture by the Christian missions, which tried to prevent the practice. The KCA also became militant after Harry Thuku who, after being released, was thought to have sold out whilst in prison (see Kinyatti, 2008; Spencer, 1985).

The Ukamba Members Association (UMA) had been in formed in 1938 amongst the Kamba people in response to destocking policies designed by the colonial administration to force the Kamba to sell their cattle to the Lieberg Factory Ltd (Kinyatti, 2008: 65). Their refusal to comply with these policies resulted in the confiscation of over 2500 cattle (ibid). Under the leadership of Muindi Mbingu, the UMA coordinated its anti-destocking efforts in league with the KCA and the Taita Hills Association (ibid.: 66)

Similar to the formation of the KCA, the Taita Hills Association (THA) was formed in 1939 in response to a process of land alienation that saw the Taita-Taveta people dispossessed of their land (Kinyatti, 2008: 68). The THA joined the alliance between the KCA and the UMA to form the Gikuyu, Wakamba Wataita Central Association (GWWC) (ibid.: 69) However, the tripartite alliance was never able to fully transform into a single nationalist movement and all of these political organizations were eventually banned (Kinyatti, 2008: 71; Muigai, 2004: 204; Spencer, 1985:95).

It was not until 1944 that an agitation for African participation in politics re-emerged. The creation of the Kenya African Union, (KAU), seemed to mark a turning point in Kenya's pre-colonial history[21] (Kyle, 1999). Although KAU, like the KCA lobbied for the return of ancestral land and African representation in the Legco, it also advocated for greater access to educational and economic activities (Gertzel, Goldschmidt and Rothchild, 1969:101). This position could be attributed mainly to the experiences of its members that included African ex-servicemen from the King's African Rifles regiment[22] and the educated African elite, all of whom had been exposed to the ideal of self-determination through their respective experiences in the Second World War and education. Its membership included distinguished men like Mbiyu Koinange, the first African university graduate, Fred Kubai, a renowned ex-serviceman and vocal trade union leader, and Jomo Kenyatta, its eventual leader, whose name had more or less become synonymous with the African cause despite his 15 year absence from Kenya.

[21] KAU became a full-fledged political organization after its transformation from the Kenya African Students Union, KASU. KASU was initially established as an organization to advise Eliud Mathu as the only African member of the Legco in 1944. Its initial members were Eliud Mathu (Chairman), Francis Khamisi (Secretary) and Albert Owino (Treasurer).

[22] The King's African Rifles consisted of African soldiers who fought during the Second World War that saw Africans fight in Burma, India and the Middle East. The ex-servicemen were also known as the Forty Group and comprised many of the later political and military leaders in the Mau Mau such as Fred Kubai, Paul Ngei, Dedan Kimathi and Stanley Mathenge, among others.

Whilst KAU appeared to be the most prolific political organization by 1947, its overall impact on African politics appears to have been minimal. Gertzel et al (1969: 105) argue that despite its more multi-ethnic composition compared to the KCA, it remained a mostly Kikuyu outfit whose activities were limited mainly to Nairobi and Central Province. They cite the failure of KAU to establish a genuinely national movement to its inability to reconcile the diverse grievances in the various localities across the country into a coherent national platform (ibid.). However, as noted earlier, Kinyatti (2008: 82) asserts that KAU was a 'national anti-imperialist movement that cut across ethnic boundaries', but he concedes that KAU did not have a concrete 'programme of action, vision or tools to accomplish its national mission' (see also Muigai, 2004: 204).

The failure of KAU to establish a genuinely national grassroots movement was also connected to its inability to form 'social communications networks' that transcended the various social and economic cleavages, as the conservative KAU leadership had refused to forge a working relationship with the East African Trade Union Congress[23]" (Gertzel et al, 1969:104; Kinyatti, 2008: 97-98). The activities of KAU were also hampered by disagreements amongst its members regarding the way forward. Kenyatta, including the more educated and older members of the party, adopted a more cautious approach and preferred to confine their activities to constitutional means. The younger war veterans in KAU, on the other hand, imbued with notions of self-determination from combat experience were disillusioned by the double-standards of British policy regarding social equality in Kenya. They were simultaneously motivated by India's Independence that same year and viewed the entire colonial establishment as illegitimate (Kinyatti, 2008: 101; Kyle, 1999: 50; Maina, 2004: 101). They thought it futile to pursue their aims via the legal channels available by virtue of the argument that doing so would legitimize the existing political order. The failure of the KAU leadership to close ranks upon a single course of action eventually led to the creation of a clandestine, former servicemen-based movement within KAU comprising of Fred Kubai, Bildad Kaggia, Eliud Motonyi, Isaac Gathanju and others, that was known as the Mau Mau (Kinyatti, 2008: 104; Maina, 2004: 101; Anderson, 2005; Elkin, 2005)[24].

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[23] EATUC was a labour union led by Makhan Singh, an anti-imperialist revolutionary. It is important to note that moderates in the KAU leadership were representative of the urban petite-bourgeoisie that had emerged in Kenya.

[24] Although the Mau Mau was the name with which the clandestine movement was publicly known, the leadership of the organization referred to it as *Muhimu*, the Swahili word for movement, or *Kiama Kia*

The divisions within KAU between 1947 and 1953 are central to understanding the culture of democratic tolerance or lack of in the years that followed independence in 1963. The takeover of the KAU Nairobi Branch in 1951 by the radicals of the party was the result of the growing influence and organizational capacity of the Mau Mau (Kyle, 1999). Although there is no evidence to suggest that Kenyatta himself was in anyway particularly sympathetic to the methods of the radical leaders in the Mau Mau, it would appear that upon sensing the increasing danger of being discredited as the leader of the nationalist struggle, he reluctantly allowed their control (Kyle, 1999: 51; Maina, 2004: 102; Muigai, 2004:205). After having being summoned for a face to face meeting with the Mau Mau leadership where he was sternly warned against publicly condemning the Mau Mau or be put to death, Kenyatta faced the first serious challenge to his leadership (Elkins, 2005; Kinyatti, 2008:125; Kyle, 1999:51; Maina, 2004: 101; Muigai, 2004: 207).

The initiation of the Mau Mau armed struggle was not so much the result of the impatience displayed by the 'young turks' in KAU, but the result of insurmountable demographic pressures amongst the Kikuyu who were confined to very small portions of land in the native reserves. The Kikuyu were the most disaffected group, whose grievances were directly linked to their geographical and social proximity to the European colonial system. Land alienation and greater maltreatment compared to other ethnic communities by the colonial system formed the basis of their political organization (Elkins, 2005; Kyle, 1999; Gertzel et al, 1969; Maina, 2004).

The Assassination of Senior Chief Waruhiu (Elkins, 2005: 31), a known loyalist and administrative agent of the colonial regime, by the Mau Mau combatants in October 1952, led to the declaration of a state of emergency and the subsequent arrest of Jomo Kenyatta, Bildad Kaggia, Fred Kubai, Paul Ngei, Achieng Aneko and Kungu Karumba, also members of KAU. The KAU leadership were arrested on suspicion of their membership in and affiliation with the Mau Mau (Kyle, 1999:52; Maina, 2004:102).

Contrary to popular misconception, the Mau Mau were not an exclusively Kikuyu movement. The solidarity and strict discipline that were enforced throughout the rank and file membership of the Mau Mau, through the administration of secret oaths,

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Hitho, Kikuyu for clandestine movement. The military wing of the organization referred to itself as the Kenya Land Freedom Army.

appealed to many youthful men and women in Kamba, Embu and Meru communities as well as other communities that were resident in the overcrowded and squalid settlements around Nairobi (Kinyatti, 2008: 131).

The arrest of the KAU leadership did not immediately lead to the proscription of the organization. Fanuel Walter Odede an African representative in the Legco who had been the KAU point man in the colonial legislature, assumed the role of interim leader (Gertzel et al 1969; Kyle, 1999; Muigai, 2004:207). KAU was eventually banned on June 8th 1953 when Odede himself was arrested on suspicion of providing guidance to the Mau Mau (Gertzel et al, 1969). The proscription of KAU marked the beginning of the prohibition of political parties between 1953 and 1955, after which the colonial Administration, led by the colonial governor, Sir Evelyn Baring, lifted the ban on African political activity.

3.3.2. From Mau Mau to KANU: 1952-1963

With the restriction on political organizations in place there was a radicalization of African political consciousness (Gertzel et al, 1969). This was evident in two ways, the jump in the recruitment of Mau Mau cadres, and the militant pronouncements of Tom Mboya, the highly intelligent and organizationally brilliant youthful leader of the Kenya Federation of Registered Trade Unions, KFRTU (see Gertzel et al, 1969; Kyle, 1999; Mamdani, 2005; Maina, 2004). According to official estimates made by the colonial administration, the number of combatants ranged between 10,000 and 20,000 troops. However according to an account of General H.K. Wachanga, cited in Maina (2004: 104), the guerrilla armies comprised more than 51,000 cadres. The growing influence of the Mau Mau upon the African political consciousness also empowered KFRTU, which had essentially filled the gap left by KAU, to issue very stinging statements against African exclusion from politics and against the state of emergency (Gertzel et al, 1969). KFRTU, due to its expressly non-political character, became a platform through which Africans could camouflage their political activities during that time.

The initial guerrilla attacks of the Mau Mau appeared successful as they managed to destroy some government buildings and, according to Maina (2004:105), also succeeded in shooting down some bomber planes, despite their relatively rudimentary weaponry (Elkin, 2005; Anderson, 2005). With these initial successes of the Mau Mau, there was a

fear on the part of the colonial government that the colony would become completely ungovernable. In 1954 the government launched operation Anvil which instituted widespread screening campaigns, detentions and arrests of people suspected to be either members or sympathisers of the Mau Mau movement (Anderson, 2005; Elkins, 2005; Mamdani, 2006:7-8). The operation oversaw the internment of between 120,000 and 300,000 Kikuyu people between 1952 and 1958, the entire duration of the emergency. The successful counter-insurgency that was launched eventually created several logistical problems for the Mau Mau. The movement was further weakened by the power struggles amongst the organization's military leadership based in the Aberdares[25] in the forests of Mount Kenya. Although the armed struggle prosecuted by the Mau Mau only formally ended in 1965, the surrender of some generals and combatants and the eventual capture and execution of Field Marshal Dedan Kimathi, the supreme commander of the Mau Mau effectively curtailed the military impact of the struggle (Anderson, 2005; Elkins, 2005; Mamdani, 2006; Maina, 2004; Nissimmi, 2006).

Whilst the military operations of the Mau Mau were largely unsuccessful in military terms, the success of the movement should be measured in terms of the impact it had upon the overall political consciousness of the Africans and also in informing subsequent policy on the future of the colony. Although the Mau Mau insurrection had been more or less contained by 1955, the fear of losing control of the colony had become a serious concern. The radicalized political atmosphere meant that any future engagement with the Africans would no longer be exclusively focused on increasing African representation in the Legco and merely extending franchise, but about essentially managing the terms of eventual self-rule amongst the Africans (Anderson, 2005; Elkins, 2005; Kinyatti, 2008). The inevitable prospects of decolonization were captured by the British Cabinet secretary when he asserted that the process:

> [c]annot now be halted or reversed and it is only to a limited degree that its pace can be controlled by the UK Government... But in the main pace of constitutional change will be determined by the strength of nationalist feeling and the development of political consciousness... Political leaders... normally expect that the promise of independence will be attained within their own political lifetime and if they cannot satisfy their followers their influence may be usurped by less responsible elements (Kyle, 1999: 54).

[25] The Abedares refers to a densely forested mountain range that lies north of the capital city, Nairobi. Londsdales (2004) notes that tensions were high between Dedan Kimathi and Stanley Mathenge. Kimathi was seen to represent the more educated and urban grouping of the Mau Mau whilst Mathenge represented the more rural peasant base of the movement.

It was due to this realization that the colonial government relaxed the restrictions on African political life. In so doing the colonial administration aimed not only to de-radicalize the political atmosphere within the country but, more importantly, they actively sought to marginalize the Mau Mau contribution to the liberation struggle and by extension any future role in independent Kenya (Kinyatti, 2008; 338; Mamdani, 2006: 9). The participation of the Mau Mau in an independent Kenya was seen to pose a big threat to western interests (Elkins, 2005: 361; Kinyatti, 2008: 339). Hilda Nissimi (2006: 18) has stated in reference to British policy regarding independence in Kenya that '…anything reminiscent of a recurrence of the Mau Mau would be detrimental to the West's interests in Africa' (see also Maina, 2004:108; Elkins, 2005). The colonial administration's decision to court a middle ground or moderate nationalism was also influenced by a charter produced by the Kenya Land Freedom Army, as the Mau Mau military wing referred to itself. The Charter advocated for self-government rooted in an African judicial system based on African legal customs, African control of the economy and the departure of the British armed forces (Maina, 2004: 107).

After their re-authorization, African political organizations were deliberately confined to the district level, as part of the colonial administration's policy of containment (Gertzel et al, 1969: 106; Muigai, 2004:208). This led to the formation of parties such as the Mombasa African Democratic Union, the African District Association located in Central Nyanza province, the Kisii Highlands Abagusii Association, the South Nyanza District African Progressive Association, the Taita African Democratic Union and the Nakuru African Progressive Party, among others[26] (Gertzel et al, 1969: 106). Central province was prohibited from any political association as it was still thought to be the hotbed of Mau Mau activities.

The enactment of the Lyttelton Constitution[27] in 1954 allowed, for the first time, the election of African representatives to the Legco. It was hoped that this would allow for the 'growth of responsible opinion' and lead to a 'simple and orderly development of African politics' (Gertzel et al, 1969: 106). The Lyttelton plan advocated multiracialism in which a number of seats were specifically reserved for each racial group, these being the

[26] The contribution of these parties to the elections of 1957 in campaigning for the candidates was insignificant.

[27] Oliver Lyttelton was the Secretary of State for the Colonies between 1951 and 1954.

Europeans, Indians, Arabs and Africans (Gertzel et al, 1969:107; Kyle, 1999:64). It also provided for a Council of Ministers that reserved three ministerial seats for the Europeans, two Asian seats and one seat for the Africans. The Lyttelton plan was, however, rejected by the Africans and was eventually replaced by the Lennox-Boyd Constitution in 1957[28].

The new constitution did not do away with the principle of multiracialism, but it did put the representation of Africans and Europeans on par. The elections of 1957 saw the emergence of a new crop of moderate African leaders. These moderates included Julius Gikonyo Kiano, Kenya's first PhD holder, and Tom Mboya. The exception was Oginga Odinga, the leader of Luo politics, who had very strong Marxist tendencies[29]. Other leaders that were elected to the Legco included Taita Towett, another PhD holder (Rift Valley), Ronald Ngala (Coast Province) and Daniel arap Moi (already a Legco member since 1955).

It is important to mention that a central strategy to ensuring compliance of the constitutionalists was removal of the restrictions on the growth of cash crops such as coffee that had been reserved for the European settlers (Leys, 1976) .With the ban on the formation of national political parties still in place, the African elected members had to make do with informal alliances. However, personality clashes and ethnic loyalties diluted their impact within the Legco (Gertzel et al, 1969: 108; Kinyatti, 2008:338)[30]. Despite this, the need for unity became increasingly apparent ahead of the first Lancaster House conference in 1960. The Lancaster House Conferences were a series of conferences that negotiated the constitutional framework and independence of Kenya.

On the 14th of May 1960 the Kenya African National Union was born. KANU was built upon the structure of the old KAU party, but modified slightly in anticipation of the

[28] Alan Lennox-Boyd was the British Colonial Secretary under Harold Macmillan.

[29] Oginga Odinga was the only politician who did not condemn the Mau Mau. Clement Argwings, a Cardiff trained barrister, was widely expected to get a seat in the Legco but he lost the Kamkunji seat to Tom Mboya (Kyle, 1999).

[30] Prior to the formation of KANU and KADU, divisions among the AEMO leaders crystallized in the formation of two parties, namely the Kenya National Party (KNP) and the Kenya Independence Movement (KIM). The former was comprised of Muliro, Moi, Mate, Towett, Nyagah and Ngala (leader), whilst the Mboya, Kiano, Oguda and Odinga group formed the latter party. For more on this early division, see Odinga (2008), Mboya (2008) and Goldworthy (1982).

formation of the East African Federation that sought to unite Tanzania, Kenya and Uganda into one nation. The new party included some of the elected members of the Legco, i.e., Odinga, Mboya, Kiano, and a few other notables such as Njoroge Mungai and James Gichuru, the founding KAU president who became the interim chairman of the party[31]. The efforts to establish a truly nationalist party in terms of the composition of the party leadership were thwarted when on the 25th of June 1960 the Kenya African Democratic Union, KADU, was formed. The formation of KADU was seen as a way of counteracting the perceived Kikuyu-Luo dominance over smaller tribes that would result with the accession to power of KANU in post independent Kenya (Gertzel et al, 1969: 109; Kyle, 1999:118). The prominent members of KADU included Moi, Towett, Ngala (party chairman) and Masinde Muliro, a former KAU member[32]. KADU drew together people from the Kalenjin (Rift Valley Province), Luhya (Western Province), Maasai (Rift Valley) and Giriama (Coastal Province), whilst KANU's membership was also drawn from the Kamba, Embu and Meru, sister tribes of the Kikuyu from the Eastern and Central Provinces, respectively[33]. In their opposition to the more assertive nationalism adopted by KANU, KADU strongly advocated for a federal system of government whereby power would be devolved to the provincial level with a weak central government. KADU also represented the rural farming interest of the African elites who had benefited from the new farming opportunities mentioned earlier.

The settler community, worried about the possible loss of assets, assembled themselves under an outfit called the New Kenya Party and formed an alliance with KADU, where the hopes of carving out a provincial white dominion for themselves were more likely to be accommodated (Kyle, 1999:139). In particular, the settler community was incensed at the idea that a Kenya under majority rule could possibly be led by Jomo Kenyatta, who had been emotively described by the Governor Sir Patrick Renison as 'the leader unto darkness and death' (Kyle, 1999: 114).

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[31] As on a previous occasion 16 years earlier, it was decided that Gichuru would act as the interim leader of KANU, pending the return of Kenyatta who was due for release in 1961.

[32] The key KADU members, Ngala and Moi, had been elected to KANU positions in absentia, as they were both abroad in the United States and Britain, respectively. Upon their arrival, they refused to take up their positions in KANU, as they perceived key positions in the party as being dominated by a Kikuyu-Luo axis.

[33] The Luo were from Nyanza Province, located in Western Kenya on the shores of Lake Victoria.

KANU for its part was strongly unitarist in its approach as it argued that a federal system of government not only promoted tribalism, but would effectively water down any real gains from independence (Kyle, 1999). Although both parties advocated nationalism, KANU's brand was more "urban oriented" whilst KADU's was "rural oriented" (Gertzel et al, 1969:107).

In the elections that took place in 1961 KANU won resoundingly with a landslide majority of 67.4 percent, compared to KADU's 16.4 percent, in a poll contest that saw a voter turned of 84 percent (Kyle, 1999: 126). These elections were marked with some confusion though, due to problems of party discipline where official candidates in particular constituencies were not only challenged by fellow party members but were in some cases even defeated by them (ibid.). However, the KANU officials refused to form a government until Kenyatta was released. This led to the formation of an interim government that was constituted mostly of KADU allied to the New Kenya Group, which saw Ngala become the leader of government business, Muliro the minister of commerce, Moi the minister of education and Bernard Mate minister of health and social affairs. The latter had been elected on a KANU ticket but crossed the floor and joined KADU (Kyle, 1999:132).

In August 1961, due to mounting pressure, Kenyatta was released together with his former colleagues in KAU. Upon his release the members of KADU hurriedly formulated constitutional proposals that would create an ethnic federal state or *majimbo*, as it was referred to in Swahili. In November of that year Kenyatta led the KANU delegation to press for a second conference at Lancaster House that would resolve once and for all the burning constitutional question. In the end, a time table for independence was agreed upon and a coalition government was formed between the two parties, with Governor Renison as the head and Kenyatta and Ngala as joint premiers (Kyle, 1999:150). KANU had reluctantly agreed to adopt a federal constitution and to form a transitional government with KADU (Kyle, 1999). The working relationship between the two parties in the coalition was marked by considerable mistrust, as the members of both sides would openly castigate each other at political rallies held in their respective constituencies (Kyle, 1999: 160; Odinga, 1969: 232).

In November 1962, KANU was faced with a miniature crisis in the departure of Paul Ngei, a former KAU colleague and co-detainee of Kenyatta (Gertzel et al, 1969: 110). Ngei formed the African People's Party, citing the reluctance of the Mboya faction of KANU to accord him a local and national leadership role, given his popularity amongst the Kamba community (Gertzel et al 1969: 110; Odinga, 1969: 235)[34]. According to Gertzel et al (1969: 110) and Kyle (1999: 173), Ngei's departure from KANU conveyed an impression of lack of unity within the party and this led to overtures from KADU who felt emboldened to directly challenge KANU's political standing.

Unlike KADU whose members were of one mind, ideologically, KANU struggled to reconcile the pro-western and the pro-eastern wings in its leadership[35]. The party also continued to suffer from serious problems of party discipline, as Odinga (1969) would recall. This struggle would later have far reaching implications for political pluralism in the aftermath of Kenya's independence. KADU had intimated that the armed forces during this period were dominated by the Kalenjin and KANU should not rely on its political supremacy as the basis of its power (Kinyatti, 2008: 356; Kyle, 1999: 138).

Despite this, KANU went on to win the elections of May 1963 and on the 1st of June, Kenya was granted self-rule, with Jomo Kenyatta as Kenya's first African Prime Minister. Full independence was granted on December 12th 1963. Kenya would become a republic a year later, with Kenyatta presiding as president of a de-facto one party state.

3.4. Harambee: KANU under Kenyatta, 1963-1978

The transformation of Kenya from a multiparty system to a one party state was a gradual process (Widener, 1993). Although KANU at the time of independence was viewed with some suspicion, a series of events transpired that had the effect of minimizing the perception of it as a hazard to Kenya.

As mentioned earlier, in the run up to independence, apprehension had been high amongst the settlers at the prospect of an independent Kenya led by Kenyatta. At independence both parties accepted a federal constitution that would see power devolved

[34] Attempts by the Mboya group to side-line Ngei signified a desire by the moderates in KANU to curtail the influence of the radicals in the party at the branch level.

[35] Odinga (2008) recounts that when both KANU and KADU sent delegations to meet Kenyatta in Marlal, Moi is said to have retorted that KANU lacked discipline after Kenyatta had tried to persuade the two parties to unite.

to the regions (Kyle, 1999; Kinyatti; 2008; Odinga, 1969). At the heart of this were fears of Kikuyu-Luo dominance by the smaller tribes that formed the membership of KADU, on the one hand, and settler fears about Kenyatta on the other. The fears about Kenyatta stemmed from the idea that given his historical 'association' with the Mau Mau, he would in fact go ahead and create a constitutional order similar to one that had been proposed by the Kenya Land Freedom Army back in 1953.

However, according to Kinyatti (2008: 358) an agreement between KANU, KADU and the British in the aftermath of the Lancaster House conferences to 'continue to suppress' the Mau Mau movement and eventually outlaw it went a long way to assuaging the fears of the settlers. In addition, 'evidence' of Kenyatta's 'rehabilitation' through his first public addresses as prime minister also did much to wither opposition to the new KANU administration (Atieno-Odhiambo, 2004: 176; Kyle, 1999: 179). Notable among these speeches was his independence address, in which, according to Odinga (1969: 253) and Kinyatti (2008: 363), Kenyatta did not acknowledge the role of the Mau Mau fighters in the struggle for independence. His now famous 'Forgive and Forget' speech given to white settlers in Nakuru on August 12th 1963 assured the latter of the protection of their commercial interests (cf. Blundell, 1964; Blundell, 1994)[36].

The handling of the land question in Kenya between 1960 and 1964 was also central to KANU's acceptability amongst the departing colonialists. The changes that took place in land tenure in the Highlands were not designed to address the problems of landlessness of the squatters, but were a means of "diluting the bad impression" of inequitable and discriminatory land ownership between blacks and whites (Kyle, 1999: 152). The main aim of these changes in tenure was to provide farming opportunities to Kenya's burgeoning African middle class (Leys, 1976; Kyle 1999: 153).

These initiatives were critical in minimizing opposition to KANU, despite the implementation of measures that systematically dismantled the Federal infrastructure of the state, a move which threatened KADU (Kinyatti, 2008: 374). The apparent resolution of the contentious land questions seemed to increase tensions within KANU, but closed those between it and KADU, which eventually dissolved when KADU

[36] To get a full appreciation of the change in perception among white settlers in Kenya, see Clyde Sanger's article "The Transformation of Jomo Kenyatta" (Sanger,1966)

members of parliament crossed the floor to join KANU on the 10th of November 1964 (Kinyatti, 2008: 373; Gertzel et al, 1969).

Whilst the dissolution of KADU has been perceived as a purely voluntary exercise on the part of its members, it is more likely that a withdrawal of funding, coupled with direct pressure from the British, were the main causes (Kinyatti, 2008: 373). Kyle (1999: 192) states that in 1962 the last Governor-General of Kenya, Malcolm Macdonald, was of the belief that multi-party democracy in Kenya would not last because 'it was not an African concept' (Kyle, 1999). The dissolution of KADU removed all restraints and paved the way for KANU to become a one republic with a distinctly unitary character.

3.4.1. Consolidation of power and the Cold War

With the dissolution of KADU complete, the leadership was left free to consolidate power, which it began almost immediately. However, this was not done without much resistance. In opposition to World Bank and British funded schemes that saw Kenya secure loans and grants with which to compensate those settlers willing to sell their land under a willing buyer willing seller scheme, Kaggia resigned his job in government as parliamentary secretary in the Ministry of Education (Odinga, 1969: 268; IED, 1998:25). Kaggia's action was in protest against this government policy, which had neither been discussed nor agreed upon at the party level. The personalization of power by the presidency and the exclusion of the rank and file party members in KANU was also made apparent through a speech that Kenyatta delivered at a KANU public rally where he warned Kaggia, 'Kaggia, I fought the colonialists with all my strength and if you or any other African wants to fight me let him try' (Kinyatti, 2008: 375). The resignation of Kaggia was a precursor to the ideological battles that would occur within the party.

3.4.2. African socialism as the death of ideology

Although in late 1964 KANU was the only political party, it failed to transform itself into an authentic mass party capable of articulating the aspirations of the people it sought to represent (Widener, 1993). It was never able to become a fully centralized robust and effective party (Bienen, 1974:72; Odinga, 1969:247). This is a fact that was recognized by Oginga Odinga:

> Since the formation of KANU in 1960, during the general elections of 1961 and 1963 we had been pursued by the devils of personality rivalry, tribal allegiance and the undermining of party discipline (Odinga, 1969:270).

Attempts to strengthen the party were made by Oginga Odinga and Pio Gama Pinto in 1964 with the formation of the Lumumba Institute. The institute sought to train recruits and create a dedicated class of party cadres (Odinga, 1969; Ngweno, 2007). This was supported by Kenyatta, who agreed that the institute would be a school that would 'define, teach and popularize African socialism in the context of universally accepted principles and practices of socialism to instil the spirit of *harambee*, nationalism and patriotism' (Odinga, 1969:271). Oginga Odinga and Pinto received funds from the Soviet Union to finance the institute, and Kenyatta himself became the institute's patron, although Mboya stated that he [Kenyatta] was a co-trustee.

However, these plans were opposed by the conservative Mboya faction of the party (Odinga, 1969: 271) and a decision was taken to close the Institute. Although Kenyatta was the president of the party, he did not reverse the decision to close the institute. According to Ngweno (2007), although Kenyatta was the patron of the organization, he together with Tom Mboya, Charles Njonjo (Attorney General) and Mbiyu Koinange (Minister for Internal Security) were horrified to discover that the institute had been teaching scientific socialism and communism[37]. Mboya's strong capitalist links were thought to be quite impressive. In 1959 he had successfully organized a series of airlifts that saw many Kenyans travel to the United States for university training (Goldsworthy, 1982). He had been able to do this not only through his connections with the International Confederation of Free Trade Unions, but also through his close connections with the then USA presidential aspirant John F. Kennedy (Kyle, 1999; Kenya National Commission on Human Rights, 2006: 10). Mboya was known as a brilliant strategist superior to the older and better educated members of his faction.

The 'radical' wing of the party that was led by Oginga Odinga, with Bildad Kaggia, Pio Gama Pinto, Fred Kubai, Kungu Karumba, Achieng Oneko, Dennis Akumu and Joe Murumbi, who considered themselves as the representatives of the masses (Kinyatti,

[37] According to Maina wa Kinyatti, Kenyatta's apparent disdain for Marxism-Leninism can be attributed to what he refers to as the Marlal Compromise. He argues that in exchange for release, Kenyatta was induced to sign a statement renouncing the Mau Mau, communism and his stance on reclamation of land that has been appropriated by European Settlers (Kinyatti, 2008: 351-352).

2008). Having been unable to influence the policies concerning land redistribution that did not resolve the serious problem of landlessness, they sought to strengthen the party and hence make the government more accountable.

The introduction of what would be known as 'Sessional Paper No. 10 on African Socialism and Its Application to Planning in Kenya' by the Mboya faction of the party effectively brought to an end *all* ideological debates within KANU (Atterwood, 1964; Kinyatti, 2008: 379). The document essentially asserted that the country practiced neither Western capitalism nor Eastern socialism, in keeping with its non-aligned stance and had chosen to practice 'African Socialism'. Despite its assertion to the contrary, African Socialism was essentially a diluted version of western capitalism (see Odinga, 1969: 301, 302). The assassination of Pinto (Oginga Odinga's chief strategist) in 1965 and, thereafter, the abolition of the post of vice-president of KANU (a post held by Odinga) at the Limuru Conference of March 1966 prompted Odinga's resignation from government along with Kaggia and Munyua Waiyaki[38] (Gertzel et al, 1969: 142; Kyle, 1999:200).

Even in the aftermath of the Limuru conference in March 1966, which saw the Odinga faction leave KANU, questions were still being asked by backbenchers as to what the exact relationship was between the party and the government. In one instance when an MP had asked this question, the Assistant Minister of State in the President's Office noted that there was no need for any coordination between the party and the government. He declared, "It is considered that all party affairs be dealt with through party machinery as required by the KANU constitution" (*Hansard,* February 3rd 1966: 476). He went further to say:

> As regards the coordinating relationship between the party and government, the house should note the party and government organizations have a continuing relationship, as for instance His Excellency the president is also the president of the party. In addition, the vice president and the general secretary and treasurer of the party are also ministers of the government (ibid.)[39].

[38] Waiyaki withdrew his resignation and returned to the government side.

[39] During a debate of Sessional Paper No.10 on *African Socialism and its Application to Kenya*, May 7th 1965, Tom Mboya himself, in a casual manner, stated that "KANU exists so long as the people who made KANU and leading (sic) KANU as a party exist" (*Hansard,* May 7th 1965: 1975-1976).

The statement above is a clear illustration of the vague relationship that the party had with the government beyond the top party members also being members of the government. It appears that after the ideological battles, there was no clear direction for the party to take, in spite of Sessional Paper No 10.

3.4.3. The Kenyatta Factor

Although Kenyatta himself was not at the forefront of the ideological battles, his support was critical in the efforts that eventually killed off the voice of the left within the party (Widner, 1993: 32). However, it was curious that Kenyatta sided with the Mboya faction, considering that he himself was a co-trustee in the Lumumba Institute and that he had also been of the opinion that the institute would strengthen the party. It was even more curious considering that Kenyatta was also aware of Oginga Odinga's connections with the Soviet Bloc and China at the time he accepted the position as a co-trustee, a fact recalled by Odinga (Odinga, 1969:278). Widner (1993:31) states that due to the party's congressional and semi-corporatist nature, Kenyatta was reluctant to 'force competing interests for fear that it would cause instability and the party would fragment' (see also Odinga, 1969: 247). Despite this, Kenyatta's decision to side with the conservatives in KANU as opposed to the radicals may also have been informed by other factors beyond his ambivalence to communism and to enforce his decisions on the party. Bienen (1974: 79) states that Kenyatta's alignment with the Mboya faction was a means of neutralizing Odinga's power, which was perceived to be growing at the time.

In mid-1965, a most unexpected event took place, whereby students at the Lumumba Institute attempted a take-over of KANU. According to some cabinet papers released to the *Daily Nation* newspaper, the party's Secretary-General, Tom Mboya, was to be replaced by a virtual unknown by the name of Wanguhu Ng'anga, a Czechoslovakian trained journalist, who was the institute's deputy principal (*Saturday Nation,* March 13th 2010). The attempted take-over of the institute is said to have taken place on July 16th 1965 (ibid.). If the events above are true, it becomes clearer why Kenyatta's ambivalence towards party politics was further reinforced after 1965.

However, in spite of Kenyatta's ambivalence and detachment from the party he led, he was cognisant of the need to have a strong party for political stability, if only to stave off the growing criticism from the back benches. In a speech delivered at the Limuru party

conference, Kenyatta publicly acknowledged the need to have a strong party with very clear functions:

> In a one party state it is necessary to find a completely different role for the party and its machinery[40]… I believe that the unsatisfactory relationship which is in danger of developing between the party and the various organs of the Government is due largely to the failure to define the role of the party in the emergence of a one-party state (Minogue & Molloy, 1974: 141).

He called for the strengthening of the party centre and party branches, and even suggested that the party employ a full time staff with demonstrable organizational and administrative competency to serve in the central executive and as branch secretaries. These officials were to receive a remuneration equivalent to what they would receive were they government employees or in the private sector. Further, he also observed that full time party apparatchiks could enable the party to contribute towards policy making by conducting research so as to enable the party to 'prepare memoranda on broad policy'. He added that 'in this way the party might be able to pronounce on such issues of policy' (ibid.:143). Despite these pronouncements, the actual activity on the ground showed otherwise. Virtually nothing was heard of the full time party apparatchiks that Kenyatta had talked about (Bienen, 1974; Widener, 1992). It is evident that these calls of party reorganization would come either just before, or soon after dramatic events, usually crises.

It must be noted that at independence Kenya was reliant upon foreign aid, more specifically from Britain and the USA to finance state development programmes (Ley, 1975; Berman, 1990). In the absence of an economically grounded middle class, the government's only source of domestic revenue, through taxation and government borrowing, were the settlers (Leys, 1975; Berman, 1990). It may have been his opinion that rather than let the important matters of state be decided by the party in endless debates, it would be better to take decisions through the executive which had control over information.

Given KANU's fragile structure, Kenyatta chose to use the provincial administration and the apparatus of state to assert his authority (Bienen, 1974:72; Wanyande, 2005: 45;

[40] It is interesting to note that following the formation of KPU, there was a lot more activity in KANU, as members led by Kenyatta himself sought to discredit the party as much as possible and generally create an environment that would be untenable for the new opposition party. Odinga (2008) provides a fair amount of detail on how the party was essentially prevented from expanding.

Widner, 1993: 32). In so doing, he made decisions not so much as the president of KANU, but as the head of government and head of state. This would explain his remarks to Kaggia at the KANU rally in response to his land policies. It is important to recognize that the party leadership of Kenyatta in 1964 was different to that of 1952, when he was the leader of KAU. The Kenyatta of 1964 had the instruments of violence at his disposal, whereas in 1952 the Mau Mau had been in that position, a fact that had appeared to emasculate his leadership at the time (Bienen, 1974:77-78; Kyle, 1999:52). In asserting his power, Kenyatta was careful to keep the functions of administration and those of the party separate (Bienen, 1974:76; Widner, 1993:32). In outlining the relationship that the party would have with the civil-service he noted:

> If ministers are to be able to discharge their responsibilities effectively, it is essential the processes by which they reach their decisions should remain confidential even from the party. If it were to be otherwise the party might give the appearance of taking over the functions of government (Kenyatta cited in Minogue and Molloy, 1974: 144; see also Good, 1968)

The increasing marginalization of the party as a platform for policy formulation to influence government policy was also evident during this period (Odinga, 1969: 270). Wanyande (2005: 45) notes that the marginalization of KANU in the 1960s from the realm of policy making was part of a broader effort to restrict the role of other non-state actors within the governance process. The emergence of the *harambee* culture, strongly advocated by Kenyatta, came to underpin the government's legitimacy in place of party elections at the grassroots (IED, 1998: 25). The establishment of extra-parliamentary associations in which politicians and the public interacted with one another on local development projects further undermined and weakened the party as the people's instrument of accountability.

Harambees were also used as a springboard for aspiring politicians to enter parliament through donations and personal campaigns. It is important to note that although the decision-making process increasingly became centred in the presidency, the legal and security organs of state, Kenyatta allowed criticism of government in the party as long as it was within certain limits and did not challenge the status quo (Bienen, 1974:81; Widner, 1993:56). The absence of a clearly defined relationship between KANU and the government contributed extensively to its decline (Gertzel et al, 1969:124).

Whilst Kenyatta may have been averse to governing through the party apparatus, his attitude towards the formal establishment of a one-party state, despite his public pronouncements against it, is not entirely clear. For reasons that shall be discussed in greater detail in a later section in this chapter, there is some reason to believe that at one point he may have thawed to the idea of formally legislating a one-party state into existence in Kenya.

3.4.4. KPU and the restriction of multiparty politics

Upon his resignation from both KANU and government in 1966, Odinga formed the Kenya People's Union. His resignation alongside his leftist allies was not merely due to their failure to assert their ideological hold on the party, but it also had to do with the diligent efforts to subvert party democracy (Odinga, 1969: 276). Odinga (1969: 271, 298) cites the failure of the party to convene the Governing Council and National Delegates Conference, subversion of local party branches through the arrest of dissenting voices and the nullification of election results of popularly elected candidates, of which Kaggia was a victim, as examples of how party democracy had been undermined. In addition, the new party constitution that was introduced by KANU in 1966 was not adopted by a national delegate's conference but through a parliamentary group (Odinga, 1969: 299).

As a party, KPU portrayed itself as the champion of the people and of democracy in Kenya. KPU advocated for nationalization of the economy and a shift from an agrarian to an industrial economy and comprehensive land redistribution that would see the landless people of Kenya provided with land (Odinga, 1969: 304). It also advocated for the redistribution of wealth, and a revision of the country's foreign policies, which it was argued contributed to neo-colonialism in Kenya.

Attempts to undermine the party were put in motion from the very beginning of its formation (Ajulu, 2000). In 1966, a constitutional amendment was passed retroactively which stipulated that MPs elected on a particular party ticket be required to seek a fresh mandate at the polls upon defection (Gertzel et al, 1969: 149). This triggered what came to be known as the 'little general election', which was actually a string of by-elections (Posner, 2005: 262). While the split of KANU had been mostly ideological, the identification by voters with the different ethnicities of Kenyatta and Odinga respectively ensured that the parties' strength would be determined on the basis of the ethnicity of the leaders (Atieno-Odhiambo, 2004: 177; Posner, 2005: 262). This was shown by the

failure of Kaggia, a Kikuyu, to re-capture his seat in Central Province for which he was now vying under Oginga Odinga's KPU (ibid.).

The response of the government and KANU was that the KPU was a party that aimed to sabotage efforts at building national unity (Gertzel et al, 1969:157). Although intimidation had been crucial in reducing the KPU's influence, the ethnic factor became the main stumbling block to the KPU's drive to establish branches across the country (Kinyatti, 2008). Bienen (1974: 70) also argues that the failure of the party to popularize itself lay in difficulties experienced in trying to reconcile student elites, the landless, the unemployed and the workers. The government had also refused to hold municipal elections in 1968, which would have pitted KANU against KPU in many urban areas (Bienen, 1974: 71).

In 1969, KPU was banned after violence had rocked Kisumu in October when KPU supporters openly jeered and stoned the motorcade of President Kenyatta during his visit[41]. This led to a face to face confrontation between Kenyatta and Odinga, who had been the President's host, in which Kenyatta accused Odinga of inciting his supporters to disrupt peace (Kinyatti, 2008: 408). Odinga was arrested and detained shortly after that (ibid.). The proscription of the KPU combined with the assassination of Tom Mboya in February earlier that year once again demonstrated the influence of ethnicity in political participation.

3.4.5. Mboya's assassination and the attempt at a *de jure* single party system

As mentioned earlier, the calls for KANU's re-organization often came just prior to or after a crisis. With the exception of the initial calls for party organization between 1962 and 1965, the first major call for party reorganization by Kenyatta came in the aftermath of the events of Limuru in March 1966 (Hornsby, 2012). The second major call would come in March 1970, less than a year after the turbulent events of 1969 in which the General-Secretary of the party would be assassinated and the former Vice-President and leader of KPU would be detained and KPU banned. A year after the attempted coup of 1971, there would be more calls for party reorganization by James Gichuru, a key

[41] The assassination of Tom Mboya in February 1969 was perceived by the Luo ethnic community, from which both Odinga and Mboya came, as an attack on their community and a deliberate attempt to marginalize them.

member of the Kiambu ruling elite (Widner, 1992)[42]. However, of these three attempts, only one seems to stand out and mainly because of what it implied.

In April 1970, the president appointed a commission led by Vice-President Daniel arap Moi to reorganize the party. This episode stands out, for no sooner than the committee was established was a curious bill introduced to parliament calling for the government to 'officially recognize KANU as the only party in Kenya' (*Hansard*, May 22nd 1970). In short, these actions when looked at together appeared to form the prelude to the establishment of a *de jure* one-party state. However, it is important to ask if Kenyatta really wished to establish a one-party state?

In his first call for the reorganization of KANU in 1966 he took pains to emphasize that Kenya was a one-party state only by 'agreement' and that 'There is nothing in the law of the land to prevent new parties being formed' (Kenyatta, 1966 cited in Minogue and Molloy, 1974: 141). So what changed ?

There is a high probability that a formal one-party state would have brought more attention to the manner in which the party was actually functioning, i.e. its policies, national elections etc., and most probably would have led to more debate in the party and possibly to intense battles within. Kenyatta probably may have recognized that there were others in the party who probably would have been better able to manage it. Considering the fact that he almost lost leadership at one time in KAU to Kaggia's faction, it clearly seems that he was in no mood to entertain active party politics, with the likes of Mboya, an astute organizer and highly shrewd political operator, around. Kenyatta had no illusions that Mboya hoped to succeed him upon his demise or incapacitation, whichever came first.

[42] In April 1971, a man by the name of Joseph Daniel Owino had sought to stage a coup against the Kenyatta Government for what was perceived to be the various political murders that had taken place and corruption. However, the plot was discovered when Owino, having approached President Nyerere in neighbouring Tanzania, was promptly arrested and returned to Kenya where he was duly interrogated and asked to reveal his co-conspirators. In the testimony that followed, the involvement of Major-General Joseph Ndolo, Ouma Muga and Yatta MP Gideon Mutiso was revealed. The testimony provided by Mutiso also implicated the newly installed Chief Justice, Kitili Mwendwa. Mwendwa was forced to resign whilst Ndolo's post of Chief of General Staff was abolished and he was forced to go into retirement. For more on this, see http://www.nation.co.ke/News/Family-falls-apart-after-Kitilis-death-/-/1056/1009510/-/1qse0nz/-/index.html (accessed on 19/03/2013).

After having successfully engineered the plot that saw Odinga leave KANU, Mboya's political acumen became apparent to all members of the party. Although in 1966 Moi had been appointed vice-president, Mboya was generally perceived to be the most obvious contender in the succession to an ageing Kenyatta. In highlighting Mboya's strong leadership qualities, Blundell (1964) is confounded by the reason why Mboya did not take the opportunity to snatch the reins of power in KANU in early 1961 prior to Kenyatta' release.

Mboya had been the architect of many branch coups in the party and had been very adept at it. In his capacity as General-Secretary of the party, Mboya oversaw the re-organization of a number of branches in 1965 following the entry of former KADU members into the party (Good, 1968; Goldworthy, 1982). Mboya seemed keen to delay party elections or to call for meetings of the party executive, the governing council and party conference until key allies were firmly planted in strategic branches. Goldworthy notes that 'formal control of the Branch offices was key to the nomination of national delegates' (Goldsworthy, 1982: 241).

It seems that Kenyatta may have been reluctant to strengthen the party organization whilst Odinga and Mboya were in the picture. The branch coups that were subsequently engineered by Charles Njonjo, a one time Mboya ally, between 1966 and 1969 were carried out with the single aim of reducing Mboya's strong influence in the party. Once Odinga was out and Mboya dead, Kenyatta did signal a move towards a stronger party organization and made the first step in what appeared to be the formal establishment of a one-party state. James Njiru introduced legislation that sought to 'officially recognize' the "fact that Kenya had only one political party", in addition to strengthening the party (*Hansard*, May 22nd 1970). However, this attempt at a one-party state was singularly rejected by vocal back-benchers.

Despite the fact that Kenyatta consistently stated that he would not formally establish a one-party state, his actions after 1970 appear to indicate otherwise. It should not be forgotten that Njiru's motion was introduced shortly after a re-organization commission appointed by the President had begun its work. It may not be known for sure whether Njiru, an obscure politician from Mount Kenya and a political neophyte, was the real

author of the bill or if the real authors were other members within the immediate Kenyatta clique. However, that a bill that significant was allowed in the House in the first place suggests that at the very least Kenyatta and his inner court were aware of the bill before-hand, if not the real authors of the bill[43]. The fact that Njiru would team up with James Gichuru, a member of the Kiambu court in another call to revive the party in 1973 is itself quite telling and certainly raises suspicions of possible Kiambu origins (Widner, 1993). Another curious point of note is the reaction and the subsequent attempt by the mover of the motion to deny that the bill sought to introduce a one-party state. Although the commission appointed by the president went on even after Njiru's motion failed, observers have noted the failure of the party's National Executive Committee to implement the findings of the commission's investigation, which would have reorganized the party. It is plausible that the real intention of Njiru's motion was to make Kenya a *de jure* one party state and not just to strengthen the party, as a comment by Burudi Nabwera, MP for Lugari, implied:

> It is my feeling Mr Deputy Speaker Sir that although the mover of the motion tried to dodge the real issue (sic) that this house wants to make it clear to the country and to the world at large that we in Kenya are not prepared to legislate for a one-party system (*Hansard, May 22nd 1970*: 1036).

Jean-Marie Seroney's amendments to the bill would have also seen the clear separation between the government and the party, as Ministers would be required to relinquish their positions in the party (ibid.: 1039). Since the Njiru Bill lacked government backing, as senior cabinet figures were notably absent, this failure would allow the head of state to save face. However, had the bill passed, there is no reason to believe that Kenyatta would not have assented to it. Had he done so, it is likely that in the process KANU would have been 'strengthened' in such as way so as to suit the interests of those who stood to benefit from it.

There are number of possible reasons as to why the Njiru Bill failed. Despite all appearances that the regime had fully consolidated itself, there was still a significant level of disillusionment if not disenchantment with the direction that the regime itself had

[43] Although it cannot be known for sure whether Kenyatta did actually change his mind on the issue of formally introducing a one-party state, certainly the behaviour of those within his inner circle pointed to that. It may even be that members of the Kiambu circle were of the belief that a one-party state would be desirable in so far as it would allow them to lock out both real and potential rivals.

taken. It must not be forgotten that this motion came in the aftermath of the Mboya assassination in July of the previous year and Odinga's detention in October that same year. The Kisumu incident, in which Kenyatta and Odinga had had a very public showdown, had resulted in the banning of Kenya's only other party, the KPU[44]. This incident was sure to have left a bitter taste in the mouths of a number of party members, particularly those from outside Kenyatta's ethnic group and its allies. The reactions by some members of parliament shed some light on people's antipathies towards the leadership of the party and the government in general:

> Mr Deputy Speaker I sometimes wonder when I see these honourable members and other members of the party rising to speak as if they owned KANU as a private property (sic)… The trouble with KANU is that we are not properly organized and the people who have been responsible for letting the party go to pieces now want to devise ways of keeping themselves in power (Burudi Nabwera speaking in parliament, *Hansard,* May 22nd 1970:1036).

A contribution by Eric Bommett was even more vehement in its castigation of the bill:

> No Mr. Deputy Speaker Sir this is what some of us will not accept because this country should be free. Sir even if we were to have 50 parties I think this would be alright, if it is the wish of the people to have 50 parties, I think we should have 50 parties (ibid.: 1035)

In addition, J. Araru asserted:

> How can you expect us to unite when KANU is not operating? You can only tell people to unite under one political party. But here we are being asked to unite just in a vacuum… Therefore Mr Speaker anyone who wants unity in this country the first step they must take is to organize the party. Let him organize the party and let the party have more say in the affairs of this country not leave it to the civil servants and provincial commissioners who are now becoming small kings in the provinces.

This apparent disenchantment was viewed by some to have been sufficient enough to warrant the attempted coup of 1971 (Robertson, 2013). These sentiments, which clearly expressed a great deal of disenchantment, must have had a sobering effect on the regime.

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[44] On the 25th of October 1969, Kenyatta arrived in Kisumu to open the New Nyanza General Hospital, also known as the 'Russian Hospital', as it was built from funds provided by the Soviet Union Government. It is reported that at the opening ceremony placards were held by rowdy youths amidst shouts from the audience demanding, '*Tunataka Mboya! Tunataka Argwings!'* (We want Mboya! We want Argwings!). Tom Mboya had been assassinated on July 5th that year and Argwings Khodek had died in a mysterious accident, although witnesses present at the time of the accident and Khodek's own words prior to his death highlighted a loud bang, suggesting he had been shot. In all this commotion, a visibly angry Kenyatta castigated Odinga, his host, telling him that had the latter not been his friend he would have crushed him like maize flower. As the President left after the ceremony, his convoy was attacked and in response his Presidential Protection Unit opened fire, killing 20 people. Following this incident, the chalice that had been the Kenyan nation was poisoned (see *The Star,* October 26th 2012).

The dramatic elections of 1969 were yet another reason behind the rejection of the attempt to legislate for a one-party state. These elections saw some establishment favourites dropped and many 'dark horses' and other personages otherwise unknown to the regime enter the parliament for the first time. Some of these new entrants would effectively bolster the ranks of the vocal Lancaster veterans already present in the House. Among those independent minded MPs who entered the house were Bungoma MP Elijah Mwangale and Mark Mwithaga, Nakuru Town MP. The Third Parliament would prove to be one of the most assertive in the History of independent Kenya's legislative assembly. Despite key changes in electoral laws that saw candidates paired with the party president for the first time on the ballot, MPs were still keen to demonstrate a sense of independence from the regime. One MP, George Nthenge, actually complained that the party was in such a terrible state and that since approximately two thirds of the house was filled with rookie MPs, it was clear that the new state of affairs was an indictment against the ruling party and the government:

> I was just going to mention Mr Deputy Speaker that recently we had a General Election and as a result this house has 75 percent of new members. This is to show that the people want changes and therefore we should never have one officer or officers never being changed (*Hansard,* May 22nd 1970: 1040).

In the face of such vehement opposition, the Kenyatta inner circle probably figured correctly that it would be foolhardy or even perilous to ignore the mood in parliament and the country at large by legislating into existence the one party state. However one fact, very often forgotten, regarding the fiasco of the Njiru Bill is that information regarding the bill found its way to media houses shortly before the bill was about to be debated. Although Njiru had given notice in parliament of his intention to introduce his bill on May 11th, some 11 days before the debate itself, the media made quite a hullabaloo about the bill before hand (*Hansard,* May 22nd 1970: 1026). The manner in which the bill was depicted in the media suggested that information had been leaked by an individual or individuals who did not want it to go ahead.

It had been widely rumored that an inner circle close to the President that consisted of Mbiyu Koinange, Charles Njonjo and Njoroge Mungai (Kenyatta's nephew who doubled as both Minister of Defence and physician to the President), also known as the 'Kiambu

Mafia'[45], had taken a solemn oath at the River Chania or at Kenyatta's home in Gatundu that the presidency would never leave the 'house of Mumbi' [46] (Atieno-Odhiambo, 2004: 178; Muigai, 2004: 213; Ochieng, 1995: 102).

The death of Tom Mboya, coupled with the failure of the Njiru Bill in 1970, it could be argued, mark an important critical juncture regarding the path that party politics in the Kenyatta era took. Mboya's assassination may have initially prompted members of the Kiambu elite to believe that with Mboya out of the way, party capture would be within their grasp. Ironically, Mboya's assassination would precipitate a set of events that would see the Kiambu elite exclude the party from the realm of governance in the country.

As mentioned earlier, the 1969 elections saw many 'dark horses' brought to parliament, some of whom would be amongst the government's most vocal critics. The disillusionment with the regime would be evident in the tenacity with which new backbenchers tried to block all controversial pieces of legislation. Subsequently, failure of the Njiru Bill may have signalled to the governing Kiambu elite and other allied communities in KANU that the party could not be entrusted to look after their interests so long as they could not exercise absolute control over it.

Muigai (2004: 215) states that the emergence of the Gikuyu[47], Embu and Meru Association (GEMA) in the 1970s was a clear indication that KANU was no longer an appropriate vehicle for protecting Kikuyu interests. The creation of GEMA in 1971 all but marked the complete exclusion of the party from governance in the country. With the marginalization of the party, its role in the recruitment and selection of new party elites had virtually ended. This role had been usurped by the inner circle of Kenyatta's cabinet as power became centralized.

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[45] Kiambu is the district in Central Province where Kenyatta and members of his inner circle originally came from. It is the southern district closest to Nairobi. Central Province is comprised of 7 other districts, namely Nyandarua, Nyeri, Kirinyaga, Maragua, Murang'a and Thika.

[46] Mumbi is thought to be the great female matriarch of the Kikuyu people. The Kikuyu lineage is thought to originate from the union between Gikuyu (patriarch) and Mumbi who was his wife.

[47] The term Gikuyu is also used to denote the Kikuyu.

With the decline in the President's health in the mid-1970s, there arose a movement within GEMA[48] that sought to prevent the automatic succession to the presidency of the then Vice-President Daniel arap Moi, as was the constitutional procedure. As such, these events would be instrumental in establishing the politics of ethnicity, or in Atieno-Odhiambo's words, a 'hegemonic enterprise' (Atieno-Odhiambo, 2004: 178).

The government became increasingly intolerant of dissent and did not hesitate to use force to undermine members of parliament who belonged to KANU. The only serious challenge to the Kenyatta regime came in 1971 with an attempted coup. The state's resort to assassination to silence critics was once again apparent, with the murder of J.M. Kariuki. Kariuki was a popular liberal Kikuyu politician and former Mau Mau fighter who was viewed as a voice of the ordinary people (Muigai, 2004: 214).

Following GEMA's entry into the Kenyan political scene and its abortive attempts to prevent Moi's ascension to the presidency, via constitutional change, it was now clear for all to see that KANU was a pale shadow of what it once was in 1963. Despite the existence of party branches, these were never instrumental in promoting political participation or in articulating demands from the grassroots to the party leadership. They served primarily as springboards from which politicians and political aspirants could become local bosses and become the intermediaries in the clientelist networks that stretched from the presidency to the grassroots. The party at this point was nothing more than a vehicle for elite accommodation up until Kenyatta's death in August 1978 (Widner, 1993: 32).

3.5. Moi and *Nyayo*: 1978-2002

After Kenyatta's death on the 22nd of August 1978, Daniel arap Moi was sworn in as the President of Kenya. According to the constitutional provision on presidential succession, the vice-president would be sworn in as acting president for a period of not more than 90 days following either the death or incapacitation of the president. Elections were to be held immediately after that to decide on the successor. Conflict amongst 'Kiambu Mafia' members which pitted Attorney General Charles Njonjo, who supported Moi, against

[48] GEMA was an association that united the Kikuyu Meru Embu elites and sought to protect their extensive commercial interests by trying to influence government policy. It comprised several senior members in Kenyatta's Cabinet, including Njoroge Mungai, James Gichuru, Mwai Kibaki and Julius Gikonyo Kiano.

Mbiyu Koinange and Njoroge Mungai resulted in Moi's complete accession to the presidency in 1978.

3.5.1. Transformation of the party

KANU under Moi assumed a greater role in the overall governance of the country. After a failed coup attempt in August 1982 by the Air Force, the Moi administration sought to consolidate power. This was achieved by the transformation of the country into a de jure one-party state in which opposition outside the party was effectively criminalized (Wanyande, 2005: 49; Widener, 1993: 33).

It is rather ironic that the Kenyatta regime that had firmly consolidated its power would fail to establish, legally, a single-party system. Whilst Moi did not enjoy the same the high esteem as Kenyatta and had inherited and maintained the Kenyatta state structures until 1983, he would succeed where Kenyatta had failed regarding the issue of the single-party system. The bill formally establishing a one-party state was, remarkably, passed in a single sitting of the Parliament (see *Hansard*, July 1982). So it begs the question as to why Moi succeeded where Kenyatta had failed? Why would a concept that was so abominable to Parliament in 1970 be so easily acceptable to it only twelve years later?

As discussed earlier, two events had made the task of establishing a one-party state quite impossible in 1970 and further in 1973: the assassination of Tom Mboya and the dramatic elections of 1969, by which a very dissentious Third Parliament had taken over the legislature.

According to Widener (1993: 36) the semi-corporate groups that had been present under the KANU of Kenyatta were replaced by multiple informal factions. It was thought that the presence of factions would minimize opposition to state leadership. In tandem with this was the criminalization of ethnic associations such as GEMA that were perceived to be potential focal points of political opposition (Anyang-Nyong'o, 2002: 95; Widener, 1993: 36; Wanyande, 2005: 49). Widner (1993) and Morton (1998) both contend that Moi enjoyed some measure of popularity upon his ascension to power, although it was incomparable to that of his predecessor. They identify his populist style, his pronouncements on his intentions to do away with corruption, smuggling and his release

of political prisoners jailed by his predecessor, as being key points that cemented his regime.

Further, given the apparently collegial nature of his presidency between the 1978 and 1982 (Moi was often seen in the company of Charles Njonjo and G.G. Kariuki as they would also travel with him in the presidential limousine), to some it appeared as a marked break from the past of a presidency that was aloof and somewhat reclusive. Because Moi also went out of his way to rebuild bridges with the Luo ethnic group, as exemplified by Oginga Odinga's rehabilitation and appointment to chair the Cotton and Lint Company, his presidency was viewed by many as one that sought to include all and marginalize none. Given these perceptions of the early years of Moi's presidency, it is difficult to imagine why Moi would want to introduce a one-party state in June 1982.
However, whatever his apparent popularity, Moi was still a leader with arguably less legitimacy and fewer resources at his disposal compared to his predecessor. His success in creating a one party state – which Kenyatta had failed to do – has been attributed to two factors: time and the person of Charles Njonjo.

By the time Moi came to power some prominent personalities had left the political scene: J.M. Kariuki had been dead a good 7 years by the time section 2A which created the one-party state was inserted into the constitution; J.M. Seroney had also died earlier in the year (1982), although it would have been interesting to see if he would have tried to oppose the legislation, considering that his release from detention had been at Moi's intervention. Similarly, the other vocal politician, Martin Shikuku, who had also been a beneficiary of Moi's presidential pardon, did not oppose the president's wishes on this. As if to ensure that he could cause no further trouble, Shikuku was appointed Assistant-Minister in the Office of the President, once more. Others also co-opted were Elijah Mwangale, who made it into cabinet as Minister for Labour. However, the crucial personality who was instrumental in bringing about the one-party state was none other than Charles Njonjo.

Since 1970, a number of important events had occurred. Mbiyu Koinange had lost his Kiambaa parliamentary seat to Njenga Karume – he was also old and, as such, was in no

position to mount an effective challenge to the system[49]. Gichuru at this stage was a non-factor, as he was beleaguered with serious health problems (Ndegwa, 2006). He died less than 2 months after the passing of the one-party state legislation.

Charles Njonjo had over the years managed to usurp a considerable amount of power from the presidency, through the auspices of his office, such that he had what appeared to be a 'parallel' administration (Ndegwa, 2006)[50]. Apart from having brought 'The Change the Constitution Movement' to an end in 1976, Njonjo's position as the attorney-general had afforded him the stature of a Minister in cabinet, but it had also insulated him from the perils of an election. In the 1979 elections, Mungai also did not make it to the cabinet, but Njonjo and some of his men did. Andrew Morton corroborates Ndegwa's views about Njonjo's power by noting that during the early Moi administration there were effectively two centres of power, the official one headed by Moi and another one by Njonjo (Morton, 1998).

Moi's decision to legislate a one party state could also be understood in terms of the alliances that existed within KANU during the succession/transition period. The Mungai faction had made overtures to the Luo community during the "Change the Constitution" period. The likelihood that the Kikuyu and Luo could form an alliance outside of KANU would be nothing short of a governance nightmare for the Moi administration. Although it was not likely that such an alliance would last, the prospect of being dislodged by such an alliance appears to have been strong enough to convince Moi to draw up the one-

[49] Whilst it is popularly believed that Koinange was the most serious obstacle to Moi's succession (See Karimi and Ochieng, 1980; Morton, 1998), there is an alternative view that suggests that Koinange may not have been as powerful as people imagined him to be. It is noted, for instance by Duncan Ndegwa, that once Kenyatta's sharp memory had diminished, Charles Njonjo became quite influential to the point of single-handedly being responsible for the omission of J.M. Kariuki's name from the list of assistant ministers (Ndegwa, 2006; Ahluwalia, 1996; *East African Standard*, October 6th 2003). Similarly, Ahluwalia (1996) cites one incident in which, Kenyatta having corresponded with his counterpart Nyerere, the latter sent an emissary to Kenya to deliver a private message to the former. A few days later when Kenyatta phoned his counterpart to enquire on the status of the message. Nyerere replied that he had dispatched his emissary who had been turned away, upon which Kenyatta is said to have expressed his deep worry about this trend of events.

[50] However, although Ndegwa's depiction of Njonjo may be a reflection of his own misgivings about the latter, there is sufficient evidence to suggest that indeed Njonjo accrued a great deal of power. In one stormy KANU Parliamentary Group meeting in 1969, Njonjo was reported to have publicly denounced Tom Mboya as an American agent in the presence of Kenyatta (*East African Standard*, December 2nd 2003). Under ordinary circumstances, an attorney-general would not have the *locus standi* to challenge what to all intents and purposes was his superior, as Mboya was the Minister of Constitutional Affairs at one point. Furthermore, the fact that this was a party meeting and not a cabinet one accentuates this fact even more.

party state legislation[51]. Further, the economic difficulties that the country was now experiencing in light of the collapse of commodity prices meant that the disillusionment with the regime, which had crept in, was likely to continue rising. Given the experience of open elections in 1969 and 1974, when the Kenyatta regime was more or less consolidated, the inability of the executive to actively prevent independent minded politicians from returning to parliament is also likely to have informed the decision to legislate for the introduction of section 2A in the constitution. Having been the leader of government business, Moi knew all too well how 'troublesome' to his regime an independent minded parliament could be. During his tenure as vice-president, he often had to defend government policy in the house against criticism from backbenchers (Widner, 1993; Branch & Cheeseman, 2006). These experiences, coupled with his peculiar background as a teacher, could also have hardened his already intolerant attitude towards dissent.

If ever there was a period to be described as the 'era of the political party' in Kenya, then 1982-1992 would have to be that period. Although there was only one party during this period, which was anything but democratic, it could still be argued that this is the period when the party as an organization was most prominent. This is so despite the fact that the two decades that followed are noted for the numerous political parties that doted the landscape. This is perhaps the only period when the party had members throughout the country, notwithstanding the fact that ordinary citizens did not have much of a choice in the matter (Widner, 1993). It is was also a period when the party appears to have had a manageable financial situation, not taking into account the fact party dues were collected virtually on an involuntary basis (ibid.).

In the aftermath of the abortive 1982 coup, the party under Moi also became an instrument of surveillance. The powers of surveillance strengthened the party such that, with the exception of those wings of the executive branch that were close to the presidency, the party in a sense was more influential in policy making than the ordinary wings of the executive. Perhaps the clearest illustration of this fact was the announcement by Moi in 1986 that the party was above the government (Meredith, 2005). It is as a result of these changes in party functions that Widener (1993) asserts that

[51] Hornsby (2012) reveals that since the early 1970s Njonjo had developed a serious rivalry with Mungai, who was seen by some quarters in the British political establishment as a possible successor to Kenyatta since Mboya's death.

Kenya was transformed from a country with a single dominant party into what she terms a 'party-state'[52].

The creation of factions in the party was fundamental for the success of power consolidation for the Moi administration. Despite the use of intimidation and political assassination by the Kenyatta regime to assert its authority, the articulation of demands by the different semi-corporate groups within the party was still possible. A key reason for this was that under Kenyatta the opportunities for resource competition by these various interests were not restricted. This had a lot to do with the fact that the Kikuyu, the largest ethnic group in the country and the most dominant group within KANU, was the group to which Kenyatta and Kenya's ruling elite belonged (Widener, 1993). Moi, although vice-president under Kenyatta, was not part of the decision-making process, by virtue of the fact that he was not from the original KANU and not a Kikuyu – he was an outsider.

Moi assumed power at a time when the dominant group in KANU had amassed a lot of wealth and had established a formidable economic power base, GEMA, had extensive networks in industry and agriculture (Kinyatti, 2008). The introduction of factionalism by Moi ensured that he could not only encourage a new set of elites to accumulate capital, but also to form completely new alliances within the party, as and when was necessary. Widener (1993) states that the resort to oppression by the Moi administration, which limited the remaining political space in KANU, was not merely a way of checking organized opposition, but was also a means of avoiding the complex bargaining processes amongst the different semi-corporate groups within the party that had characterized the Kenyatta era[53]. It was thought that with declining economic performance, coupled with demographic pressures and Moi's own attempts to create a capital base amongst his own Kalenjin community, these bargaining processes would be more difficult to sustain and greatly increase the likelihood of a breakaway and the creation of a formal opposition to KANU.

[52] Widner defines a "party state" as one in which a governing party has "lost policy influence and has assumed the role of transmitter and enforcer of policy decisions with executive police powers" (Widner, 1993: 6)

[53] This system of complex bargaining between the groups ensured that competition for supremacy would remain within the party (see Widener, 1993:61).

Widener (1993:131) states that, between 1980 and 1985, political space was systematically eroded, as the licenses required for political association were made very difficult to attain. Unlike Kenyatta, Moi brought the party under the wing of the Office of the President and with it he brought other civil associations such as trade unions (Widner, 1993).

Under Moi several changes were introduced. The party primaries during the Kenyatta era were ingeniously designed to negotiate conflicts within the party and to ensure that no group within the party, with the exception of the 'Kiambu Mafia', would become the base of the party. In contrast, the Moi administration imposed preferred party officials in party branches, as party branches were transformed into mechanisms of social control. The removal of the bargaining process that had been the means of inclusion during the Kenyatta era meant that linkages between the grassroots and the elite were broken (Widner 1993: 158).

The concentration of power within the presidency meant that demands from the grassroots had to be made through clientist networks that originated from the Office of the President. (ibid.). A youth wing was introduced with the sole aim of ensuring social control through surveillance. The close collaboration of the party with the Provincial Administration, which performed thie role of maintaining peace and order, blurred the distinction between party and state (ibid.).

The executive was also in some ways at the forefront of preventing the formation of associations that could potentially be used as proxies for political activity by ensuring the Office for the Registrar of Societies remained under the docket of the Office of the President. Another move that cemented the attachment of the party to the Office of the President was the creation of the Ministry of National Guidance and Political Affairs (ibid.). The sole aim of this ministry, according to Widner (1993: 169), was to ensure the 'mobilization and promotion of KANU'.

Criticism of the government within parliament was muted and the legislature was transformed into a body that seconded presidential bills, in other words a rubber stamp (ibid.). A study conducted by Barkan (1984) revealed that among the political activities carried out by parliamentarians in Kenya in the 1980s the formulation of bills was not

amongst them. However, Bienen (1974: 66) states that KANU still provided a 'vehicle for participation of at least some people'.

3.6. Re-emergence of the Opposition: 1992- 2013

Whilst the party was used as an instrument for consolidating the President's power by reducing the possible sources of opposition, the stringent measures introduced by the party and the administration in trying to control political life had the paradoxical effect of creating opposition where there had previously been none. A constitutional amendment that was rushed through parliament in 1980 granted the president 'emergency powers in peace time' (ibid.). This led to purges of academic institutions, by which lecturers and students alike were arrested and detained without trial. This was not limited to academia, as lawyers, parliamentarians and anyone suspected of engaging in 'subversive' activities was also targeted.

The introduction of the *mlolongo* system (queue-voting) was viewed as the most blatant system of rigging and led to serious dissatisfaction with the one-party system (IED, 1998: 19)[54]. A series of demotions and expulsions and the institution of procedures[55] designed to exclude certain members from the party led to former stalwarts of KANU becoming key agitators for democratic reform in the late 1980s (Nystrom, 2000). The departure of elites from the party was also an indication that the patience to tolerate the excesses of the regime had run out.

The road to opposition politics in Kenya resulted from the inter-play of various factors. The end of the Cold War effectively ended the western strategic support that had propped up the Moi regime in the 1980s and increased international pressure on the government to institute political reforms (Atieno-Odhiambo, 2004: 169; Bratton and van de Walle, 1997: 182). This was partly due to the efforts of prominent personalities such as Raila Odinga and writer Ngugi wa Thiong'o, among others, who fled the country and lobbied European and American governments respectively. Combined with this was the declining capacity of the state to dispense resources through patronage such as land

[54] In the infamous 1988 party elections, voters formed lines behind the ballot box of their preferred candidates and the election results were determined according to the length of the lines.

[55] A new electoral rule that required candidates to acquire 70 percent of the vote in preliminaries before contesting unopposed in the party primaries saw a number of prominent party elites removed from office. The party had become the main means through which politicians and political aspirants could gain access to privileges of office.

(Klopp, 2001). In conjunction with mass accumulation, the exposure of grand corruption also made it increasingly difficult to continue the co-optation exercise of various interests into KANU (Klopp, 2002; Bujra, 2005; Wanyande, 2005).

The assassination of Robert Ouko in 1990, a moderate and independent minded Minister of Foreign Affairs, together with the heavy handed crack down by the government in the wake of the Saba Saba riots that occurred in July that year forced the government to repeal Section 2A of the constitution, which ended the single party era in Kenya. The Saba Saba riots were essentially the result of a government crackdown on a pro-democracy rally at Kamkunji grounds in Nairobi that had been initially called by Kenneth Matiba and Charles Rubia. Although the government had declared the gathering illegal, approximately 6000 people showed up, forcing the riot police to disperse the crowds with force. The crowds responded by hurling stones at the police and civilian vehicles. The action resulted in riots that lasted four days, and left 20 people dead.

The reintroduction of multiparty democracy in Kenya was received with a lot of jubilation. A group calling itself the Forum for Restoration of Democracy (FORD) was formed in May 1991, seven months before the legalization of political parties (Throup and Hornsby, 1998: 77-8). FORD brought together many different diverse actors and interest groups who were all severely disenchanted with Moi's governance style. FORD brought together veterans of Kenyan politics such as Oginga Odinga, Masinde Muliro, Kenneth Matiba, Charles Rubia and Martin Shikuku, who had all been members of KANU under Kenyatta. However, it also included a new crop of reformists such as Raila Odinga, Gibson Kamau Kuria, Kiraitu Murungi, Paul Muite, Peter Anyang Nyong'o, James Orengo and Wangari Mathai, among others, who had had been detained or targeted for arrest at various times by the Moi administration for criticizing the government. FORD advocated for the restoration of civil liberties and human rights that had been suspended under the single party-rule of Moi and also for the revival or the failing agriculture and manufacturing sectors, poverty reduction and employment creation and constitutional overhaul (IED, 1998).

In December 1991, former vice-president Mwai Kibaki resigned from government and founded the Democratic Party of Kenya (DP), an elitist party that was financed by members of the GEMA and former close associates of the late President Kenyatta. DP's key aim was the revival of the economy, with the hope of increasing private investment.

The party was not too concerned with advocating for fundamental constitutional reforms.

Despite the growing momentum of the opposition, in August 1992 FORD split into two factions, due to disagreements between Oginga Odinga and Kenneth Matiba on who would be the torchbearer for the party in the December 1992 elections (IED, 1998: 20; Nystrom, 2000). Both factions were registered separately, with Oginga Odinga leading the original party now called FORD-Kenya, and Kenneth Matiba leading FORD-Asili..

Due to the divisions within the opposition, Moi was able to retain power with 36 percent of the vote, followed by Matiba with 26 percent, Kibaki with 19 percent, and Oginga Odinga with 17 percent (IED, 1998: Nystrom, 2000). In the legislative chamber of 188 seats, KANU secured 100, FORD-Asili and FORD- Kenya both gained 31 seats, whilst DP gained 23 seats (Nystrom, 2000).

Although the split in the opposition vote allowed KANU to carry the day with only 36 percent of the total vote, the failure of these parties to show a respectable performance beyond their regions was due to their inability to form branches across the country (IED, 1998). While this was partly due to ethnic barriers, another important reason was that prior to the legalization of parties in 1991 the Government had introduced a clause within the constitution that prevented the formation of coalitions. The Moi Government had rightly predicted that personality clashes among the key opposition leaders would result in splits.

The election, however, was also characterised by violence, as ethnic clashes perpetrated mostly by informal militias and a few elements of state security apparatus killed thousands of people in the Rift Valley (a Moi stronghold) who were suspected of being opposition supporters or sympathizers (KHRC, 1998; IED, 1998).

After the 1992 elections, both FORD parties experienced further splits (Nystrom, 2000). Following the death of Oginga Odinga in 1994, a power-struggle ensued that pitted Oginga Odinga's son, Raila Odinga, with Oginga's deputy, Michael 'Kijana' Wamalwa, a member of the Luhya ethnic community. Upon his failure to assume control of the party, Raila Odinga left and joined a newly registered party called the National Development Party (NDP), taking with him almost the entire grouping of Luo ethnic community members in FORD-Kenya. The NDP's constitution did not differ very much from that

of FORD-Kenya, except that it explicitly stated that it sought to establish a social democratic state. It however did not specify how this would be achieved (IED, 1998).

Similarly, the split in FORD-Asili in 1997 was also the result of personality clashes between Party Chairman Charles Matiba and his Secretary-General Martin Shikuku, due to the former's increasingly erratic management style (IED, 2008).

The take-over of the Social Democratic Party (SDP) by Apollo Njonjo and Anyang-Nyong'o in 1996 was an attempt to create a robust programmatic party with a fulltime secretariat whose role would be to vet aspirants and to select party officials. The SDP chose Charity Ngilu, a former member of DP as its presidential candidate. Like NDP, the party aimed to introduce a social democratic system. The relaxation of the stiff requirements for political parties saw the registration of at least 33 political parties. However, these parties essentially remained 'brief case' parties, as their national officials were unknown and their participation in the 2007 elections was negligible, bordering on non-existent.

The result of the divisions within the opposition in the 1997 elections was the same as in 1992: Moi once again won the day, this time with 40.64 percent of the vote, giving KANU 107 seats. Kibaki secured 31.49 percent, giving DP 39 seats; Raila got 11.06 percent and NDP 21 seats; Wamalwa, secured 8.40 percent, with 17 seats for FORD-Kenya; Ngilu got 7.81 percent of the vote and her party, SDP, secured 15 seats (Nystrom, 2000). Immediately after the election, Kibaki and Raila jointly condemned the election results, citing widespread irregularities at the polling stations, an uneven political playing field and the use of violence, mostly in the form of ethnic clashes in the Rift Valley and in the Coast provinces (IED, 1998; KHRC, 1997).

KANU had two advantages in that it had access to state resources, and had a dense network of branches throughout the country. Despite this, KANU was forced to form an informal alliance with the NDP in order to have its legislation passed in parliament (ibid.). Pressure from political parties on the government to enact constitutional reforms resulted in the creation of the Inter-Party Parliamentary Group which brought together all political parties to discuss constitutional reforms in 1997. The efforts of political parties in conjunction with civil society organizations such as the Law Society of Kenya, International Chapter of Jurists, and the National Council of Churches of Kenya, were all central to getting the government to establish a Constitutional Review Commission.

In the run up to the general elections of 2002, the National Development Party was 'swallowed' by KANU to form New-KANU. However, at the National Delegates Convention held in May 2002, the party was thrown into confusion when Uhuru Kenyatta, Jomo Kenyatta's son, was unilaterally chosen by President Moi as the New-KANU's presidential flag bearer, as Moi himself was constitutionally barred from seeking another term[56]. Amidst the confusion in New-KANU, Kibaki, Wamalwa and Ngilu, who had been meeting regularly, announced that they had formed the National Alliance Party of Kenya (NAK), an umbrella party composed of DP, FORD-Kenya and Ngilu's new party, the National Party of Kenya (NPK). The departure of Raila Odinga with key officials from KANU, such as the then Vice-President, George Saitoti, resulted in the formation of the Liberal Democratic Party, which eventually joined up with NAK to form the National Rainbow Alliance (NARC). Mwai Kibaki was selected as NARC's presidential candidate. NARC won the elections, with Kibaki garnering 61 percent of the vote, giving him a decisive victory over Uhuru Kenyatta. This effectively brought to an end KANU's hegemonic hold on power.

Despite NARC's dramatic rise to power, it would seem that the mistakes made from some forty years previously had not been learned, because party organization did not improve in the post-KANU era.

It is apparent that despite this historic accomplishment, NARC as a political entity was not going to have a role in government in the way that KANU did during the Nyayo years . This can partially be attributed to the personal traits of Kibaki and also to the new trajectory that party politics in Kenya had taken. Despite Kibaki having been a party founder, which Jomo Kenyatta before him never was, the two men were similar in that neither was really ever a party man at heart. Kibaki's governance style seems to have broadly emulated Kenyatta's, in which technocratic competence was held in high esteem and, as such, would become extremely important in decision-making processes, and not the party. His own comments seem to illustrate this:

[56] It had been widely rumoured that before his death Jomo Kenyatta had promised Moi the presidency on condition that upon his departure from politics, he [Moi] would groom Kenyatta's son, Uhuru, for the presidency. Former cabinet minister and former leader of FORD-People, Simeon Nyachae, was also of the opinion that this gentlemen's agreement influenced Moi's decision in his choice of a successor (information gathered from an interview on November 13th 2010). However, Joseph Kamotho believed that Moi's decision not to allow Saitoti to succeed him was the result of personal differences between the two (information gathered from an interview on 4 November 2010).

> I have at many times, remembered a time when soon after the independence of this country, those of us that were given responsibility in various departments by the founder of this nation, Mzee Jomo Kenyatta, whom we all of us remember very fondly, because when he gave you a job, you got a job… and there was no interference and he would not keep ringing your juniors at night and he would not, not doubt that you are doing what he gave (sic) you to do[57].

The reintroduction of currency bearing Kenyatta's image during Kibaki' presidency was also symbolic of a desire to return to the governance style of the Kenyatta era, at least with regard to competency within the civil service. Thus following the ascension to power of NARC in 2003, executive functions were executed largely without much deference to NARC. Despite the existence of The Summit, which comprised of various influential coalition members, such as the late Vice-President Michael Wamalwa, Raila Odinga, Kalonzo Musyoka, Charity Ngilu, George Saitoti, Moody Awori and President Kibaki himself, the exact influence of the coalition executive committee (The Summit) on government affairs seems to have been largely minimal[58].

Having had a front row seat in the intrigues of party politics in his long political career in KANU and in DP, Kibaki would have been well aware of how the pursuit of party politics could adversely affect efficient functioning of government. As such, negotiating the modalities of party politics was secondary compared to the daunting task that lay ahead of his government. Amongst the main daunting challenges that he had to deal with were: resurrecting the economy; revitalizing state institutions; curbing corruption; and generally restoring the image of Kenya internationally. This is probably best depicted by comments made by Kibaki himself:

> It is not possible to improve agriculture and education when all that people do is to engage in petty politics…It is not bad to talk politics sometimes but we do not stand to gain anything as a nation if we expend all our energies in politicking[59].

This refrain was also picked up by NARC chairperson, Charity Ngilu, who said:

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[57] See documentary titled *Meet Jomo Kenyatta,* available at http://www.youtube.com/watch?v=MaeUMjGTuuA.

[58] Following Kibaki's serious accident on the eve of his election to the presidency, the President was virtually indisposed during the crucial formative months of his administration. Due to the fact that The Summit did not meet since its last formal meeting on December 31st 2002, on account of the ill-health of the President, this state of affairs allowed the close allies of the President from his DP to essentially cordon off State House to other members of the Cabinet (*Saturday Nation*, January 28th 2006).

[59] To view these comments see http://www.statehousekenya.go.ke/news/october04/2004021001.htm [accessed 12/08/2011].

> We were appointed individually by the President and I'm therefore against any minister engaging in politics instead of assisting to fulfill the pledges we made to Kenyans during the elections (*Daily Nation*, December 18th 2003).

Whilst his actions seemed to have reflected this, it also seems in retrospect that to have adopted a largely apolitical outlook on national governance at the expense of party politics may have been unrealistic. For it was not long before party issues were brought to the forefront.

Beyond issues concerning the actual management of NARC lay serious questions concerning what NARC really was. Was it a party or a coalition? Despite NARC's constitution stating that it was a coalition party in which the only parties could be members and not individuals in their personal capacities, the confusion over this persisted. The coalition was increasingly treated as a singular party. This was so despite the existence of a memorandum of understanding that essentially sought to split cabinet positions between the NAK and LDP wings of the coalition on a 50:50 basis.

Perhaps the President's own statements were the most salient illustration concerning this confusion. In December 2003, the President publicly announced that the parties that constituted NARC were 'obsolete' and that they did not exist. He affirmed, 'If you go to the Registrar of Societies today, you will realise that all parties affiliated to NARC no longer exist', (*Daily Nation*, December 30th, 2003)[60]. Two weeks later, the President went on to say "Some prophets of doom have predicted a vicious in-fighting in NARC following this victory. I want to assure you that they will be disappointed." (*Sunday Standard*, January 11th, 2004).

However, following the President's initial statement in which he seemed to unilaterally dissolve all parties constituting NARC, it was difficult to imagine how in-fighting could be avoided. As expected, the reactions to the President's comments on the status of NARC were sharp. Leaders of NARC affiliate parties maintained that there was never any agreement to dissolve the constituent parties at any point in time. The leaders of

[60] Also see the article "Narc Affiliate Parties Obsolete – Kibaki", available at http://www.statehousekenya.go.ke/news/dec03/2003291201.htm [last accessed 21/08/2012].

LDP, in particular, argued that only a delegates party conference could disband the party (*Daily Nation*, January 5th 2004).

The issue of whether to disband or not seems to have stemmed from a meeting of The Summit held in April 2003, during which key NARC leaders had agreed to work together as a team, through what was called the 'Nanyuki Accord'. Speaking in the Parliament, FORD-K MP, Bonny Khalwale, asked whether the exclusion of FORD-K from the list of parties that had given their returns to the Registrar of Societies was not part of the government's scheme to unilaterally dissolve the party. He asked:

> As you have clearly heard the assistant minister has excluded from his list the name of FORD (K). Could he confirm to this house that this is a deliberate effort to arm twist parties so that they can comply with their desire to create monolith party NARC? (*Hansard,* April 5th 2005).

Even the NARC Chairperson, Charity Ngilu, went on to say, 'It is a well known fact that whether we want it or not the NARC government is a coalition of parties that came together in the year 2002' (*Hansard,* March 29th 2007: 1674). Ngilu's statement was significant, considering that she was the NARC Chairperson[61].

In all actuality, the 2002 elections marked another watershed in Kenyan politics. For the first time in Kenya's history there existed a scenario in which the Head of State and Head of Government was neither the Chairman of the ruling party, nor of its top most organ, The Summit. The Summit Chairman was Home Affairs Minister (later Vice-President) Moody Awori. Given this situation, for all intents and purposes Kibaki was really just the first among equals in NARC, rather than its leader. The *Saturday Nation* editor, Emman Omari, commented on this unique dilemma in the following words:

> Problems came when it was realised that the chairman Mr Awori, was a minister, yet he would be expected to control both the President and VP as committee members. (*Saturday Nation,* January 28th 2006).

To quote another commentator's take on the trajectory that party development in Kenya has taken, 'ownership of a political party has nothing to do with position in

[61] It is interesting to note that although when NARC was established, Charity Ngilu was the leader of the National Party of Kenya (NPK), whilst Kibaki was the leader of DP and Wamalwa the leader of FORD-K, she (Ngilu) eventually assumed the position of Chairperson of the coalition party. It is not clear when she resigned her position as the leader of NPK and the party has since not been heard of.

government'[62]. Whilst under the Nyayo system there were feared KANU members such as, David Okiki Amayo, who never rose above the rank of an assistant-minister, the situation had always been that the Head of State also had to be the head of the ruling party. It is with this understanding in mind that the actions of the President can be understood. Despite his personal ambivalence towards party politics, his actions to try to dissolve NARC constituent parties were informed by this understanding of the relationship that the party had with government. Perhaps an even more compelling reason for the attempt to dissolve the constituent parties of NARC lay in the fear of having to face a possibly belligerent parliament. In the event that he could not assemble a credible majority within parliament, the prospects of a gridlock or even a possible vote of no confidence by disgruntled bellicose legislators, was something the President could not discount. However, this attempt, as mentioned previously, was resisted with a great deal of vigour from the constituent parties. It is important to try to understand what informed these fears of a single NARC party without its constituent parties.

It is very likely that quite apart from the fear of being reduced to a mere party member within a monolithic party, the leaders of the individual parties realised that they were better off with their parties as they would be better able to enhance their positions within the NARC coalition, or at the very least to maintain their current positions – even though they were fully cognisant of the fact that no party could win an election alone. In folding up their parties they ran the very high risk of being completely marginalized[63]. Comments by a former LDP Summit member, Otieno Kajwang, illustrated the thinking of some constituent party members: 'Since the MoU was not honoured, what business do we have in having an expanded Summit' (*Daily Nation,* January 5th 2004).

The expansion of the Summit was apparently viewed by some members in the president's inner circle as the first move towards the establishment of a single NARC

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[62] See http://africanonline.blogspot.com/2008/02/why-is-noah-wekesa-so-interested-in.html [accessed on 28/08/2012].

[63] Given their ambitions to succeed Kibaki, who had long been believed to have agreed to run for only one term, these politicians were fearful that they might just end up being clients of other patrons in a new restructured NARC party. It should be noted that, with the exception of Raila Odinga, none of the other party leaders were unassailable in their own regional strongholds. Ngilu at one point even tried to reach out to her erstwhile rival, former LDP member Kalonzo Musyoka (See *Daily Nation,* August 23rd 2007). Similarly, attempts were made to dislodge Musikari Kombo from the party leadership by members of his own party (*Daily Nation,* November 30th 2006). Kombo would go on to lose his own parliamentary seat during the 2007 elections.

party. However, the fear of a single, robust NARC party also stemmed from a fear that history might just repeat itself[64]. Despite the fact that there were new players in the game, the game itself had not changed[65]. The Registrar of Societies still had the authority to register political parties, and was still under the jurisdiction of the Attorney-General, an employee of the state. If there was to be a fallout in this new party, a possibility that was already becoming manifest, there would be no guarantee that the leaders who had folded up their parties would have had an easy time registering new parties if , for whatever reason, they needed to pull out of the coalition.

Further, given the poor fortunes experienced by most of the constituent parties within the coalition, despite being in government, one could only imagine how much more worse the situation could be if these parties were to be out of the government. For unlike KANU, and to an extent LDP, which had wealthy financiers, FORD-K and NPK, led by Musikari Kombo and Charity Ngilu respectively, were not as fortunate. Suffice it to say that NARC did in fact become a single party, but a pale shadow of what it once was as a coalition, because FORD-Kenya and DP extricated themselves from the coalition, and LDP splintered into ODM and ODM-K respectively. What implications did all this confusion have for the governing party?

Given this splintering and transformation of parties, there effectively was no ruling party by the time of Kibaki's re-election bid in 2007, and, for all intents and purposes, there had not been one from 2005 onwards. In spite of this, Kibaki did not officially leave NARC until mid-September 2007, when he launched yet another new party, the Party of National Unity (PNU).

[64] In some ways, history did repeat itself when the NARC coalition got into trouble: the President reached out to the opposition KANU and poached members from there and included them in his Government. This scenario was a re-enactment of an earlier episode in in Kenya's party politics history. When KADU was absorbed into KADU in 1964, this precipitated a fallout in the existing nationalist coalition. In 1966, Oginga Odinga and his allies left KANU. Forty years later, Raila Odinga, Oginga Odinga's son, would do much the same thing with his LDP wing. The difference was that the political climate had changed considerably

[65] See also Hornsby (2012).

3.7. Legacy of the historical periods of party development upon the current political parties

From the perspective of historical institutionalism, a number of characteristics of Kenya's political parties today can be traced back to the political attitudes and practices (of both government and political parties themselves) during different historical periods: from the very early years of KCA and KAU; through the Mau Mau and Kenyatta's *Harambee* years; to Moi's *Nyayo* era.

3.7.1. From KCA to KAU: political organization between 1921 and 1953

The heavy-handed responses to the anti-colonial activity and to dissent(ers) by the colonial government between 1921 and 1953 spawned the equally heavy-handed approach with which the two successive governments handled dissent after independence in 1963. Although the emergence of NARC in 2002 saw an end to unlawful detentions of political activists and opposition politicians, there still lingered an attitude of intolerance towards lawful dissent.

Due the fact that early African political activity began within ethnic welfare associations, such as the KCA, North Kavirondo Central Association and the Taita Hills Association, the relationship between political parties and ethnic welfare associations has continued to the present day. Ethnic welfare associations have become integral entities for mobilization of voters and party supporters alongside political parties. Groups such as the GEMA, KAMATUSA have featured quite prominently in the campaigns of parties such the Democratic Party and KANU.

3.7.2. From Mau Mau to KANU: 1952-1963

In their pursuit to suppress parties that were nationalist in both outlook and orientation, the colonial establishment instituted a system whereby each political party would be restricted to the district level. The restriction of politics to the district level, combined with the deliberate cultivation by the colonial government of district-based politicians after 1955, in essence marked the origins of the regional party-boss model in Kenyan politics. However, at a broader level, the resistance staged by African nationalists and the Mau Mau to colonial rule formed the precursor to resistance struggles against dictatorship in successive decades as new generation of Kenyans took to political organization as a means to challenge the one-party dictatorial rule of the Moi era between 1978 and 2002.

3.7.3. *Harambee*: KANU under Kenyatta, 1963-1978

One of the lasting legacies of the Kenyatta era can be seen in the demobilization of party politics and the strict regulation of the civic-public realm. The net consequence of these actions not only stymied popular participation within political parties, by denying the grassroots party structures a say in national governance, but also effectively closed off all avenues for alternative political activity and mobilization. This had significant ramifications for political parties in later decades as they struggled to establish linkages to various social constituencies within the Kenyan electorate.

3.7.4. Moi and *Nyayo*: 1978-2002

The imprint of the 'Nyayo' era of President Moi upon Kenyan political parties can be observed in a number of ways. One of the main imprints of this era can be seen in the regional/ethnic nature of political parties in Kenya. The deliberate obstruction of opposition parties by the KANU government, in terms of the growth in territorial scope of the former, has become a lasting legacy upon the overall development of political parties in Kenya. Despite the expansion of democratic space in 2003, following the ascension of NARC to power, political parties have struggled to give themselves both a national outlook and presence and to gain substantial support in areas other than their respective regional locales.

3.8. Conclusion

Despite the advance of democracy in Kenya since the end of the one-party system, political parties themselves have not advanced much. Politics in Kenya has remained essentially elitist. This has been the result of years of patronage politics in which ordinary citizens have been excluded from participating in politics, other than at the polls and through protest. The high party membership fees have left ordinary citizens as enthusiastic supporters with no real influence in policy-formulation (IED, 1998). Political parties have also been stifled by what appears to be ethnic boundaries, which have become a major barrier to their institutionalization. Ethnic barriers have been partly attributed to the failure of political parties to establish country-wide branches. Personality clashes and defections have also been very common amongst political parties since the reintroduction of multiparty politics, and these have clouded the actual contribution of parties in the democratization of Kenya.

Despite taking power, members of the constituent parties in the NARC coalition such as FORD-Kenya, NPK, and LDP refused to dissolve themselves and form a single party (Nauman, 2004). This may have arisen out of the fear of domination by the larger ethnic groups represented in the coalition (Chege, 2007:30). The inability to establish a broad nationalist movement has slowly transformed Kenya into a conscociational state, in which the stability of the country has become contingent on formal and informal agreements between ethnic elites that represent the major parties (ibid). This also means that political accountability has been sacrificed at the altar of ethnic balance and harmony.

It is also important to note that despite there being a fairly long history of party politics in Kenya, it could be argued that the real age of partisan politics came after 1992. The post-1992 period, which has also been referred to by some commentators as the 'second liberation'[66], has been a period of much activity with a lot of agitation for constitutional reforms from a broad spectrum of the Kenyan population. The important contribution of civil society to the democratization process in Kenya has often been highlighted and commended.

Although it is evident that political parties did play a role in the democratization process, and although there appears to be more information about the state of political parties currently, there is a need to determine how exactly political parties have impacted the efforts towards democratization during the post-1992 period, considering that the parties themselves have been afflicted by numerous challenges. It is only after this examination that we can hope to get a more comprehensive understanding of the democratization process in Kenya.

[66] The 'Second Liberation' is akin to Huntington's 'Third Wave of Democratization', as the period of democratization in Kenya coincided with the period identified by Huntington.

CHAPTER 4. PARTY ORGANIZATION IN KENYA

'Democracy is inconceivable without organization' (Robert Michels, 2001:19)

4.1. Introduction

A prominent feature in the various publications about political parties in Africa is their skeletal nature. Although parties in most countries are not lacking in quantity, they have been consistently criticized on their quality or lack thereof. African parties have, in particular, been faulted for being highly personalistic, electoralist in nature, and unconcerned with advancing any tangible programmatic or ideological agenda. Furthermore, it has often been observed that African political parties lack any real membership and that these parties are only 'resurrected' in the months or weeks towards elections.

Parties in Kenya have been described as personal instruments of their leaders. Despite the fact that party constitutions lineate fairly complex organizational structures and party organs with defined responsibilities, these structures have been described as being more theoretical than real (Kanyinga, 1998 and 2003; Jonyo and Owuoche, 2004; Oloo, 2010). Since the reintroduction of multi-partyism in 1992, few parties have been able to sustain themselves from one electoral period to another. This phenomenon is even more intriguing when considering the fact that many of the elite actors occupying leadership positions of successive parties are the same.

Another issue also facing Kenyan parties is the absence of internal democracy. Allegations and claims about party leaders handpicking candidates in controversial nominations, and delegates in party conventions and congresses, respectively, have been rife. Whether this is symptomatic of the *founder's syndrome,* or some other related malaise, is subject to much debate and warrants further investigation. However, all these traits illustrate serious flaws in the organizational character of Kenyan parties.

A long standing trend in stasiologist literature has been to write about party system institutionalization (see Huntington, 1965; Dix, 1992; Mainwaring and Scully, 1995; Randall and Svasand, 2002). Similarly, a lot has been written on intra-party democratic culture, or internal coherence (Huntington, 1965; Anderson, 1968 cited in Janda, 1993; Janda, 2005). However, surprisingly little has been written about party organization,

especially organizational complexity. Janda (1993: 186) acknowledges this discrepancy and notes that this approach, namely party institutionalization, has been "criticized" for being analyzed on its own without much regard for other aspects of party organization (c.f. Pierre, 1986). Although there is truth to Randall and Svasand's (2002:12) statement that the process through which parties become institutionalized does not necessarily follow from a party's organizational development, it could also be posited that a party's organizational development is a crucial first step towards this aim. If it fails in this, a political party is likely to remain an ephemeral party', as noted by Janda (1993), or an *ad hoc* entity that contests elections solely on the strength of its top candidate's personality.

Richard Gunther and Larry Diamond note that 'The correlation between the organizational thinness/thickness of the party and the temporal dimension is not accidental' (Gunther and Diamond, 2003: 173). If political parties are to be understood not simply as electoral vehicles, but as vital intermediaries through which the governing and the governed interact, there is need to explore the party organization theme, with the hope of understanding how this shapes the social contract that is established between the body politic and the leaders they elect (Gunther and Diamond, 2003). Parties could be considered as important soapboxes through which popular grievances and aspirations find meaningful expression and political attention. There is a need to understand both their internal and external aspects and how these impact their ability to perform their traditional functions of aggregation, articulation, mobilization, checking government excesses and formulating policy alternatives.

This chapter will seek to answer the following questions:

- What are the origins of political parties in Kenya?
- What types of party organization are found in Kenya and what are their characteristics?
- To what extent do they perform traditional party functions of recruitment, mobilization, socialization, articulation and aggregation and political education?
- Why are parties formed to contest elections abandoned and new parties formed by the same party members, despite the electoral success of the former parties?
- What does party organization say about party institutionalization in Kenya?

In addressing these questions, this chapter looks at the origins of party organization in Kenya, including the internal aspects of parties, such as their organs and structures, as well as the external aspects, such as party finance and legal frameworks of parties.

4.2. Party Type and Organization

As mentioned above, the organizational development of political parties is a crucial first step towards the institutionalization of political parties in general. If political parties develop a robust organizational infrastructure, then it becomes possible for these parties to outlive their founders.

Although it is safe to assume that all parties more or less have similar aims, i.e. recruit members, propagate their ideologies and compete in elections for the sake of capturing office and implementing their programmes and policies, parties actually differ on a number of other levels. These differences may be classified according to their organizational structure, ideological stance, programmatic commitments and whether they are tolerant and pluralistic, hegemonic or proto-hegemonic.

4.2.1. Elite-based parties (caucus)

An elite party or 'caucus' is an 'archaic type of political party' (Duverger, 1990: 37). It may be considered more of a political club, given the fact that it does not have many members, and appears to have no cogent political agenda.. The small numbers can be accounted for by the fact that such parties recruited on the basis of property qualification. These entities did not have an elaborate organizational structure. Although caucus parties may have had established networks country-wide, these were fairly autonomous from each other. Duverger notes that they had "weak collective organization and predominance of individual considerations". He notes that these parties very often operated on an ad-hoc basis, usually during election periods (see also Neumann, 1990).

4.2.2. Mass party

Under the mass party category, Richard Gunther and Larry Diamond (2003) identify class-mass parties, Lenninist parties, nationalist parties, and ultra-nationalist parties. Typically, the membership base of these parties is drawn from the working class (Gunther and Diamond, 2003). According to a manual produced by the Olof Palmer International Centre (OPIC), entitled, *How to Run your Own Party,* the branch is the 'most

important' structure of the party because it constitutes the 'root and foundation' of the party (OPIC, 2010: 12). It goes on to state that 'the stronger this foundation, the stronger the party as a whole is'. (ibid.). Maurice Duverger also emphasizes the importance of the branch by noting that 'the branch is extensive and tries to enrol members, to multiply their number and to increase its total strength' (Duverger, 1990: 39). In essence the branch is the principal entry point for ordinary members. It is also said that the branch members serve as 'best 'ambassadors' of the party since they are able to talk directly to people in the communities' (OPIC, 2010:12). OPIC also states that 'A branch with active members and many activities that reach out to society are a party's best assets' (ibid.: 13). As a result, the branch has more or less become a common feature of almost all political parties.

4.2.2.1 Class-mass parties

Class-mass parties are parties that are specifically based on the working class and, as such, they organize either directly through a network of branches across the country, or through other organizations such as trade unions and civic organizations, or through both (see Duverger, 1990; Gunther and Diamond, 2003). Although, theoretically, the party congress is the supreme organ of decision-making in the class-mass party, the central committee and the political and organizational bureau/secretariat are usually tasked with the role of managing the party's day to day affairs. According to the tenets of *democratic centralism*, the political bureau/secretariat, whose members are elected from the central committee, is charged with the responsibility of making important decisions and policies in the interim, as the party congress may only meet every four or five years[67].

4.2.2.2 Leninist parties

Marxist-Leninist parties are not based on the branch system, but on a system of cells (Gunther and Diamond, 2003). These tend to be vanguard parties, which are governed by elites who are presumed to be the most capable due to their expertise and dedication to party ideals and the party line (ibid.). As a result, discipline and loyalty and strict adherence to party principles are the cornerstone of the party, and these attributes are demanded of all party members. Due to these requirements, recruitment into these

[67] Perhaps due to the infrequency of meetings at the congress level, the central committee and/or the political bureau usually end up exerting greater influence, if not power, over party affairs.

parties is not done on a voluntary basis, but through rigorous selection (ibid.). These parties are proto-hegemonic and seek to dismantle existing institutions.

4.2.2.3. Plural nationalist parties

Plural nationalist parties are similar to class mass parties in that they organize both through branch-based systems and also via ancillary organizations, in particular cultural organizations. However, pluralist nationalist parties differ from class-mass parties in that they do not just mobilize along class lines, but mainly on the basis of a national identity, whereby the presence of a common culture and language are key. Gunther and Diamond (2003) note that these parties more often that not demand some measure of 'territorial governance', either autonomy or full independence. However, they are not ideologically extreme, they are mainly concerned with attaining the reins of power within an existing polity than replacing it entirely with another.

4.2.2.4. Ultra nationalist parties

Unlike plural-nationalist parties, ultra nationalist parties are more extreme, as they profess a right-wing ideology of cultural or racial purity and, as such, they have little or no tolerance for minority groups. It has been noted that these parties are proto-hegemonic, i.e. anti-system (ibid.). Consistent with their anti-system nature, these parties also maintain para-military outfits, given the fact they seek to totally dominate both political and social space with little or no tolerance of any other parties or civic entities, except those that agree to subordinate themselves to the ultra-nationalist party agenda. Given their proto-hegemonic status, they share a number of traits with Marxist-Leninist parties, for instance the importance that they place upon discipline and rigorous selection.

4.2.3. Electoralist parties

On appearance, electoralist parties appear similar to elite parties in the sense that they are organizationally thin, are office-seeking and hence are active mostly during elections and are led by charismatic elites. However, electoralist parties differ from elite parties in a number of ways. To begin with, the latter are considered as having been mainly concerned with individual representation and were demarcated by clientelistic ties (See Weber, 1990; Neumann, 1990; Duverger, 1990; Gunther and Diamond, 2003). Furthermore, elite parties did not appeal to the masses, as they were the preserve of local notables. Elite parties are, in this sense, the predecessors to mass parties. There are three

types of electoralist parties, which don't all have the same features (Gunther and Diamond, 2003).

4.2.3.2. Catch-all parties

Catch-all parties may be described as successors to the mass parties (see Kircheimer, 1990). Although they tend to have mass followings, they could not be considered as mass parties as they typically do not aim to educate the masses and to have them involved in daily routinized tasks of the party at all levels. Catch-all parties seek to maximize the number of votes across class, religious, rural and urban lines. These parties do not articulate any interests in particular; rather they seek to represent as many constituencies as possible (Gunther and Diamond, 2003). As such, these parties can be considered more as parties of *aggregation* than parties of articulation. In order to achieve electoral success, these parties are also heavily reliant on the charisma of their leaders, not only to secure votes, but also to secure resources.

4.2.3.3. Programmatic parties

Programmatic parties have all of the classic hallmarks of electoralist parties. They are thin in organizational infrastructure, are electorally motivated, and also utilize the charisma of the party leader to gain electoral advantage. However, these parties depart from the catch-all party in one key way. Gunther and Diamond (2003) state that these parties differ from the typical electoralist party in that they do actually advocate a particular programmatic agenda. As such, these parties' programmes are not just campaign platforms, but are in effect the tangible business of these parties once in office. Despite this, they still aggregate diverse interests.

4.2.3.4. Personalistic parties

According to Gunther and Diamond (2003), personalistic parties are the most electorally motivated among the different types of electoralist parties. They revolve almost entirely around the personalities of their leaders. Due to the fact that this type of party is very often funded by its party leader, its organizational complexity is not as elaborate as most other parties, since, in Gunther and Diamond's words, '… its *only* [original emphasis] rationale is to provide a vehicle for the leader to win an election and exercise power'. As such, it could be deduced that personalistic parties very likely do not perform other functions such as education, recruitment of members and elites, and only perform the functions of articulation and aggregation to a limited extent.

4.3. Origins and the transformation of party organizations

> A political party comes into existence within a specific, social and technological context that may evolve over time, and this "founding context" can leave a lasting imprint on the basic nature of a party's organization for decades. Parties are a channel of intermediation between political elites and voters, and a particular organizational type (sic) ability to mobilize voters effectively is highly contingent upon the context. (Gunther & Diamond, 2003: 174)

One of the most prominent insights has come from both Max Weber (1990) and Maurice Duverger (1990). Their central arguments on the nature of party organization was that the way a party was organized and the way it behaved had in part to do with the manner in which it originated. Weber posited a gradualist approach towards party development, whereby modern parties transformed from aristocratic parties composed of local notables to professional entities designed to 'capture' newly enfranchised publics, with the coming of universal sufferage[68]. Weber notes that the modern parties are 'children of democracy, mass franchise' and arose out of the 'necessity too woo and organize masses, and develop the utmost unity of direction and the strictest discipline' (Weber, 1990: 35). With the drive to capture the masses, the various party machines that had previously served as the platforms of notables are captured by what Weber describes as 'professional' politicians. Whereas previously most political activity took place within legislatures, where distinct programmes and ideological positions developed, Weber cites a transfer of party control from the legislative politicians to the newly enlisted professional politicians, whose principal aim is to popularise and to increase the membership of the party[69].

He further states that as a consequence of increased membership, parliamentary candidates are chosen not by notables and financial powerbrokers but from the rank and file members. In addition, he notes that those in control of the party machine are the same ones who are able to keep the legislative members in check. He goes on to state that the individual whom the machine selects as their leader becomes the overall party leader above even the parliamentary leader (ibid.).

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[68] Gunther and Diamond (2003: 175) observe that prior to the introduction of universal suffrage, these elite parties typically did not have an extensive organizational infrastructure given that they mostly appealed to men of property, who were small in number and could be easily mobilized. These elite parties typically did not have centralized bureaucracies.

[69] The distinction between legislative and professional politicians arises out of the fact that the legislative politicians are not career politicians and that their positions are more honorary in nature. Professional politicians, i.e. campaign agents, are paid specifically for their duties which are ongoing and not periodic.

Duverger, for his part, explores party origins by focusing on whether the parties were formed internally or externally (Duverger, 1990).[70] His internally formed party corroborates Weber's view of modern party organization that is initially formed as a result of the collusion of legislators in parliament, on a common set of issues. These organizations are thought to attain organizational complexity, in the form of territorial scope and penetration as a result of the extension of suffrage (See Duverger, 1955, cited in Lapalombara and Weiner, 1990: 25-26). Examples of internally created parties are the Conservative and Liberal parties in Britain and the Republican and the Democratic parties in the United States.

Externally created parties, on the other hand, are those parties that were created outside of the legislature and are not so common today. Given that these parties were not formed out of existing political institutions, they tended to be highly centralized, ideologically coherent and disciplined (Lapalombara and Weiner, 1990; see also Duverger, 1955). In addition, it is thought that since these parties were spawned out of extra-parliamentary processes that were previously dominated by the aristocracy, they did not have vested interests within the political and socio-economic institutions in existence (Lapalombara and Weiner, 1990:28). Gunther and Diamond (2003) state that externally created political parties inaugurated the arrival of the *mass* party. Within this party category were communist, socialist and fascist parties that emerged in both Western Europe and Russia.

The emergence of the mass party in Europe took place during a period of great political, economic and social change (Neumann, 1990; Gunther and Diamond, 2003). Otto Kircheimer (1990) notes that the growth of the mass party was broadly a reflection of the sociological transitions across Western Europe that saw societies move from agrarian to industrial societies. It could also be stated that this variation in party types had to with the specific nature of socio-economic change that was taking place in each country. Barrington Moore links the emergence of the different types of political parties to the nature of socio-economic change within different countries. He essentially argues that the development of different political regimes, i.e. communist, socialist, and fascist had

[70] Max Weber's basic premise on the development of party organizations in Western Europe is that they were essentially aristocratic in nature and franchise was based on property qualification. He states that these early parties were active only during elections due to the fact that politics was an "avocation". Typically candidates for parliament in these parties were not elected but selected.

to do with the changing relationship between peasants, landed gentry and the urban bourgeoisie (Moore, 1966). Given the fact that mass parties were not connected to the existing financial institutions, they essentially financed their activities through members' contributions (Duverger, 1990; Lapalombara and Weiner, 1990; Gunther and Diamond, 2003).

Due to the fact that these parties often sought to create a cohesive membership base, they typically put a lot of emphasis on their ideologies and programmes, be they socialist, communist, fascist or religious in nature. As such, these parties tended to be quite active between elections, principally through the dissemination of their ideas. This was done through newspaper publications, recreational activities and regular meetings of party branches. In the case of proto-hegemonic parties, this was achieved mainly through cell meetings and other closed-off forums.

However, the golden age of mass parties came to an end in the aftermath of significant political events. The zenith of ultra-nationalist parties such as the Nationalist Socialist Party (Nazi) in Germany and the Fascist Party in Italy ended when they were banned soon after World War II in 1945. Similarly, Leninist parties of the Comintern were either banned or became obsolete after the collapse of the Berlin Wall in 1990. Other mass parties simply went out of vogue. Due to the polarized political climate that resulted from the ideological struggles of these parties on either side of the left/right spectrum, a particular section of the electorate basically went unrepresented. In addition, the advent of television, through which political elites were able to appeal to mass audiences and communicate their messages directly, greatly weakened the bonds between these parties and the masses.

The decline of mass parties coincided with the rise of what may be termed as electoralist parties. Changes in socio-economic demographics also attenuated the linkages between parties and their members. Increased social mobility and greater living standards in general also lessened the appeals of these parties. These demographic changes also signalled changes in political preferences. The swelling ranks of the middle-classes who had attained relative social security showed a preference for particular issues, such as taxation and public spending, revealing shifts on the left-right continuum towards the centre (Kircheimer, 1966; Guther and Montero, 2003). With the relative decline in party

identification, the electoral market was opened for parties to capture this uncatered for demographic. Electoralist parties, it could be argued, represent post-materialist values[71] , as they seek to garner votes from as many segments of a given population as possible, relying mainly on electoral machines[72]. The decline of party memberships has thus led to the rise of the professional politicians.

However, it is important to note that this particular narrative of party development/transformation is really a reflection of the experience of industrialized democracies and, more particularly, Western Europe. This notion is also captured by Gunther and Diamond:

> It cannot be assumed that typologies based on the characteristics of West European parties in the late nineteenth or early twentieth centuries will be valid for all time even within that single region. The socio-economic context and communication technologies continue to evolve, and these have important implications for the structure, resources, objects and behavioural styles of political parties (Gunther and Diamond, 2003: 190)

4.3.1. Party organization in Africa

In similar fashion to Guenther and Diamond, Gero Erdmann contends that mass party as an ideal is virtually reducible to the experience of the German Social Democratic Party. He says of it:

> [i]ts image is a party with a clear cut ideology, a programme, a paying mass membership, a bureaucratic organization which reaches or builds up from grassroots, democratic participatory structures, close links to ancillary organizations, and a fairly stable electorate. This image or concept of a party is an idealisation based on such parties as the German Social Democratic Party (SPD). It should be clear that by no means all of Western Europe's many parties have displayed these features – let alone the newer parties in new democracies of Eastern Europe and Latin America or the current state of many parties in old democracies, in particular the US (Erdmann, 2007:51).

Similarly, Giovanni Carbone (2007) also acknowledges that typologies of parties that have often been written about describe the characteristics of party organizations that developed in the West and, more specifically, Western Europe (See also Erdmann, 2007).

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[71] Materialist values can be understood as those social values that put emphasis over economic well being and physical security. Conversely, post-materialist values refer to those values that presuppose material well being and security and go on to emphasize other human needs such as social bonds, self-esteem and self-actualization. For more on this see Inglehart (1971 and 1977).

[72] Electoral machines here refers to the organizational apparatus that is employed by the politician, ostensibly for the purposes of the politician's election or re-election, whichever the case may be.

He builds his analysis of African political parties upon Gunther and Diamond's typologies of parties. In that analysis, he focuses on the elite, mass and electoralist parties and evaluates their relevance in the African context. He finds that these party labels are inappropriate for describing the party organizations that have emerged in Africa (Carbone, 2007). He also says that the description of parties that are led by local power barons with clientelistic ties in their communities closely resemble the party of local notables (see Weber, 1990; Duverger, 1990). However, he is quick to note that there are important differences. Unlike the parties of local notables in 19th Century Western Europe, the local notables in Africa often did not have a resource base independent from the state (Carbone, 2007; c.f. Fanon 1962). The resources that these elite parties in Africa accrue are typically derived from their positions in the state structure. As such, he makes the distinction between the two by describing the former as *elite-based parties,* whilst he refers to the latter as *party-based elites.* He also concedes that the latter description is somewhat problematic as it gives credit to party structures (ibid.: 7).

Moreover, Carbone finds fault with the designation of the anti-colonial African parties with mass followings as mass parties. He argues that although liberation movements such as the Guinean Democratic Party (in Guinea Conakry) had a mass following that cut across ethnic lines and generally exhibited other characteristics of mass parties such as popular mobilization and recruitment, they were in fact not mass parties. He contends that after independence, contrary to performing the traditional functions of a mass party, these liberation movements-cum nationalist parties were not able do so due to the fact that the most capable party functionaries were redeployed to state departments and, as such, party organs atrophied (Carbone, 2007; see also Kasfir, 1976; and Zolberg, 1966).

Zolberg argues that with the rise of military regimes and one-party states, the development of healthy party organizations was inhibited by the fact that they did not perform the functions of interest aggregation. He further notes that parties in the 1960s transformed and acted more as transmitters and enforcers of government policy (Zolberg, 1966). Exceptions to this general trend are Tanzania's Chama Cha Mapinduzi (CCM) and Rwanda's Mouvement Révolutionnaire National pour le Dévelopement, both of which are vibrant entities (Carbone, 2007; Okumu, 1979).

Carbone (2007) further notes that Marxist-Leninist parties, with their emphasis on 'scientific socialism' and the selective recruitment of militants, that existed in Mozambique, Angola and to a lesser extent in Ethiopia and Somalia, were more the exception than the rule in Africa. Of nationalism in Africa, he says ' … 'nationalism' [emphasis original] in Africa largely equates with the politicisation of demands put forward by sub-national or ethnic communities' (ibid.: 8). Ultra-nationalist parties, fundamentalist and denominational mass party models respectively are also not relevant in the African context (ibid.). Despite well documented accounts of parties 'coming alive' towards elections and due to the fact that they tend to revolve around political personalities, Carbone argues that the requisite social and technological changes that took place in Kircheimer's (1990) European context did not take place in Africa[73]. Despite conceding that important social, economic and technological changes have taken place on the continent, he maintains that these changes have not been significant enough to precipitate any conscious and meaningful organizational changes in parties (Carbone, 2007).

With the exception of parties such as the African National Congress (ANC) in South Africa, CCM in Tanzania, and perhaps a few others, most parties do not engage in any sustained political mobilization, other than just prior to elections, and few conduct any meaningful recruitment drives (ibid). Whilst it is true that few parties in Africa resemble the ideal types described within their constitutions, it is important to remember that in most countries these parties (re)-emerged after long periods of forced absence. In discussing the characteristics of these parties in new democracies, John Carey and Andrew Reynolds (2007: 266) state that 'Party origins are particularly relevant in young democracies emerging from periods of civil/conflict and/or from non-democratic regimes'. They further state, 'In a new democracy governing parties morph out of organizations present under the old regime and the nature of these organizations potentially shapes the strength of those parties in government'. (ibid: 266). Even though their analysis focuses mainly on parties in government, the same could also be said of parties outside of government.

However, it should also be noted that a large portion of the problems currently facing political parties stems also from external factors. In particular, the political and legal

[73] For more on electoralist parties, also see Panebianco (1982).

environment could be cited as key external factors, as many opposition political parties continue to face harassment from both old and new ruling parties (see Olukoshi, 1998; Carey and Reynolds, 2007). Resource limitations, given the high levels of poverty in many African countries, are also a major impediment towards the organizational development and institutionalization of political parties (Olukoshi, 1998; Abrahamson, 2000; Randall, 2006; IDEA, 2007). Further Randall (2006) also contends that the advent of globalization, more specifically economic globalization, has had very serious implications upon party development in the way of ideological growth. However, this aspect of party development is covered extensively in the chapter on party discipline.

4.4. Party Funding

The renewed interest in political parties in African democratization can be attributed to the high electoral volatility that has come to characterize the majority of democratic systems in Africa (Kuenzi and Lambright, 2005). The literature on political parties in Africa has tended to explain their relative ineffectiveness as being the result of weak structures, poor records of internal democracy, weak ideologies and programmes, ethnic orientation and poor linkages with the broader electorate (see, Chege, 2007; Kuenzi and Lambright, 2005). These attributes have tended to be given as the causes for the short time horizons of political parties in Africa.

Although several initiatives to assist in the development of political parties have been established by the United States Agency for International Development (USAID), the United Nations Development Programme (UNDP), the International Institute for Democracy and Electoral Assistance (IDEA), and the National Democratic Institute (NDI), among others, only a handful of these organizations have investigated extensively the influence that funding has upon political party development and democratic consolidation. The literature concerned with democratic consolidation, which has mostly focused on either party institutionalization or party system institutionalization (see Diamond, 1989; Dix, 1992; Mainwaring and Scully, 1995; Randall and Svasand, 2002; Kuenzi and Lambright, 2005) has only addressed the problem of party funding anecdotally.

The issue of party system institutionalization has also been addressed to a degree by Duverger (1954) in his discussion of how 'first past the post' electoral systems tend to produce stable two-party systems. This is also addressed by Lipset and Rokkhan

(1967:50) in their discussion of 'frozen' party systems, in which they assert that party systems remain stable as long the preferences of the electorate remain fixed, as they correspond to social cleavages in society. However, these views on democratic consolidation assume a situation in which political parties are well resourced. Johanna Birnir highlights this issue in saying, "Due to scant attention paid to the effects of state funding in the current literature, both the absolute role of state funding and the relative importance of state and private funding in party system stabilization are underspecified" (Birnir, 2005: 917). Przeworski et al (1996: 39-35) have argued that the survival of democracy is not contingent upon its resilience over time, but upon the levels of economic development (see also Burnell, 1998: 3). Roger Southall and Geoffrey Wood state that '[t]here has been no systematic treatment of funding of political parties in Africa' (Southall and Wood, 1998: 202).

The important role that funding plays in political party development is well established in the literature on Western political parties and party-systems (Duverger, 1951; Heidenheimer and Langdon, 1968; Pinto-Duschinsky, 1981; Panebianco, 1988; Burnell and Ware, 1998; Mule, 1998; Hopkin, 2004; Cox and Thies, 2000; Birnir, 2005; Katz and Mair, 1995). Burnell (1998: 3) explicitly states that "in order for there to be political competition, resources - particularly money - are essential". In discussing the relationship between party system institutionalization and funding, Birnir also says that 'The expected pattern of party system institutionalization in systems where state support to political parties is negligible or non-existent is party system instability in the short term' (Birnir, 2005: 916). The critical part that finance plays, especially in election campaigns, has also been well documented in the literature of party development of some 'second wave' democratic countries in Europe. In his discussion of Spanish political parties in the post-Franco period, Richard Gillespie illustrates the direct relationship of finance with party expansion (Gillespie, 1998:80). He says:

> Determined to establish a public presence after forty years the parties had to devote substantial resources to the building of infrastructure, although it must be said that most of them opted for a particularly costly model of party building, based on establishing a network of local party headquarters throughout Spain, often with well paid officials (ibid.).

Mule (1998:48) also notes the role that funding has in the transformation of political parties: '…the way in which parties were funded often shaped their structure and policy'. This point is also corroborated by Arthur Schlesinger, as he attributes the changes in

party strategy from policy-seeking to office-seeking in response to changes in the sources of party funding (Schlesinger, 1984: 387-8). Mule also cites the case of how funding transformed cadre parties in mass parties: 'It is important to note that the transformation from cadre to mass party was triggered by the introduction of different types of … funding procedures,' (Mule, 1998:53). In describing the political parties in Germany, Britain and Italy, she highlights the importance of political finance not just in the campaigning period but also between elections: 'The survival and functioning of the party is delicately hinged on the collection of money and so the possibility that this vital activity could be either denied or halted constituted an uncertain situation for party leaders' (Mule, 1998:48).

In recounting the experience of the Brazilian Democratic Movement, PMDB, Maria D'Alva Gil Kinzo says that 40 percent of the party's budget went to meeting the party leaders travelling expenses and publication costs, with the remainder going to the payment of officials. Similarly, Hopkin (2004) notes how the sources and types of funding may also influence the distribution of power within parties. He also describes how party financing in the case of clientelistic parties could help assist in their institutionalization (Hopkin, 2004: 632).

The importance of political party funding in Africa has very often been addressed from the point of view of its relationship with corruption and its impacts if unregulated (see Barkan and Henderson, 1997; Bryan and Baer, 2005; Leys, 1976 ; Mwangi, 2008). Mwangi (2008) highlights the importance of political finance in his discussion of the two grand corruption cases in Kenya, namely Goldenberg and Anglo-Leasing[74]. He states that both scandals were conceived with the sole purpose of expediently 'mobilizing' resources for political parties to contest elections (Mwangi, 2008: 276). Rita Abrahamsen cites the lack of necessary resources, such as money and education, as predominant barriers precluding ordinary people's ability to compete for office (Abrahamsen, 2001). This is also corroborated by Beatrice Onsarigo, who noted from a survey on women's

[74] Goldenberg was a huge scandal that took place during the early 1990s in which a fictitious company named Goldenberg illegally siphoned US$860 million through the fake exports of gold, a mineral resource that is not natural to Kenya, by senior members of the KANU regime. Similarly, Anglo-Leasing was a big scandal centred around the Government's attempt to replace its outdated passport printing system. The tender which would have cost 6 million Euros had it gone to a French firm was given to Anglo-Leasing at a cost of 30 million Euros, which in turn would have outsourced the procurement to the French firm. It was later discovered that Anglo-Leasing was also a fictitious company.

participation in rural western Kenya that the key constraints were lack of resources (funding), coupled with low literacy levels (Onsarigo, 2005). According to Abrahamsen (2000) and Beetham (1992), representative democracy is structured in such a way that the opportunities for wider participation in politics beyond voting are made dependent upon the availability of resources such as time and money, which usually tend to be very unevenly distributed in society.

In his discussion of mass parties, Hopkin (2004) argues that the active participation of ordinary citizens in political parties is motivated by what he terms as 'purposive' and 'solidary' incentives. In looking at the development of many of the mass parties that emerged in the aftermath of World War II in Europe, it should be acknowledged that although the continent was undergoing a process of reconstruction, it could be argued that the social-economy of that continent was at a level that enabled ordinary citizens to contribute to the development of parties through their membership contributions.

4.5. Party Organization in Kenya

> Let us not deceive our people that we have a party which is well run. It is not. Party funds are not well looked after while officials are not elected by the people. Let us have elected officials and not those appointed. (G.G. Karikuki, quoted in the *Daily Nation* August 21st 2003).

Political parties in Kenya, as has been mentioned previously, have been noted for their structural weaknesses. It is important to note that there are internal as well as external factors that affect party organization in Kenya. Since the reintroduction of political pluralism in December 1991, a fair number of political parties have emerged . Although the birth of political parties in the 'Second Liberation' era could be characterized as having been born out of the pro-democratic movement that transformed itself into what appeared to be a mass-based political party, the initial fragmentation of the original FORD into two entities and the appearance of a third political party also disaggregated the mass following of the opposition according to the local popularity of each leader within their respect regions (Grignon, 1994; Ogot, 1994).

As such, other than the ruling party, KANU, no other party was able to produce significant numbers in the elections of 1992 (Kanyinga, 1998; Throup and Hornsby, 1998*)*. Whilst the various party constitutions, i.e. of the Democratic Party of Kenya (DP), FORD-Asili, FORD-Kenya, Kenya Social Congress (KSC), NARC-Kenya, KANU,

Social Democratic Party (SDP), and the National Democratic Party (NDP), outline the various party organs and overall party structures, the rules, regulations and responsibilities of office-holders, it can be said that few of these political parties resemble the characteristics or perform the duties outlined in them. These parties are also riddled with a lot of infighting and confusion..

4.5.1. Party structures

As mentioned earlier, Kenyan parties have displayed serious weaknesses in their structural aspects (See Owuoche and Jonyo, 2004; Mitullah et al, 2005). Although a perusal of the party constitutions [DP, FORD-Asili, NARC-K, KSC and a number of other political parties, both old and new] reveals a hierarchy of party branches and sub-branches based at the district and location/ward levels, respectively, these structures appear fictitious when attempts are made to identify them in reality. Although this researcher did not get the opportunity to venture into rural areas, mere observation of some of the parties that were visited in the capital city, Nairobi, led the researcher to presume that some of these parties could not have much of a presence elsewhere given the nature of their main party headquarters. Visits by this researcher to some party offices also revealed that they were poorly manned, with only the receptionist and security guard being present on some occasions. In visits to the offices of the major parties (ODM, PNU, NARC, NARC-Kenya, KANU), the senior party officials were absent, with the exception of the Forum of Non-parliamentary Parties, where the author managed to speak to the Chairman and Excutive Directors in their offices – although these offices were used for other businesses as well. In all cases the writer had to visit senior party officials in their private offices. Party offices, where they do exist, tend to be located mostly in the urban areas (Kibwana, 1996).

In 1995, Kiraitu Murungi (at the time FORD-K MP for Imenti-South) noted that all political parties in Kenya were in terrible shape. He observed that some parties only existed in the realm of press conferences (*Hansard*, April 12th 1995: 34). He also noted that parties lacked offices, telephone numbers, and structures throughout the country (ibid.: 34). This is also confirmed by the Registrar of Political Parties who notes that, in the case of the smaller parties, no knowledge of their regional and locational offices is

available, as these parties typically tend to only list the details of national officers[75]. Those privileged to have offices outside of Nairobi tend to have them mostly in their regional strongholds and, even then, these offices are poorly staffed (Oloo, 2007).

In most cases, the support of these parties at the grassroots is not organized through party structures, but mostly through patronage networks (Center of Governance and Development, n.d.)[76]. According to Kibwana (1996: 177), '… the only significant presence a party may have in the rural area is a rented office painted in the party's colours'. The only exception to this is KANU, which has had party structures at all levels throughout the country for a long time, by virtue of the fact that it was in power for 40 years. However, these structures now lie dormant (information gathered from interview with KANU Organizing Secretary, Justin Muturi, 11 October, 2010). Mwangi, (2008: 269) notes:

> Parties also lack qualified personnel and adequate financial resources to run them administratively on a daily basis, as well to enable them to perform their functions effectively during electoral and non-electoral periods[77].

So serious is the issue regarding party structures that in the case of some parties this has led to the descriptions of them as 'briefcase parties'[78].

4.5.2. Membership base

Another key challenge that many parties have faced is one of membership. Most parties have been both unable and, to a degree, unwilling to recruit new members (Friederich Ebert Stiftung , 2010). Although parties such as KANU, DP, NARC-K, ODM, ODM-K, to mention a few, have clearly defined categories of membership within their constitutions, such as life membership and ordinary membership, most parties can only account for life members and not ordinary members. Parties have struggled to keep

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[75] Information from interview with Ms Lucy Ndungu, Registrar of Political Parties, November 4th 2010, Anniversary Towers, Nairobi.

[76] Information also gathered from interview with Centre for Accountable Political Finance (CAP), November 24th 2011.

[77] See also Barkan and Henderson (1997: 27-28).

[78] It is necessary to mention that although these parties are conspicuous ironically by the very absence of any tangible structures, in some cases the parties may not be formed with the express intention of developing as organizations and institutions. As such, these parties will be discussed in a later section.

updated member rosters and, in consequence, few, if any, can really account for their members[79].

This is further aggravated by the fact that parties often struggle to enforce regulations regarding the distribution of party cards, as party cards may be bought in bulk by senior party members and distributed for free to perceived party supporters. In his contribution to Parliament on this issue, Kiraitu Murungi recounts an instance when he met an individual who possessed multiple party membership cards because he was of the belief that multipartyism allowed him to be a member of more than one party (*Hansard,* April 12th 1995: 34). Thus, in many situations, it has become difficult to determine who real party members are.

This has resulted in additional burdens for parties, particularly during crucial periods such as party nominations for choosing flag bearers. Cases have been documented of parties being 'infiltrated' by unknown members perceived to belong to other parties. The idea of parties being able to identify 'false' party members is interesting, considering that parties very often do not have updated party membership lists from party branches.

More recently, political parties have been faulted for registering ordinary citizens as party members without their knowledge and consent by using their M-Pesa (mobile banking) details from various M-Pesa outlets (*The Standard*, January 12th 2013). However, the problem of membership is not always restricted to ordinary members of the party, even the so-called 'life' members are also not as entrenched in their respective parties as would be imagined. However, this aspect of party membership is dealt with more comprehensively in the chapter on party discipline. However, it is important to note that these challenges in part have to do with the timing and the manner in which these parties originated after the reintroduction of political pluralism.

4.6. Party Origins

The time between the repeal of Section 2A of the constitution and the 1992 general elections was extremely short, 11 months in total. The available time was simply not enough to erect party structures nationally at all levels that paralleled those of KANU

[79] Information gathered from interview with Rebecca Wahu, Legal Officer at the Registrar of Political Parties, Anniversary Towers, November 4th 2010.

(Owuoche and Jonyo, 2002). The transformation of FORD from a loose-knit pressure organization into a political party almost overnight meant that the internal party organs were also hurriedly constituted. McHenry Jr. states that 'the FORD- Leadership found it challenging to transform a democracy movement into a political party, and they drew upon the only one they were really familiar with: KANU. So FORD ended up reproducing KANU's organizational structure' (McHenry Jr., 2004, cited in Kaiser and Okumu, 2004; Throup and Hornsby, 1998). It is similarly noted by Kibwana (1996: 77) that FORD's constitution and manifesto were modelled on KANU out of expedience to meet the requirements of registration.

However, it could also be argued that the decision by the opposition leaders to replicate KANU's organizational structure was primarily an exercise in caution. There was always the strong likelihood that these parties would be denied registration if they adopted a structure that was radically different from that of KANU. Ever since the closure of the Lumumba Institute in 1965 and the subsequent banning of KPU in 1969, virtually every attempt to register a party with a remotely socialist bent in either structure, substance or both was denied[80]. Similarly, in 1992 Sheik Khalid Balala, a Mombasa based politician of Arab descent, tried to register the Islamic Party of Kenya, but his party was also denied registration. Section 11 susbsections 2 (b) and (c) of The Societies Act (1992) which states:

> (2). The Registrar shall refuse to register a society where
>
> > (a) "he has reasonable cause to believe" that the society has among its objects, or likely to pursue, or be used for any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare of good order in Kenya, or that the interests of peace, welfare of the good order of Kenya would otherwise likely suffer prejudice by reason of the registration of the society or

[80] Probably the closest that Kenya came to having a Marxist Leninist party was in 1964/65 when the Lumumba Institute that was to serve as a training ground for party activists was opened. The institute sought to instil the virtues of scientific socialism in KANU. It was hoped that the Institute would transform KANU into a vanguard party with strict ideological tenets. However, after an attempted take-over of the party in July of 1965 by the Institute's youthful cadres, it was immediately closed down and the Russian and Chinese instructors were summarily deported from Kenya (*The Standard,* July 19th 2004; *Daily Nation,* March 13th 2010). With the exception of the KPU, Oginga Odinga, the eventual leader of FORD-Kenya, and George Anyona had tried to register the Kenya Socialist Alliance in 1982 but were stopped by the legislation of a one-party state. Similarly, Oginga Odinga had tried in early 1991 to register the National Development Party, but was similarly denied, partly because it was perceived to be socialist in orientation (Ogot, 1995; Kinyatti, 2001).

> (b) The Minister has under paragraph (ii) of the proviso to section 4 (1) of this Act, declared it to be a society dangerous to the good government of the republic

Given these stringent conditions that could be applied arbitrarily, it is very plausible that party leaders were apprehensive about registering any socialist oriented or religious parties.

An additional challenge that these parties face is that of their inner workings. Given their 'makeshift' structure, it is clear that there were no tangible mechanisms for conflict resolution and so differences amongst party leaders could not be contained and party splits resulted, as was the case with FORD[81]. The new parties had to rely on the personalities of their founder members in each region as substitutes for party structures, as these traditional units of recruitment and mobilization could not be established in such a short time-frame (Owuoche and Jonyo, 2002)[82]. The manner in which these parties came into existence was haphazard, to say the least.

Whilst the failure to establish robust structures nationally immediately prior to the 1992 general elections is understandable given the reasons mentioned above, these reasons do not explain why parties failed to do so in the 10 year stretch that followed from the time KANU was dislodged from power. What accounted for the failure to develop robust party structures nationally?

The failure to develop party structures during this 10 year period can be linked to a myriad of factors. In the course of this study, it became apparent that a number of recurring factors were responsible for shaping the state of affairs within the parties that were studied. Among these are government interference, scarcity of funds, the dominance of the 'bigmen', and ethnicity. Due to the enduring influence that ethnicity has had in Kenyan politics, it warrants greater attention in a chapter of its own. The other three factors are discussed below.

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[81] FORD split into FORD-K (of Oginga Odinga) and FORD-Asili (of Kenneth Matiba).

[82] Anyang Nyong'o, in his contribution in Parliament on July 21st 1999, also reveals that in the absence of funds to carry out conventional forms of campaigning, ethnic mobilization was the most expedient and least costly in terms of time and money, as bonds would not have to be constructed anew but built upon those that were already in existence (*cf. Hansard*, July 21st 1999: 1483).

4.7. Government Interference: Provincial Administration and Zoning of Political Parties

> … in a KANU zone a *mwananchi* rides on the KANU bus because there is no other bus to ride on. You cannot ask him why he is there. He is there because KANU is there. In Luoland the only bus you can use to come to *bunge* is called FORD (K). So you cannot blame a *mwananchi* from that area for being a FORD (K) because that is the only bus he can ride on. The same applies to areas dominated by FORD-Asili and DP (excerpt from a statement made by former KANU Minister Professor Jonathan Ng'eno, *Hansard,* October 11th 1995: 1951).

Although opposition MPs themselves concede that ethnic and regional mobilization of support is a less costly endeavour when compared to national mobilization, which requires resources and non-ethnic appeals, it should be remembered, however, that this scenario (i.e. limitations in territorial scope and penetration) is not entirely of their making. One of the main constraints that has affected the territorial spread of political parties across the national political landscape in Kenya has been the Provincial Administration. This was particularly true following the return of political pluralism in 1992. A perusal of the main daily newspapers, the *Daily Nation* and the *Standard*, shows numerous headlines and stories of opposition parties and their activities being thwarted and/or obstructed, either by the KANU youth wingers, the Provincial Administration, the Kenya Police or all of them in combination. To a great extent, the inability of the various Kenyan parties to establish a national presence had to do with the 'zoning' activities of the Government. Quite often party leaders and officials ventured into 'KANU Zones' at great peril and amidst threats from senior government officials. One news headline of the *Daily Nation* read, "Do not visit us, opposition told".

DAILY NATION

The newspaper that serves the nation

No. 10801, Nairobi, Monday, August 28, 1995 Price KSh15/00

THE BEST PLACE FOR mazda PARTS CMC NAIROBI & COUNTRYWIDE

Do not visit us, Opposition told

Ministers warn of possible beating

By NATION Team

Two Cabinet Ministers on the weekend issued threats that Opposition activists should not visit their areas and asked their constituents to prepare to deal sternly with such activists.

Local Government Minister William ole Ntimama specifically warned FORD Asili leaders against going to Narok for a meeting planned for September 9. He said the meeting would be a provocation to the Maasai people "just like leaders of the unregistered Safina party did to the people of Nakuru town".

"We do not have any Opposition supporters in Narok and for FORD-A to convene a meeting here is a total provocation of the existing peace," he said.

In Busia, Labour Minister Philip Masinde told local residents to borrow a leaf from the

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Trader killed in Sh4m robbery

By NATION Reporter and Correspondents

A Somali businessman was shot dead in Nairobi over the weekend and robbed of over Sh4 million.

Mr Mohamed Farah Ahmed, 37, a mirror dealer and his cashier Mr Suuari Mohamed, were on Saturday driving from Wilson Airport towards Eastleigh when they were attacked by five gunmen near Bahati Estate.

Police sources said yesterday Mr Ahmed's car was intercepted and bracked by a Toyota saloon car, KAE 727 C, as they turned off Jogoo Road to take Eastleigh First Avenue near the Church Arbor roundbout.

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Algerian gunmen kill 12 passengers

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GOR UPSET

Re-union beats Gor Mahia 3-2 at City Stadium

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Figure 1: Courtesy of the *Daily Nation,* August 24th 1995

On this occasion, the then Minister of Local Government, William ole Ntimama, openly accused FORD-Asili officials of trying to disturb the peace in Narok District. The minister said, "We do not have any opposition supporters in Narok and for FORD-A to convene a meeting here is a total provocation of the existing peace" (*Daily Nation,* August 28th 1995).

Another article was titled, 'Saitoti rally 'bans' Raila'. The statement on 'banning' Raila Odinga from visiting Kajiado District, also a KANU zone, was made following what was described by Assistant Minister Philip Singaru as a secret visit made by the former in the area without the knowledge and, by extension, permission of the latter (*Daily Nation,* June 1st 1993)[83]. Similarly, in another disturbing incident, a plane carrying NDP officials to

[83] A long standing tradition in Kenyan politics is that if a politician visits a constituency other than his own on official government or party business, it is common courtesy to inform the area MP and to invite him or her to the function in question. A failure to do so is often taken as an affront. In 1983 when Elijah Mwangale visited Nyeri District the, home of then Vice-President Kibaki, without the latter's 'permission', Mwangale was refered to as a "political tourist" by the Vice-President. It was widely believed that he (Mwangale) was angling for Kibaki's job in the elections that took place later that year.

Hola in North Eastern Province was almost prevented by the Kenya Police and other authorities from landing at the airstrip (*Hansard*, September 24th 1997: 2525)[84].

Parties not only experienced difficulties trying to organize public meetings, but also in carrying out various fundraising activities. A case in point is a funds drive that was organized by the then unregistered party SAFINA in aid of a secondary school in Nyeri. The funds drive had initially been licensed by the District Commissioner, but was subsequently barred by the District Officer, who prevented party officials from both addressing the crowd and presenting their donations (*Daily Nation,* August 28th 1995).

Materials produced by members of the opposition were also suppressed and confiscated. The release of Kenneth Matiba's book titled, *Kenya: Return to Reason*, was obstructed as the publisher, Colourprint Publishers, was raided by the Kenya Police (*The Standard,* January 14th 1994)[85]. The book was subsequently banned by the Government.

Beyond the prohibitions on organizing public gatherings, private political meetings and publishing material, the other major challenge to organizing was arrest and detention without trial, which affected a number of opposition party officials, both senior and junior in status. In one incident, FORD-Asili Secretary-General, Martin Shikuku, together with Kamau Icharia, a one time MP for Kiambaa constituency, were arrested in Kiambu District without warrants and without charges. It is almost certain that this particular incident was prompted by a statement made previously by Martin Shikuku, in which he had stated that the party had been subjected to enough harassment and was prepared to go underground: 'Ford Asili members have had enough of police brutality and we are not prepared to take anymore' (*The Standard*, June 1st 1993). Newspaper columnist, Kwendo Opanga, cognisant of the challenges that the opposition faced, noted:

> [a]ll too often opposition leaders are in the news for being barred from carrying out one function or another no matter how innocuous it appears to be. In fact, 25 opposition

[84] It was reported by Raila Odinga, who was among the passengers of the aircraft, that giant logs and stones had been deliberately put on the airstrip runway to prevent the plane from landing or cause it to crash.

[85] Several literary magazines that were critical of the KANU Government saw several of their editors and proprietors arrested. Among those arrested were Njehu Gatabaki, proprietor of *Finance* magazine, and Jamlick Miano, editor of *Watchman* magazine and a reverend in the Presbyterian church (*Daily Nation,* May 4th 1995; See *Standard,* June 1st 1993).

> parliamentarians are of out police custody on court bonds or bail (*Daily Nation,* June 1st 1994).

Although there were clearly no laws that prohibited the establishment of party offices at the branch and sub-branch levels across the country, or licences for the same, many parties were obstructed in their attempts to both open and visit party branch offices or hold party seminars. In parliamentary proceedings, it was revealed by an MP that Martin Shikuku had been prevented from attending a FORD-Asili Lari Sub-Branch executive committee meeting by the Kenya Police area Officer Commanding Station (OCS) on March 19th 1994 (*Hansard,* April 5th 1994: 283). On 19 October 1994, FORD-K and its leader Michael Wamalwa were prevented by the Provincial Administration from opening an office in Mbeere in Eastern Province (*Hansard,* October 19th 1996). And in yet another instance, NDP offices in Tana River District were taken over by some local residents led by some local KANU sympathisers, who repainted the NDP offices in KANU colours whilst declaring that the area was a KANU zone (*Hansard*, September 24th 1997: 2525).

4.8. Party Funding

Kiraitu Murungi (FORD-K, Imenti-South MP at the time) noted that the failure of political parties to develop institutional capacity was due to the lack of funds (*Hansard,* April 19th 1995. He observed that the lack of resources had had a detrimental effect upon the management and organizational integrity of many parties, such that they were virtually indistinguishable from each other, in the light of the common challenges that they faced.

Consequently, political parties in Kenya are only distinguishable through their party leaders (ibid.). Raila Odinga (the Prime Minister of Kenya at the time of writing) also lamented on this funding challenge faced by political parties. He brought particular attention to the fact that lack of funding had severely limited the capacity of opposition parties to operate and to compete with the ruling party (*Hansard*, October 1st 1997 pg 2640).

4.8.1. KANU

During the Kenyatta era, KANU was structurally very weak (Odinga, 1967; Good, 1968; Goldsworthy, 1982; Okumu, 1984; Oyugi, n.d; Widener, 1992). Mwangi (2008) notes that KANU atrophied to a significant extent partly as a result of financial difficulties accruing

from years of neglect (see also Leys, 1976; Hornsby, 2012)[86]. During the Nyayo era, there was very little distinction between government and party and, as such, part of KANU's resource mobilization strategy was to 'levy' funds from the salaries of civil-servants, who were forced to become members of KANU (Widener, 1992)[87].

After the reintroduction of multi-partyism, mega financial scandals significantly contributed to party financing. Grand corruption scams, such as Goldenberg, were engineered to generate electoral finance for KANU in the 1992 general elections (CGD, 2005; Bosire Report, 2005; Mwangi, 2008). The *Report on the Judicial Inquiry Into the Goldenberg Affair* (also know as the Bosire Report) noted that as part and parcel of KANU's resource mobilization, political banks such as Posta Bank, Eurobank, and Trade Bank, among others, were created and used to divert embezzled money to the party. The report states that this was often done through the party's youth wing, YK92, which was headed by Cyrus Jirongo and Davy Koech (CGD, 2005; Bosire Report, 2005; Mwangi, 2008). It further noted that part of the money accrued from Goldenberg went towards the purchase of food for voters and vehicles for candidates during the 1992 general elections (Bosire Report, 2005).

In addition, KANU, as the ruling party at the time, managed to use state resources, such as government vehicles, government printers, and state television and radio to prop itself up during election years. One of the most significant ways that the party generated funds was by renting the Kenyatta International Conference Centre (which served as the party's headquarters for a long time) to other organizations and agencies. According to Justin Muturi (former KANU Organizing Secretary and MP for Siakago), businessmen and contractors also made significant donations to KANU. He concedes, however, that members of KANU were not always sure where all of the party's funds came from exactly. He also says, '[i]t's correct to say there have been businessmen or benefactors contributing to political party funding. However, how they benefited after that, I've no

[86] However, it is also apparent that there was no clear linkage between the party and Government, as MP Khalif would ask what relationship KANU had with the executive (*Hansard*, February 3rd 1966: 476). In another instance in 1963 when the Treasurer of KANU, Joseph Murumbi, was asked about the state of the party in organizational and financial terms, he replied "they don't exist" (see Good, 1968: 118).

[87] In a contribution made by one MP there was no provision for funding for KANU in the budget. However, the rentals from the Kenyatta International Conference Centre were amongst the many sources that KANU got money from.

idea.' (*Daily Nation*, April 24th 2006). It is not known what the exact difference in earnings is between when KANU was the ruling party and since it lost power, however as of October 2010, its total assets were listed at Ksh 7.5 million, with approximately Ksh 4.88 million being generated from Parliamentary Group Contributions (*Saturday Nation,* October 9th 2010).

4.8.2. FORD-Kenya

At its inception, FORD-Kenya was funded by the party leaders and their closest associates and friends. After the death of its founder, Oginga Odinga, allegations of financial impropriety began to emerge. Raila Odinga, a one-time Deputy Director of Elections in FORD-Kenya, was accused of withholding funds from the Jaramogi Oginga Odinga Foundation, which were believed to have been kept in trust for the party (*Daily Nation*, May 11, 1995). In addition, it is believed that additional party funds were stored in 'secret accounts', as the identity of account holder(s) remained anonymous (ibid.). However, according to Raila Odinga, only Ksh 322,900.00 was in the account at the time of Oginga Odinga's death (ibid.). The struggle over the control of the party accounts and the Foundation, amongst other issues, culminated in a power struggle which saw Raila Odinga leave the party. It is not entirely clear how Raila Odinga's departure affected the party financially. What is known is that the party eventually moved its headquarters from Agip House to small dwelling along Argwings Khodek Road, in Kilimani[88].

In April 2002, Musikari Kombo's motion for the enactment of a political parties bill that would introduce public funding also suggests that FORD-Kenya was under-funded after Oginga Odinga's death (*Hansard*, July 10th 2002: 1567)[89]. Kombo would later concede that the fiscal position of the party was not robust. In discussing the issue of the funding of Michael Wamalwa's presidential bid, Kombo stated, '[i]t was a struggle. His friends borrowed. We even sold some of our assets. That is why Wamalwa's presidential campaign was really underfunded' (*Daily Nation*, April 24th 2006). Soita Shitanda (a former FORD-Kenya MP for Malava and later Minister of Housing under Kibaki's Government) reiterated, 'We didn't have money as such... Mr Wamalwa mainly depended on well-wishers for the little he had' (ibid.). Commenting separately, Bifwoli Wakoli

[88] Agip House is a relatively imposing building located along Waiyaki Way in Westlands. However, the premises to which the party moved its headquarters after Raila's departure is an nondescript small house along Argwings Khodek Road in Kilimani.

[89] Musikari Kombo, who is the former MP for Webuye, became the Chairman of FORD Kenya following the death of Michael Wamalwa, former Vice-President during President Kibaki's first term.

(Assistant Minister for Lands under the Kibaki Government and member of FORD-Kenya) was quoted as saying, 'So far the party has no funds and no one is willing to shoulder the expenses. We are banking on some revenue we will generate from registration of members.' (*The Standard*, December 31st 2009).

As of October 2010, FORD-Kenya's total income stood at Ksh 10.5 million, which it is noted was largely derived from membership fees and applications to the party's National Executive Council. It is not immediately clear how this money was used or whether this money was sufficient for the party's sustenance as a whole (*Saturday Nation*. October 9th 2010). As this researcher was conducting field work in October 2010, difficulties were encountered in trying to locate the Party's premises, as the writer was informed that the party had been evicted for arrears in rent. The party's Secretary for Human Rights and Democratization, Chris Mandu, later confirmed that the party was in rent arrears of Ksh 600,000.00 accrued for sometime, and that Foreign Affairs Minister Moses Wetangula had helped to pay-off the debt (*The Star,* September, 9th 2010). Mandu squared the blame on the Party Chairman, whom he accused of freezing the party accounts following a dispute over party elections (ibid.).

4.8.3. FORD-Asili

Like its counterpart FORD-Kenya, FORD-Asili's finances are reported to have been injected in by its leader, Kenneth Matiba, in addition to other interested parties. It has been documented by Charles Hornsby and David Throup that the party received a substantial amount of money from the Chairman of BAT-Kenya, who was reputed to have close links to the Kenyatta family (Hornsby and Throup, 1998: 359-382). Matiba's own financial power was based on his ownership of a hotel chain, flower farms and prestigious primary and secondary schools in Nairobi. Following the failure of Matiba and FORD-Asili to snatch power from KANU in the 1992 elections, the party has been rocked by infighting (IED, 1998). Following the fallout between Matiba (Party Chairman) and veteran politician Martin Shikuku (former FORD-Asili Secretary-General), which saw Matiba suspended from the position of Party Chairman, the party moved its headquarters from Muthithi House to Ngumo Estate.

Although the exact financial state of the party following Matiba's ousting is not clear, a statement made by Shikuku on the matter of party defections implies that the party was

not well-off financially[90]. He stated that defectors to other parties would be required to pay a fee of Ksh 2 million in compensation to FORD-Asili (*Daily Nation*, November 4th 1997). A statement by Lawrence Sifuna (Former Kanduyi MP) is also quite revealing as it claims that Matiba believed that he was the party leader because of his wealth: 'Wealth is not a ticket to leadership. In any case, we are not interested in Mr Matiba's wealth' (*The Standard*, November 8th 1994)[91].

Following Matiba' departure and Shikuku's exit from politics, the party has been extremely quiet, having failed to front a presidential candidate in the 2007 general elections. Attempts were made by the writer to visit the party offices in Upper Hill Nairobi, but those attempts were unfruitful, as the writer was also informed on this occasion that the party had changed location. Further attempts to reach the new party headquarters were made by phoning the party's Executive Director. However these also bore no fruit[92].

4.8.4. National Development Party (NDP).

The National Development Party was formed following Raila Odinga's departure from FORD-Kenya. Clause 111 of its constitution notes that membership fees for ordinary members is KSh20.00 annually, whilst that for "covenant" members, .i.e. life members, is KSh5,000.00 upon entry and KSh1,000.00 annually. Although there is no way of determining exactly the total amount of revenue the party generated from the 21 member MPs who contributed Ksh 5000 each for six months, only Ksh 630,000 was generated for the purpose of Raila Odinga's presidential campaign (*Daily Nation* April 24th 2006). Despite the fact that it is difficult to determine exactly ordinary membership contributions, it can be assumed that these were not adequate to run the party secretariat,

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[90] According to Hornsby and Throup (1998: 545-546), Matiba became ill after suffering a stroke in detention. His illness, which saw him become increasingly unsound, resulted in his inability to read and write. Consequently, he granted the Power of attorney to his wife, who would sign documents on his behalf. A move was made by Njenga Mungai to have him retire but this was stopped upon considering the fact that the party would not survive on its own until the 1997 general elections were it to lose his sponsorship.

[91] Although the party constitution provides for the direct election of the Party Chairman, it is noted that this particular procedure is more expensive that the use of the delegates/electoral college system.

[92] In a news item aired in May 2012, there were strong signs that FORD-Asili was likely to face de-registration, (see Youtube Clip "End of FORD-Asili" available at http://youtube.com/watch?v=A1hoTvAdz-U&desktop_url=%2Fwatch%3Fv%3DA1hoTvADz-U&gl=GB (accessed 2/03/2013).

let alone for election campaigning. It has been noted that the remaining funds came from other sources such as friends and business associates.

Just before the eve of the 1997 general elections, it appears that the party was still struggling to secure more funds. During this period, Raila Odinga issued a statement in which he appealed to members of the business community to contribute towards the party's campaign kitty (*Daily Nation*, November 15th 1997). Following this, in July 1999 Raila Odinga moved a motion in parliament calling for state funding of political parties. In this address, he conceded that all political parties were in bad shape financially and were in dire need of state assistance (*Hansard*, July 12 1999). NDP was later dissolved after its ill-fated merger with KANU in 2002.

4.8.6. Democratic Party (DP)

The Democratic Party, which was formed in December of 1991 by Mwai Kibaki (the President of Kenya at the time of writing) and his associates, is said to have been endowed with a lot of finance from Kikuyu entrepreneurs (Hornsby and Throup, 1998; Kanyinga, 1998). Apart from Kibaki, who was and still is a wealthy businessman and landowner in his own right, DP could boast of other leading financial luminaries in its membership. Among these were the late Njenga Karume, a wealthy landowner and GEMA leading light, Ngengi Muigai, a wealthy and one-time Assistant Minister and nephew of President Jomo Kenyatta, George Muhoho, Jomo Kenyatta's brother-in-law, among other prominent Kikuyu businessmen.

Although there are no exact figures on the financial situation of the Democratic Party, it is clear that the party did not suffer financially under Kibaki's tenure as Party Chairman. This, in part, can be seen through the nomination fees that the party charged for various positions. Presidential aspirants were required to pay KSh10,000.00, whilst parliamentary and civic aspirants were required to pay KSh5,000.00 and KSh2,000.00, respectively (IED, 1998). Maina Kamanda (former MP for Starehe Constituency, Nairobi) stated on one occasion, 'We also fund-raised at Charter Hall, where in a good night, we could net between Sh5 to Sh10 million' (See *Daily Nation*, April 24th 2006). DP also employed other strategies of resource mobilization; it had a wing called DEMO 2000 that did some fundraising on behalf of the party's flag bearer (ibid.). Funds were also raised through a 'monthly check-off system' through which MPs would make contributions in kind (ibid.).

It has also been reported that 70 per cent of the party's finances were raised by prominent industrialists.

However, following Kibaki's apparent departure[93] from DP, the financial situation of the party appears to have declined somewhat. The party itself appears to have lost its key financiers after the formation of NARC. However, since becoming part of the PNU coalition in 2007, the party is scheduled to get KSh3.5 million in public funding following Justice Rawal's judgment on the monies to be paid to PNU and its affiliate parties (*The Star*, March 21st 2011).

4.8.7. Social Democratic Party

The Social Democratic Party, which was established just before the 1992 general elections, came to prominence in the period just before the 1997 presidential elections, when Charity Ngilu became the party's presidential candidate. Although the party used to raise funds through public fundraisers (*The Standard*, August 14, 2006), it also relied on foreign funding. According to Shem Ogola Oketch, Executive Officer, the party used to receive foreign funding, however, due to the fact that the party did not have an account in its own name, that money was channelled to the party through the bank account of one of its top leaders, Charity Ngilu (information from interview Shem Ogola Executive Director, 9/10/ 2010, SDP Headquarters Summit House). The matter of control of party funds, in fact, precipitated a conflict between two other top party leaders, Charity Ngilu and Peter Anyang Nyong'o. These wrangles resulted in loss of funding from German donors. The wrangles also resulted in a fall-out which saw Ngilu decamp to found another political party.

Since the 2002 general elections, the party has been more or less moribund. According to a party document that the researcher was fortunate enough to have access to, the party received KSh638,295.00 on 16th December 2009 and a further KSh688,758.50 from the

[93] Kibaki never officially resigned his post as Party Chairman when he became NARC's presidential candidate. Even after the apparent collapse of the NARC coalition, the President did not return to DP. He instead chose to vie on the Party of National Unity ticket which he founded. This was all despite the fact that DPU had selected President Kibaki to be it's flag-bearer for the 2007 elections. It was revealed by DPU's former Executive Director, Laban Gitau, that the President's decision not to return to DP was influenced by members of his immediate circle such as Kiraitu Murungi. Laban Gitau noted that since Kiraitu Murungi was not a founder member of DP he was not likely to have had much influence in the party. Therefore it was preferable for people like Murungi to establish a new party altogether (Interview, October 20th 2010, The Democratic Party of Kenya headquarters, Lavington, Nairobi).

Registrar of Political Parties on February 15th 2010. The document notes that there are currently only 2 officers that are signatories to the party account[94] and that, as a result, the NEC had resolved that all operations on the account be suspended until the Treasurer and Secretary-General were included as signatories of the account.

The party appears to have only one office, which is a one room office along Monrovia Lane in the City Centre. At the time of writing, there was a big dispute between the Party Chairman and members of the NEC over the inclusion of new members in the party.

4.8.8. NARC

As mentioned elsewhere, the National Rainbow Coalition (NARC) was composed of the National Alliance Party of Kenya (NAK), the Liberal Democratic Party (LDP) and 13 other smaller organizations. It is not exactly clear how the party got its funding, although it is clear from statements made by some party leaders that contributions were made to varying degrees by well-wishers, members of the business community and the main founders of the party, who are known to be wealthy individuals in their 'wn right (CGD, n.d). Prime Minister Raila Odinga affirmed that the party was funded by well wishers and members of the business community: 'There were a number of business people whom we appealed to, besides ourselves who put in personal funds'. (*Daily Nation*, April 24th 2006). According to the Centre of Governance and Development, in the run up to the 2002 general elections, the party was able to generate a substantial amount of money (ibid.). This was largely achieved through the fees that parliamentary and civic aspirants paid, which were KSh 40,000.00 for parliament and KSh10,000.00 for civic seats, for which there was no shortage of aspirants. Moreover, the parties did not have to disclose the amount of money they raised. The bulk of money that was raised largely went to cater for the campaign costs, which were astronomical.

However, following its successful capture of power, the party fell, ironically, into financial distress. The party failed to pay its rent and its staff for 13 months (CGD. n.d). It is believed that the Anglo-Leasing Scandal, which saw approximately KSh 15 billion siphoned from government coffers, was in essence an exercise in resource-mobilization. According to Mwangi (2008), the money was also intended to finance both party

[94] According the document entitled 'Current Party Issues', the party now has an account of its own.

elections and general elections, but it is not clear whether this figure was also meant to cater for the day to day activities of the party[95].

Following the apparent withdrawal of some coalition partners, the departure of some members to NARC-Kenya, ODM and ODM-K, and the ostensible departure of the party flag bearer, President Mwai Kibaki, the party has been left with very few members. The Political Parties Act 2011 Section 30 subsection 3 a) states that "Fifteen percent of the money from the Consolidated Fund will be shared equally amongst all political parties" (the total amount disbursed by the Consolidated fund was Ksh 200 million in 2009); whereas subsection 3 (b) states that:

> Eighty percent shall be distributed proportionally by reference to the total number of votes secured at the last general election by each political party's presidential, parliamentary and civic candidates (Political Parties Act, 2011: 16 Cap. 7A)

NARC got 3 parliamentary seats in 2007. However, according to an article published by the Daily Nation, NARC's total income in 2009/2010 financial was Ksh 5 million, with Ksh 3.2 million coming from the Political Parties Fund (*Saturday Nation*, October 9th 2010). During the campaigns for the referendum on the new constitution, the party did not mobilize any voters, as it did not mount any campaign.

4.8.9. Party of National Unity (PNU)

Considering that PNU, which was designated the President's re-election vehicle, was formed barely 3 months to the 2007 general elections, it is likely that the party was funded by close allies of the President both in Government and out of Government. Although there is no concrete evidence, it is safe to assume that the President's close associates who had helped to fund his former party, DP, were also amongst his key financiers in PNU. Since the enactment of the Political Parties Act in 2008, PNU has not received any funding, despite its eligibility to do so, according to PNU Secretary-General Kiraitu Murungi. He stated, #We were supposed to receive money from the Political Parties Fund but NARC Kenya went to court. We defeated them there. Now they have gone to the Political Parties Disputes Tribunal and the matter is stuck there,' *(The Star*, March 21st 2011).

[95] It is important to note that soon after the irregular payments of Anglo-Leasing were revealed the money was hurriedly returned to government coffers, leading the then Minister of Justice and Constitutional Affairs to quip that Anglo-Leasing was 'the Scandal that never was'. *(Daily Nation,* January 14th 2005).

In the course of this research, it was established by the writer that PNU has shifted its headquarters on at least two occasions. It is not clear whether these moves were prompted by problems with rent payment, though it is very likely that this was the case, as Murungi noted that the lack of funds had brought the party's operations to a halt *(Daily Nation*, September 22nd 2010*)*.

4.8.10. Orange Democratic Movement

The Orange Democratic Movement (ODM) is, by all accounts, a party that has not been short of financial backers. In the run up to the 2007 general elections, the party is thought to have raised and spent approximately KSh 1.9 billion in the campaigns alone (CAPF, 2008: 50). However, a document dated 9th November 2007 that appears to be an internal memo from an ODM MP in charge of the Campaign Resources Accounting addressed to the National Treasurer of the Party shows that the party received a total of KSh 1,772,560,000 – different by KSh115,440,000[96] from the amount cited by CAPF. This discrepancy aside, it is clear that the party was financially well geared for the elections.

Although four separate visits to the party's headquarters with the intention of interviewing party senior officers were unsuccessful, this writer was able to observe that the party did have full time staff at their secretariat. Attempts to get information about the party's income and expenditure from the Registrar of Political Parties were also unsuccessful. Although a report run by the *Saturday Nation* revealed that in that financial year the party received and income of about Ksh 81.8 million (*Saturday Nation,* October 9th 2010). A large proportion of these funds came from the Political Parties Fund, which amounted to Ksh 59.1 million and in the 2009/2010 financial year it received Ksh 20.3 from contributions by MPs (ibid.).

[96] Whilst the document is fairly detailed, listing 72 major contributors to the party, among them senior politicians from other African countries and a major party in the US, the authenticity of this document cannot be established. This is due to the fact that in the course of the campaign several counterfeit documents on various parties circulated widely through the public domain, Further, attempts to get the data from the Registrar of Political Parties for verification purposes were also unsuccessful. However what can be said for sure is that some of the individuals listed are known supporters of the party and are known to have contributed substantial amounts towards ODM's election kitty. (See http://africanpress.me/2007/12/30/organizations-and-persons-funding-odm/) [accessed 23/05/2012]

4.8.11. Narc-Kenya

Whilst information on Narc-Kenya's exact financial standing at its formation in 1996 Narc-Kenya is not available, it is presumed that the party suffered no shortage of funds. This is on account of the large number of prominent members that it attracted, who included the likes of George Saitoti and Moody Awori, both vice-presidents of Kenya at different periods and known to be quite wealthy in their own right. Since President Kibaki was unlikely to go for a second term on a NARC ticket, his close allies thought it was necessary to have a ready made party waiting for him once he finally decided to leave NARC, hence the formation of Narc-Kenya. However, following the latter's surprise move to form his own Party of National Unity, a lot of the President's close allies left Narc-Kenya and joined him in PNU. What is clear is that as of October 2010, Narc-Kenya's financial standing was Ksh 8.4 million and that the net-worth of the party's assets stood at Ksh 7.8 million (*Nation,* October 9th 2010).

4.8.12. Forum for Non-Parliamentary Parties

The Forum for Non-Parliamentary Parties (FORUM) is an amalgamation of 30 political parties that, during the 2007 general elections, were unsuccessful in obtaining any parliamentary seat or the 5 civic seats required to qualify for state funding. In interviewing Benjamin Gitoi and Amos Mugambi, Secretary-General and National Coordinator of FORUM, respectively, the researcher learned that this coalition of parties suffered two main challenges, namely the issue of finance and access to the media. They cited that previously they had received technical assistance and finance from Scandanavian donors. However reductions in funding resulted in the collapse of some party structures that were in the process of being erected. Mugambi cited media bias towards the bigger parties as being a major impediment affecting their ability to reach potential supporters in the electorate. However, he further noted that despite the financial challenges, they had been able to provide training to various members of FORUM through their association with the Centre for Multiparty Democracy.

4. 9. Economic Context

As can be seen from the discussion in the section above, the establishment of an elaborate party organization is a capital-intensive venture (see also Throup and Hornsby, 1998). As mentioned previously, party offices are required throughout the country at various administrative levels; full time, competent staff have to be employed; and a printing press may be necessary to print copies of the party constitution, party manifesto[97], and newsletter/newspaper for the communication of party headquarters to its members. In election years, a party's costs generally skyrocket, as party conventions and party conferences all need to be organized to select flag-bearers and candidates, and as campaigns need to be mounted as well. This is not to mention other costs such as the printing of posters, t-shirts, the organization of rallies, galas, TV and radio airspace, campaign vehicles, amongst other miscellaneous costs. Being in the opposition is 'expensive', to use the words of Musalia Mudavadi (Deputy Prime-Minister of Kenya at the time of writing). In the 1992 elections shortly after the re-introduction of multipartyism, opposition political parties that were vying for power found themselves up against a party that had no shortage of resources as the party in government. With the ruling party, KANU, having enjoyed the advantages of incumbency (i.e. access to funding, media coverage, vehicles etc) for 30 years, and given that KANU had over the years developed an organizational infrastructure that was "married" to the state such that the line separating the two was blurred, the opposition parties as singular entities were no match for the ruling party (Hornsby and Throup, 1998). In a context where strict capital controls on foreign exchange existed, it is difficult to see how significant foreign funding in these elections would have occurred[98].

Figures from Kenya's Central Bureau of Statistics show that rural poverty in 1992 was 48 percent[99]. This figure had risen to 53 percent in 1997, the year of Kenya's second multiparty general elections. Similarly, the level of urban poverty, which was 45 percent in 1992 had risen to 52 percent by 1997. According to the United Nations Development Programme's (UNDP's) Kenya Human Development report, the level of income poverty nationally had risen from 40.3 percent in 1994 to 52.3 percent in 1997 (Kenya

[97] Party manifestos and party constitutions must be stocked for distribution to existing and prospective party members.

[98] This is not to say that there was no foreign funding of any kind. It is possible that money could have been channelled through other non-governmental organizations working within the country.

[99] Central Bureau of Statistics, Welfare Monitoring Survey, 1994 and 1999.

Human Development Report, 2001: XVII). The report further notes that 'Existing data reveal that incomes in Kenya are heavily skewed in favour of the upper quintile. The bottom 20 percent of the population gets only 2.5 percent of the total income while the top 20 percent receive more that 50 percent'.

Given this scenario, it is difficult to imagine how ordinary citizens, or *wananchi*, could be a steady source of finance for political parties. In the absence of state support, funding for political parties could only come from wealthy individuals, both within the parties and those associated with them. This is corroborated in a report by the Centre of Governance and Development entitled *Money and Politics: The Case of Party Nominations in Kenya* (2005). The report notes that opposition parties are financed by party leaders and their associates who inject millions of shillings from their own pockets. The report further notes that:

> In Kenya the culture of financing political parties is non-existent and this is probably a function of the biting poverty, the low levels of income as well as illiteracy. Over the years Kenyans have joined political parties not to help sustain them but rather with the expectation of receiving material gains from the parties or their leaders. Parties and candidates are therefore expected to "treat" voters, which includes direct payment as well as the delivery of monetary valuables. It is thus only a few friends or associates of the parties that shoulder the financing of the parties as opposed to the rank and file of the said parties (Centre of Governance and Development, n.d.)

One blogger even quipped ' [i]n some cases I have heard voters shouting that they need 'standing allowances' before they can listen to political speeches at political rallies'[100].

Musikari Kombo, (leader of FORD-K at the time of writing and also former Minister of Local Government and MP for Webuye) and Otieno Kajwang' (Minister of Immigration and MP for Mbita at the time of writing) also concede this. In their respective contributions to the National Assembly on July 10th , they revealed that the funds they receive from the public are simply inadequate to finance the running costs that parties incur between election periods (*Hansard,* 10th July 2002, pp. 1567-1568). Although poverty is arguably the most immediate impediment towards direct funding from the public, it may not be the only reason. Ordinary *wananchi* may also have much to do with a general reluctance to contribute. Given past experience of the Nyayo state, when

[100] To see the full blog visit, http://tribe46thkenyan.wordpress.com/

KANU operatives would routinely acquire dues through monthly deductions from the salaries of civil servants and also from market traders (Widener, 1992:170), it is possible that there could be a residual reluctance to contribute towards political parties in general. Whilst a more in-depth investigation along those lines would be of interest, it is beyond the scope of this study.

Until very recently, the problem of political party funding was exacerbated by the absence of any regulatory framework governing the *operationalization* of political parties in Kenya. Whilst at the time of writing Kenya had adopted a new constitution, not all sections of the new constitution have come into effect, as some will only be fully operationalized after the 2013 general elections. Among these is the section dealing with the regulation of political parties. The previous constitution was virtually mute on the role and scope of political parties, let alone stipulations on party funding. Ironically, this absence of any constitutional limitation has inadvertently created opportunities for political parties to engage in grand corruption. As mentioned earlier, the two biggest corruption scandals, namely Goldenberg and Anglo-Leasing, were elaborate scams designed to facilitate resource mobilization for the parties in power (CGD, 2005). However, this has not precluded the opposition, as some members of one opposition party were cited as beneficiaries of the Goldenberg scandal (Bosire Report, 2005).

The issue of party funding has been of grave concern, such that five motions on the need to enact legislation that allows for the regulation and funding of political parties have been introduced in Kenya's Parliament as a way of rectifying the problem. Although the writer was not permitted to view the individual statements of accounts of each registered party as the audits had not yet been completed at the time of fieldwork, an interview with the officers at the Office of the Registrar of Political Parties (November 4th 2010) nonetheless confirmed that many of the political parties were financially in bad shape.

Despite these circumstances, there may be reason to believe that beyond an absence of funds, some of the financial challenges facing parties are also the result of poor financial management. It was revealed that many of the political parties do not have sound accounting practices and that their statements of accounts very often did not balance (information gathered from interview at Office of the Registrar of Political Parties, November 4th 2010). There are few records and no receipts for assets and donations to

the party. This largely has to do with the fact that, in most parties, those persons designated as party treasurers may have little or no knowledge of financial accounting, let alone the professional qualifications that merit their appointment to those posts. As such, these appointments have tended to be highly titular and more political and strategic in nature than substantive.

It was also revealed that there was an element of reluctance to address this situation, as few parties bothered to send representatives to workshops on financial management. This state of affairs in political parties is further confirmed by the Centre of Multi-party Democracy, through RSM Ashvir Auditors, whom they enlisted to investigate the financial conduct of political parties (*Daily Nation*, May 28th 2009).

In a scenario where parties received no public/state funding (until recently) and inadequate financing from membership fees, political parties have had to rely on the contributions of 'anonymous well wishers', party patrons and donations from organizations (CGD, 2005; RECESSPA, 2006). The inadequacy of funds from ordinary members, coupled with the infusion of finances from the party leadership, has affected the structure of parties significantly, such that they have become top-down entities with power concentrated at the top and with no power vested in the grassroots.

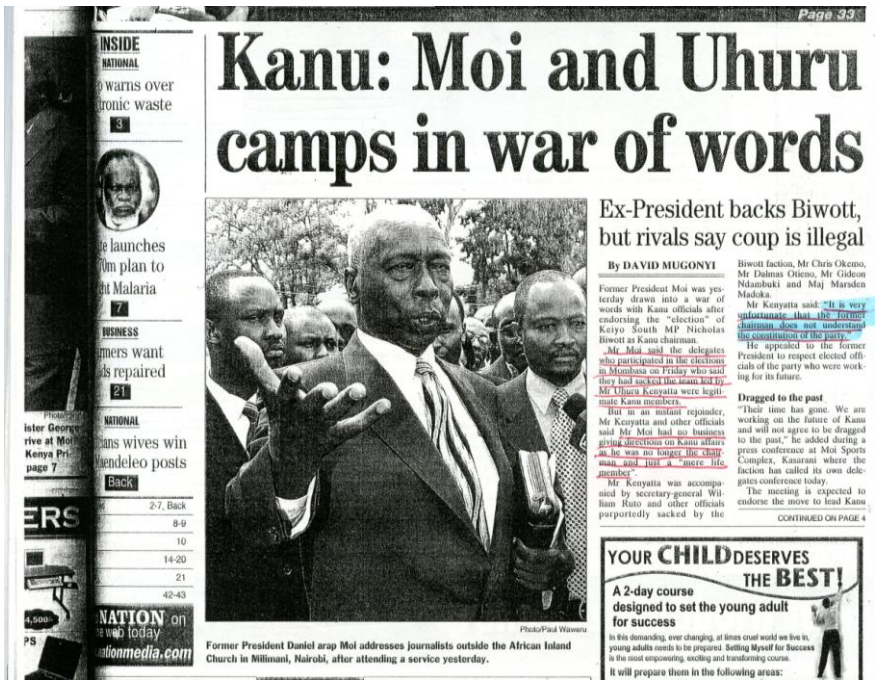
4.10. Parties, Bigmen and the Struggle over Party Ownership and Internal Democracy

> He who pays the piper calls the tune (Musikari Kombo, speaking in Parliament, Kenya National Assembly Official Record, *Hansard*, 10th July 2002)

The injection of finances into most political parties in Kenya, as mentioned above, has mostly come from party leaders/patrons, in addition to other 'interested parties' (CGD, 2005; RECESSPA, 2006). Subsequently, this situation has more or less transformed political parties into the personal property of political leaders and political patrons (Mutua, 2006). According to a report by the Regional Centre for Stability and Security and Peace in Africa (RECESSPA), the practice of elite donations into Kenyan political parties has in essence transformed them into "private clubs" or private ventures and has distorted them in such a way that two types of parties may now be identified. The report goes on to identify these two party types as 'sole-proprietory', i.e. parties that are owned solely and financed and controlled by individuals or families; and 'shareholding', i.e. parties owned, financed and controlled by a group of politicians.

4.10.1. KANU as a sole-proprietory party

KANU under former President Moi has often been cited as an example of a party with sole-proprietory status (*Daily Nation*, February 23rd, 2003; RECESSPA, 2006). Following the controversial nomination of Uhuru Kenyatta as the party's presidential contender in the 2002 elections, in the absence of credible party elections and in the face of heightened opposition from other aspirants, President Moi issued a very telling statement. He said, 'KANU has its owners… he who has not known this should know' (*Daily Nation*, August 2nd 2002). Although the former president was not involved in the day to day running of the party and may not have been the looming figure behind the new party chairman, Uhuru Kenyatta, as asserted by Justin Muturi in 2010, evidence suggests that he [former President Moi] was, at the time of the interview, still very influential, if not powerful, in the party's affairs. After the retirement of the latter from the chairmanship of the party, his influence was clearly visible in the affairs of the party following the aborted attempt of KANU to join ODM-Kenya. As Uhuru Kenyatta and a section of his supporters at the time adamantly asserted that KANU should join ODM, Nicholas Biwott, a key power baron under President Moi strongly opposed the move (*Daily Nation,* November 14th 2006).



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Kanu: Moi and Uhuru camps in war of words

Ex-President backs Biwott, but rivals say coup is illegal

By DAVID MUGONYI

Former President Moi was yesterday drawn into a war of words with Kanu officials after endorsing the "election" of Keiyo South MP Nicholas Biwott as Kanu chairman.

Mr Moi said the delegates who participated in the elections in Mombasa on Friday who said they had sacked the team led by Mr Uhuru Kenyatta were legitimate Kanu members.

But in an instant rejoinder, Mr Kenyatta and other officials said Mr Moi had no business giving directions on Kanu affairs as he was no longer the chairman and just a "mere life member".

Mr Kenyatta was accompanied by secretary-general William Ruto and other officials purportedly sacked by the Biwott faction, Mr Chris Okemo, Mr Dalmas Otieno, Mr Gideon Ndambuki and Maj Marsden Madoka.

Mr Kenyatta said: "It is very unfortunate that the former chairman does not understand the constitution of the party."

He appealed to the former President to respect elected officials of the party who were working for its future.

Dragged to the past

"Their time has gone. We are working on the future of Kanu and will not agree to be dragged to the past," he added during a press conference at Moi Sports Complex, Kasarani where the faction has called its own delegates conference today.

The meeting is expected to endorse the move to lead Kanu

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Photo/Paul Waweru

Former President Daniel arap Moi addresses journalists outside the African Inland Church in Milimani, Nairobi, after attending a service yesterday.

Figure 2. Courtesy of *Daily Nation,* November 26th 2006

Although Biwott was at the forefront of the opposition, the retired president emerged to voice his opposition towards the proposed partnership of KANU and LDP to form ODM-Kenya. The struggle between the two KANU factions saw Biwott "officially" registered as the new chairman of KANU (*Daily Nation,* November 29th, 2006). In order to understand the relationship between ownership and control a bit more, it is necessary to digress a little by discussing the events above in more detail.

During this struggle over party control, former President Moi was reported to have held secret talks with his successor, Mwai Kibaki, at State House (see Figure 2). Whilst it remains the subject of speculation as to what was discussed between the two men, the time of the meeting is curious. The meeting is said to have taken place on the 21st of November, barely three days after president Moi publicly aired his discontent at the proposed partnership of KANU and ODM (See *Daily Nation*, November 23rd 2006).

The decision to join ODM was to have been put to the National Delegates Congress (NDC) scheduled for November the 27th by the party's National Executive Committee. However, a rival NDC was organized for November 24th 2006 by the Biwott faction. This rival NDC which was held on the 24th took the decision to 'officially' oust Uhuru Kenyatta and his associates from the party leadership. It must be remembered that organizing a party delegates conference is an expensive exercise, involving millions of shillings, as delegates have to be transported, accommodated and fed over the duration of the NDC.

Presumably, the official NDC meant for November 27th had been in the offing for sometime, as resources needed to be mobilized and logistics put in place for such a gathering. The fact that the rival NDC was promptly organized, with 4,000 delegates attending, is very telling. According to the *Daily Nation* (November 24th 2006), the 4,000 delegates were paid KSh 600.00 each for their lunch. This would mean that approximately KSh 2.4 million was spent on lunch alone for the delegates. Given that the rival NDC took place in Mombasa, the country's second capital at the coast, bus tickets for these delegates at KSh 1,000.00 one way would have amounted to approximately KSh 8 million, assuming that all delegates present travelled by bus. Although Nicholas Salat, a member of the Biwott faction, informed the reporters that the expenses for the NDC were being paid by 'well wishers', it is puzzling how the colossal amounts of

money were raised in so short a period, considering that no official fundraising efforts had been announced immediately prior to the NDC[101].

What is clear, however, is that soon after this episode, Uhuru Kenyatta eventually re-emerged as the bona fide leader of KANU and, soon after, recanted his earlier stance of KANU joining ODM on the grounds that the latter was an 'amorphous' entity. Although Uhuru did not contest the 2007 elections due to what was generally perceived to be his reluctance to spoil President Kibaki's chances, it will not escape the attention of analysts of Kenyan politics that the former president also declared his intention to support Kibaki's candidature instead of his own protege. Although, as mentioned earlier, the former president was not involved in the day-to-day management of KANU, it is clear that the line separating ownership from control did not preclude the 'owners' from directly intervening in party affairs during highly strategic periods.

4.10.2. The Democratic Party as a shareholding party

The DP, as mentioned earlier, was formed in 1991 by Mwai Kibaki and his close associates, and could be described as a party with shareholding status. Prior to the 1997 general elections, attempts were made by Charity Ngilu, and later by Agnes Ndetei, to become the party's presidential candidates. Although their failure to clutch the party's nomination can be attributed to factors such as gender, ethnicity, age, low public profile etc, it is also likely to be because they were not major financiers of the party, so that their respective candidatures were still- born. Their subsequent departure from DP did not disturb the foundations of the party, due to the fact that the key financiers of the party were known to be wealthy businessmen and some financial luminaries from prominent political families.

Perhaps a good example of this scenario was the unexpected departure from DP of Njenga Karume, a key Kibaki ally and financier of KANU on the eve of the 2002 general elections. A quote from Noah Wekesa (Minister of Forestry and Wildlife and MP for Kwanza Constituency at the time of writing) reveals how Karume may have viewed KANU as another 'investment' that would have provided him with higher returns if

[101] It is interesting to note, however, that on November 6th 2006, ODM-K Interim Chairman, Henry Kosgey, accused the former president of having paid-off other members of KANU who were not naturally allied to the Biwott faction to thwart the proposed ODM-K partnership with KANU. The former president was swiftly defended by Biwott (*Daily Nation*, November 6th 2006).

Uhuru Kenyatta succeeded president Moi. He said that Karume was 'looking at his bank account which he wants to maintain and improve' (*Daily Nation*, September 3rd 2002). Perhaps an even more telling quote on this episode came from Stephen Ndicho (former Juja MP), who was defending Karume's decision after he [Karume] was publicly denounced by Kibaki:

> We never expected Mr Kibaki to get personal with Mr Karume. He should not have talked about his wealth or property since we know very well that Mr Karume spent millions on DP in 1992 and 1997 when Mr Kibaki contested the presidency (*Daily Nation*, September 6th 2002).

CONSTITUTION

You risk jail term, court warns Ghai

By NATION Team

Law review boss Yash Pal Ghai risks six months in jail if he disobeys court orders stopping him from writing Kenya's new Constitution

The warning is contained in a formal order extracted by Nairobi lawyer Fred Agatta yesterday.

Prof Ghai has been named jointly with the Constitution of Kenya Review Commission as defendants in a suit instituted last Friday by two lawyers.

"In the event that you do not comply with the orders made against you, you will be made liable for contempt of court punishable by imprisonment for a term not exceeding six months or fine," the order signed by the Principal Deputy Registrar states.

The order was served on CKRC secretary Patrick Lumumba in Mombasa yesterday evening, where the commissioners are writing a draft constitution review report.

As the order was being served on the commission, Prof Ghai issued a statement from Mombasa saying the CKRC is making "good progress" in preparing a draft report and bill.

He said the commission was working through six task forces namely, the constitution process, the state and political system, organs and levels of government, fundamental rights and freedoms, national resources and management of institutionality.

Prof Ghai said once the task force recommendations have been approved

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INSIDE

BusinessWeek

Why last of the Dream Team were finally shown the door

Now Kibaki attacks 'tribal chief' Karume

Clash of titans

"Kenyans have already seen through the cabal of disgruntled and disgraced elements that the Uhuru Project has assembled. Hon Karume is now part of this group and will have to live with this unenviable tag."

– Mr Mwai Kibaki.

"I have no contract with Kibaki that I will always support him or the DP. Shouldn't I hold my own opinions? I have not said anything personal against him but if he persists, I will say what I know about him."

– Mr Njenga Karume

Kiambaa MP retorts: DP boss is a thankless friend

By MBURU MWANGI

A harsh exchange of words yesterday marked what appeared to be the end of a long standing friendship between Democratic Party chairman Mwai Kibaki and MP Njenga Karume.

It followed Mr Karume's announcement that he would support Mr Uhuru Kenyatta's bid to succeed President Moi.

Mr Kibaki branded Mr Karume as a chieftain who had succumbed to the Kenyatta camp's political gimmicks of divide and rule.

And he went on to accuse his friend of more than 40 years of using what he called his domineered political positions as a bargaining tool to solve his perpetual financial problems.

Saying Mr Karume had not given genuine reasons for his resignation as chairman of the DP board of trustees, Mr Kibaki warned the Kiambaa MP against deceiving the public that his decision to abandon him in favour of Mr Kenyatta was based on political considerations or wide consultation.

Then in a swift rejoinder, an angry Mr Karume said: "I have no contract with Kibaki that I will always support him or the DP. Shouldn't I hold my own opinions? I have not said anything personal against him but if he persists with what seems to be a hate campaign, I will say what I know about him."

He said he now knew the people who had always warned him against associating with the Orthaya MP were right.

'Decision not based on political concerns'

He should have heeded their counsel and distanced himself from Mr Kibaki.

"Now I know. As I was always told, he is a thankless man. That is why he fell out with his bosom friend Kenneth Matiba," said a bitter Mr Karume.

Earlier Mr Kibaki, the official Opposition leader, told a Press conference at Parliament

CONTINUED ON PAGE 2

GIANT FLASK SINGLE CAP/DOUBLE CAP

ELEGANT CASSEROLL STAINLESS STEEL

4 PC SET

640/=

Figure 3. Courtesy of *Daily Nation,* September 3rd 2002.

It is probably on this basis that the statement by Karume, to the effect that he was still a member of DP whilst supporting Uhuru's candidacy, could be understood. Karume's claim to be still a member of DP is probably based on his belief that he had helped to support Kibaki's unsuccessful candidature twice, although the latter's performance the second time around was an improvement to the first. Due to the fact that Karume could not regain the said millions that he had lost to Kibaki's campaigns, it is likely that whilst Karume was hedging his bets on a Kenyatta presidency by joining KANU, he did not want to sever his links completely with DP in the event that Kibaki did win. In fact, Kibaki did go on to win the 2002 presidency, and it was not long before Karume and Kibaki were reunited, as the former was brought into the Cabinet in 2006 as Minister of

Defence under what was described as a 'government of national unity'[102]. Perhaps this is an indication that his divided 'loyalty' strategy did pay-off in the end[103].

4.10.3. FORD-Asili: From share-holding to sole-proprietory status

FORD-Asili could probably be described as a party that transformed from a share-holding party to a sole-proprietory party early on in its history. Although the party was founded by Kenneth Matiba, Charles Rubia, Maina Wanjigi and Kimani was Nyoike, who are described as 'powerful and well established local Kikuyu leaders', these individuals soon left the party, leaving Matiba behind to run it (Grignon, 1994: 25). It is noted that Matiba desired to be the 'undisputed' and 'incontestable' leader of Ford-Asili (ibid.). Matiba's hold on FORD-Asili's political profile was largely sustained by his personal fortune and charisma, as mentioned earlier (Throup and Hornsby, 1998). Matiba was known also not to tolerate dissent, as he essentially became the 'life-blood' of the party (Grignon, 1994). It was this position of strength that saw Matiba unilaterally attempt to dilute the influence of his Secretary-General and other NEC members. Matiba's refusal to contest the 1997 presidential elections, and his eventual departure, paralyzed the party (Throup and Hornsby, 1998).

4.11. Parties as business ventures

The tendency to view parties as private business ventures has created a situation whereby wealthy politicians and top businessmen alike have either created or invested in party organizations with the simple expectation of reaping giant returns, in the form of political office (itself a gateway to more wealth), lucrative government contracts or, in the case of briefcase parties, quick-easy money (Mwangi, 2008; CGD, n.d.). This phenomenon of the 'political entrepreneur' can also be extremely detrimental to the development and institutionalization of political parties, in some cases. Fomer SDP MP for Juja, Stephen Ndicho actually captured this when he said:

> there are people who really use political parties for business. They register one today, tomorrow they sell it. There are also some people who are looking for parties to buy. We should stop this business of registering political parties for the purposes of doing business. They are there and we know them. My own party was

[102] Karume's re-entry into the Kibaki inner circle followed closely on the heels of the major fallout that occurred in NARC when the NAK side of the coalition lost in the 2005 referendum.

[103] Although Karume's departure from DP did not dictate the " tune" of the party as it were, his exit could have potentially had disastrous consequences had DP decided to go it alone in the 2007 elections.

> bought for Ksh 3 million from the late Makau. We know other political parties which have been sold (*Hansard,* July 17th 2002: 1702).

When political parties are conceived as ventures, they become captive to the logic and dynamics of *shortermism*, i.e. the short term interests of their patrons. This scenario means that the political entrepreneur invests most heavily in both the individuals and periods (elections) that are likely to make the most gains for him/her. As such, investment in party structures and operations on the scale of a ruling party between electoral periods is, ironically, not seen as being 'economical', as an investment in these may not necessarily guarantee capture of power, and there would be no way to recoup losses.

In addition, party leaders/patrons also fear, to a degree, what a strong party might mean. Strengthening the party organization is very much seen as a double-edged sword by many party leaders/patrons. Whilst a strong party enhances their chances of winning elections, to completely strengthen the party apparatuses could also mean enhancing internal democratic practices. This may jeopardize their hold on the party, more so as a failure to capture power may lead to calls for their replacement as party flag-bearers[104]. Perhaps nothing illustrates the 'dangers' of state or public funding to party ownership than a statement by former cabinet minister William Morogo. He said:

> Funding of political parties will also solve the problem of party ownership by individuals who happen to have abundant resources… As the saying goes, he who pays the piper calls the tune (*Hansard,* July 17th 2002: 1699).

Consequently, politics is pursued in much the same manner as that of a speculator who invests in key stock options during a particular period until such a time he or she can get the best pay-off. Subsequently, party leaders and patrons would rather 'sponsor' sitting MPs in the house to either vote for or against or publish certain bills that are beneficial towards them and their interests, whilst only scantily dedicating resources to the party (*Daily Nation*, May16th 2009).

Given this entrepreneurial approach to politics, parties are treated as one of the many business ventures in which the politicians/patrons have interests in. As a result, the day-

[104] Following his defeat and subsequent loss of his Webuye seat in the 2007 general elections, Musikari Kombo was besieged by calls for his resignation as party leader. There had already been considerable disquiet at his decision not to compete as presidential contender and the loss of his seat signalled to some in the party that FORD-Kenya would be better-off being led by a politician who was within parliament.

to-day management of the party may be undertaken by an executive director of the secretariat who works under the strict instructions of the party chairperson, with little regard for the opinions of ordinary rank and file members. Due to this short term logic, it would not be uncommon to find the headquarters of a political party closed, between electoral periods and 'reactivated' during the electoral season. The statement by Mwangi below gives another illustration of the view of a political party as a business venture:

> a system where getting into politics is a business venture, with business plans and an expected rate of return on investment. This is best indicated by what has become the norm, calling every rich person *Mheshimiwa* (Honourable), whether they are political leaders or not. (Mwangi, 2008: 278).

4.11.1. Briefcase or mobile parties

The term 'briefcase parties' has come to mean parties that have no established presence except in the form of a registration certificate tucked away in the briefcases of their owners or registered officials. Although this is the term most commonly used in reference to these entities, perhaps a more accurate description of them would be 'mobile parties', for three reasons:

1) With the exception of the registration authorities, the existence of these parties can only be verified by the cell or "mobile" phones of their respective registered officials;
2) These parties often have no permanent address, if any at all, and their physical locations may literally be *any* place that their respective registered party officials happen to be when conducting party business, be it a private residence, bar or grocery store – for example ODM under Mugambi Imanyara, which is described later. (Oloo, 2007).
3) These parties can change hands as easily, as quickly and as many times as money changes hands between people (e.g. SDP), and with ordinary members powerless to contest the change in "ownership".

These parties are usually regarded as the instruments of political opportunists, who in anticipation of the fallouts amongst politicians of the major political parties, will register such briefcase or mobile parties in the hope of being approached by either of the wrangling politicians to 'buy' these parties. Oloo (2007: 103) opines that:

> These are formed not to compete for power but rather for speculation purposes as disagreements and splits arise in parties. Most of them end up fielding very few candidates or none at all in some election years.

A classic example if this scenario can be seen in the case of the Orange Democratic Movement. Although the ODM is, at the time of writing, one of the strongest parties in Kenya, being the party with the single largest number of seats in Parliament, its origins are interesting. Following the triumph of ODM after the constitutional referendum of November 2005, there was an attempt by the faction led by Raila Odinga to sustain the momentum against the Kibaki group through the loose movement of ODM that had been officially opposed to a new constitution[105]. In the midst of trying to sustain the ODM movement, a political party called ODM, complete with the ODM symbols, was mysteriously registered by an obscure lawyer called Mugambi Imanyara, as a means of confusing the public. This resulted in the ODM proper group having to register themselves as ODM-Kenya. However, following protracted infighting in ODM-Kenya by two presidential contenders, Raila Odinga and Kalonzo Musyoka, the Odinga faction saw the party "wrested" from its control on account of the fact that the registered officials of ODM-K were in fact Musyoka's associates (*Daily Nation,* August 4th 2007). As the struggle over party ownership went to court, the Odinga group quickly contacted Imanyara of ODM and acquired the 'briefcase' or 'mobile' party that he (Imanyara) had clandestinely registered, thus regaining ownership of the original name, ODM. This is best evidenced by Odinga's own words on the subject:

> When it became clear that we were going to be stuck in mud for a long time, I made it my business to look for a safe nest to land as the court case goes on. That was when I made it my business to know Mugambi Imanyara (*Daily Nation,* August 18th).

A clear indication that ODM (Imanyara) was a briefcase or mobile party was at one time a briefcase party can be seen in the fact that meetings between Odinga and Imanyara never took place at the ODM 'headquarters' (which in all probability did not exist), but at various venues. This too is confirmed by Odinga:

[105] The Orange Democratic Movement was the name adopted by the group of individuals who were opposed to the adoption of the revised "Bomas" Draft Constitution, termed the "Wako Draft", that was perceived to be attempting to introduce an imperial presidency.

> The first meeting was organised by a mutual friend. This meeting happened about three weeks ago in a residence somewhere… The second meeting was in my office and the third was also in a residence. We developed confidence and I found out that Imanyara is not as bad as he had been demonised. He is a committed Kenyan who was ready to hand over the party to the true owners of the orange (*Daily Nation,* August 18th 2007*)*.

PRESIDENTIAL RACE

ODM finally splits

Lang'ata MP Raila Odinga (right) with ODM documents he received from Mr Mugambi Imanyara who handed over the party to him at Orange House, Nairobi, yesterday. Looking on from left are MPs William Ruto and Najib Balala. Photo/JOSEPH MATHENGE

Raila leads his group to take over another party, as Kalonzo is left with Maanzo team

By BERNARD NAMUNANE and SAM KIPLAGAT

ODM Kenya finally split yesterday as Lang'ata MP Raila Odinga led his group to take over another party, parting ways with Mwingi North MP Kalonzo Musyoka.

Mr Odinga received the certificates of the original Orange Democratic Movement Party from the lawyer who registered the orange brand as a political outfit after the 2005 referendum victory by the lobby group. Elsewhere, Mr Musyoka led a group of ODM-K supporters, mainly from Eastern Province to Machakos Town, where they held a strategy meeting. In a scenario resembling the fate which befell the original Ford movement in 1992, Mr Musyoka's group is now effectively in control of ODM-K, while Mr Odinga's team has taken control of ODM. Mr Odinga's group, which includes fellow ODM presidential aspirants William Ruto, Musalia Mudavadi, Najib Balala and Joseph Nyagah, said they would still pursue court orders to take over ODM-K from Mr Musyoka. But in Machakos, Mr Musyoka branded Mr Odinga "a coward who cannot face up to any fight." He described the move as a defection by Mr Odinga and termed it "good riddance". Mr Musyoka also called on the ODM-K election board chaired by retired Judge Richard Otieno Kwach to resign. At Orange House in Nairobi, Mr Odinga and his camp officially took over the Orange Democratic Movement Party of Kenya, which was registered in November 2005. Mr Odinga's group announced the takeover after a National Executive Council (NEC) meeting. Earlier, Mr Musyoka had joined Labour Party of Kenya chairperson

CONTINUED ON PAGE 4

Figure 4. Courtesy of *Daily Nation.*

Although it is difficult to verify, a rumour did the rounds at the time stating that Imanyara was paid handsomely for handing over to Raila Odinga the party registration certificate, symbols and constitution. It is almost certain that money changed hands[106].

[106] One blogger claims that Imanyara was paid Ksh 80 million, approximately USD 1 million. For more on this visit http://kumekucha.blogspot.com/2007/08/mugambi-imanyara-mysterious-lawyer-who.html?m=1 (accessed 14/09/ 2012).

4.11.2. Explaining briefcase parties

To the layman's eye, the decision to buy a party as opposed to registering one may appear odd and even somewhat comical, so why would politicians go through with it? This may largely depend upon the financial situation of those individuals seeking to run new parties. For those who are in need of a party immediately the question above can probably be best answered by the way of an analogy. It is more expedient to buy a house that already exists than to build one from scratch, as renovations can always be made later to suit the home owner's tastes. Although the 'briefcase' parties are really only akin to the foundations of a house (the situation being that there are no structures yet), it is imagined that it is still more desirable to build on an existing foundation rather than have to go to the city council's planning department, which is equivalent in this analogy to the Office of the Registrar of Societies and run the risk of having your 'housing plans' denied approval. In an interview, Joseph Kamotho noted that he and his colleagues decided to acquire the LDP because they did not want to get 'bogged down' with the issues of registration at the Registrar of Societies Office[107].

For others who are not willing to part with a lot of money for a 'made to order' political party, the use of proxies to register political parties is a cheaper option. Use of largely unknown individuals or proxies as the bona-fide registered party officials was a strategy through which prominent politicians fearful of being denied party registration by the Registrar of Societies often chose to use, with they themselves becoming patrons of the registered parties. However, the use of proxies is a double-edged sword, as it could potentially lead to conflict between the proxies and their patrons over party 'ownership'.

As has been seen from the foregoing, political parties in Kenya, have to a fair degree, been treated as the personal property of the elite. This is particularly evident in the contests over party 'ownership' and control. This calls into question the very nature of political parties in Kenya. Are they "voluntary private associations" whose activities lie largely "outside the public realm" or are they public institutions (van Biezen, 2004: 705).

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[107] The notion of the party as having been purchased can also be verified by comments made by a former LDP member, Chirau Ali Mwakwere. Speaking in reaction to his exclusion from the expanded Summit of NARC by his party, he retorted 'Go and ask Raila, Kalonzo Musyoka and Musila. Ask them how much they paid and why they bought it'. (see http://www.afrika.no/Detailed/4786.html [accessed 28/08/2011].

As evidenced by the statements on this issue made by some party leaders, such as the former President Moi and other party leaders, the view of political parties is largely that they are private entities. In a contribution to Parliament, former Minister of Internal Security, Julius Sunkuli, said the following:

> I would like to advise members of the opposition to clearly look at the structure of their parties and ensure that they are actually political parties and not clubs which are existing (sic) on behalf of certain individuals (*Hansard*, April 12th 1995: 33).

Section 123 of Kenya's old constitution is silent on the roles and responsibilities of political parties and was also ambiguous in defining what a political party was. The definition read, 'A political party is one which is duly registered under law which requires political parties to be registered' (Constitution of Kenya, 2001). Due to the fact that there was no legal framework governing political parties, their 'privatization' was not in breach of the law (Mutua, 2006). However, whilst this notion of 'privatized' political parties more or less corresponds to the one noted by van Biezen (2004), it must be remembered that in the Kenyan case, broader understandings of what constitutes a political party may be rooted in the particular historic experience of party development in Kenya (Owuoche and Jonyo, 2004). With its loose-knit, ethnic congress party characteristics, KANU in the 1960s was, as mentioned earlier, essentially an amalgation of individual or personalized political machines (Bienen, 1974; Goldworthy, 1982; Mboya, 2008; Odinga 2008; Kariuki, 2001).

Although the Nyayo period may have brought with it an era during which the party as an organization was much more centralized, it could be argued that the current tendency to struggle for personal political control of parties may have its genesis during that period. Due to the recycling of political elites, which symbolised the desire by the executive to control local party politics by ousting and replacing local party bigmen, politicians consequently hardened their resolve to hold on to or maintain their grip on their local spheres of influence (Kanyinga, 1994; Grignon, 1994; Kanyinga, 1998). As a result, politics became even more personalized and the desire to be in a position of party control was fostered, as it was more desirable to be on the offensive that on the defensive. It is to this logic that party control, or the aspiration towards that end, can be attributed. In the following chapter, which is on party discipline, the phenomenon of domination and subordination will be explored in greater detail.

The responses and the behaviour of the various parties on the one hand, and the state and civil society, on the other hand, show that in essence there is a lack of conceptual unanimity on what political parties are. Whilst this may stem from the absence of a legal framework on political parties clearly defining and delineating their functions and responsibilities prior to 2007, among other things, it is also largely predicated upon the two competing conceptualizations of political parties in Kenya noted earlier: as 'voluntary private associations' lying largely 'outside the public realm', or as 'public institutions'.

4.12. Conclusions

As has been seen in the foregoing discussion, the development of political parties in Kenya has been shaped by a number of factors. At the advent of multipartyism, the party structure that many political parties adopted was modelled upon KANU, as it was the only party that had been around. However, as mentioned earlier, the short period of time between the legalization of parties in December 1991 and the elections themselves a year later proved to be detrimental to political parties, organizationally. The time period was simply inadequate for the parties to establish structures countrywide. Further, the fact that parties were established very hurriedly meant that inadequate attention was given to the nature of various party organs and conflict resolutions mechanisms. Consequently, parties such as the original FORD fragmented due to internal wrangles. Although political parties have been faulted for being responsible for their own shortcomings, it is important to remember that not all maladies that afflict parties are of their own making.

To a great extent, the inability of parties to establish a meaningful presence in regions other than the home areas of the party leaders is directly attributable to government interference. Several parties were prevented from holding meetings and mobilizing support across the country, as they were routinely denied licences to hold public meetings. Moreover, even when they were granted licences, they were very often harassed by the Provincial Administration and the Kenya Police. Given these constraints, parties were not in a position to popularize themselves across the country, let alone recruit new members.

Beyond the issue of state interference, it is clear that there was also the issue of finance, as several political parties suffered from poor resources. These resource challenges stemmed largely from an absence of public funding for most of the period examined, and the poor resource environment characterised by high levels of poverty. As a result

of these resource challenges, only a few political parties were able to maintain political party offices across the country. However, as mentioned above, the scarcity of resources is also compounded by poor accountability on the part the parties, as several parties often do not have qualified accountants, and to a certain extent there is a reluctance to send personnel for training.

In the light of these challenges, several political parties have had to rely on key individuals in order to function. This reliance on bigmen has had direct implications for the very structure of political parties and their functioning. Due to the short term interests of party bigmen, parties are most active during electoral periods and virtually moribund during interim periods. The phenomenon of party ownership has become so pervasive such that it has spawned two types of political parties, sole-proprietory and share-holding.

Paradoxically, whilst parties are genuinely starved of cash, the emergence of mobile/briefcase parties has generated opportunities for parties to make money, through parliamentary and council nominations, ahead of general elections. These parties, in addition to not having manifestos, programmes and known membership, do not have known party headquarters. As a result, such parties have also acquired the reputation of being 'mobile' They are known only to exist in the briefcases of the registered party officials, can only in most cases be reached by mobile phone, and have been known to change 'owners' frequently.

In relating Kenyan political parties to existing literature on party types, it can broadly be said that parties in Kenya cannot be said to fit any one particular party type. Kenyan political parties take the form of either mono-ethnic parties or ethnic congress parties. However due to the fact that these parties tend to be dominated by personalities and that they become active mostly during the electoral periods, with some parties being formed almost exclusively to contest elections and being abandoned soon after, Kenyan parties also exhibit the traits of personalistic parties, as the concept of party 'ownership' attests to. However, what is clear is that programmatic parties do not exist in the Kenyan context.

What this suggests is that trying to fit the parties into any one category may ultimately be inadequate, since, depending upon which traits an observer chooses to emphasise, they can fall into any of the three categories: mono-ethnic, or ethnic congress, or personalistic.

Further, the concept of 'briefcase' or 'mobile' parties, namely parties that are formed for purposes other than the capture of state power, is also not accounted for within the now well-known typologies advanced by Gunther and Diamond (2003).

Moreover, concerning the issue of party organization, it is clear that Kenyan parties resemble party organizations in other African countries with respect to the challenges that they face *vis a vis* membership, party organs, party branches, funding and frequent defections.

The arbitrary nature of the criteria applied by the Registrar of Societies in registering political parties resulted in Marxist-Leninist parties, class mass parties and religious parties being systematically denied registration and, consequently, they do not feature at all in the Kenyan context.

Further, the conditions in Kenya have not lent themselves for the development of nationalist or ultra-nationalist party types on account of the highly ethnic character of politics in Kenya, as will be seen in Chapter 6. Although KANU in the past has been referred to as a 'catch-all' party (Widener, 1992: 56) in that at one point it drew members of different political persuasions, such as socialists, conservatives and liberals, following the recent departure of Uhuru Kenyatta from KANU, amongst other individuals, the party's support base has increasingly come to be associated with protégés of the ex-president Moi. As such, it can no longer be considered a catch-all party.

It can generally been seen that due to the challenges of state harassment in previous years, coupled with the problems of inadequate funding and poor financial accountability, Kenyan parties are characterised by low organizational systemness. This is primarily evident in their restricted territorial scope and their low penetration. The fact that party organs operate virtually on an *ad hoc* basis also testifies to low organizational complexity.

Further, on account of the *ad hoc* manner with which these parties operate, it is also clear that few of them are reified in the public mind. Although it could be said that the bigger parties are more established within the psyche of the electorate, the smaller parties, particularly 'mobile' or briefcase parties score lowly on the dimension of reification.

Moreover, the factional fights and resultant splits that have characterised many Kenyan political parties are a testament to low value infusion. However, this dimension is explored in more detail in Chapter 5.

Since the return of multiparty politics in Kenya, parties have been characterised by high decisional autonomy, due to the fact that Kenyan parties are generally highly personalized and have few roots within society. This is perhaps best illustrated by the way in which resources are channelled to political parties, often through party 'bigmen'. However, with the passage of the Political Parties Act 2011, which entitles parties to state funding upon attaining the threshold of 15percent of the total votes cast, it would be interesting to see what effect this will have upon the decisional autonomy of those parties that have met the criteria.

From the foregoing, it can also be concluded that the legacies of authoritarianism (as evidenced by state harassment) and socio-economic context, both noted by Randall (2006) as being inhibitors of party institutionalization, largely apply to Kenya's political parties as well.

CHAPTER 5. DISCIPLINE AND DEMOCRACY IN KENYAN PARTIES

5.1. Introduction

Party discipline and internal party democracy are two sides of the same coin and yet in recent years in stasiological literature and in the real world, there has been a greater emphasis on the role that internal democracy plays in the organizational functioning of a political party and ultimately its overall impact on processes of democratization (Scarrow, 2005; See also Magolowondo, n.d). Krista Johnson has argued that party discipline is ultimately inimical to the desired goal of internal democracy as it may encroach on the party members' rights to freedom of expression and association. Whilst internal democracy has been lauded for promoting inclusiveness and equality and hence staving off oligarchy, in recent years it has been emphasized almost at the expense of party discipline.

A number of contributions on political parties in developing contexts and more specifically in Africa have tended to perceive party discipline as a given. However, following Randall and Svasand's (2002) conceptualization of party institutionalization, which stresses the significance of coherence and 'systemness' i.e. the degree to which internal rules and regulations have been '*routinized*', the issue of discipline becomes central. Several parties across the African political landscape experience challenges along these lines.

Most parties in Kenya are inhibited by challenges of discipline. Following the enactment of the Political Parties Act of 2011, a number of parties have been embroiled in legal suits in which party members who have been either suspended or expelled for misconduct have gone to court to challenge these actions citing 'dictatorial tendencies' and 'undemocratic practices' within their parties. This suggests that there is not only a fear of party discipline but that there is an element of confusion concerning what party discipline really is. Despite the numerous writings and commentaries on parties that note this problem, few of them have systematically analyzed this challenge in great depth. As a result, and with specific reference to Kenya, there are a number of questions on the issue that remain unanswered. For instance:

- Is there some confusion between dictatorship and party discipline on the one hand and legitimate dissent and indiscipline on the other hand?

- What are the challenges that political parties have faced in trying to enforce discipline following the return of multipartyism?
- What has been the impact of the political parties Act?
- What have been the implications for democratic consolidation?

These are the questions that this chapter attempts to answer.

The chapter argues that if Kenyan parties wish to make any meaningful contribution once they are in government, then there is definitely a need for parties to inculcate the virtues of discipline. Furthermore, if parties are to possess what Randall and Svasand (2002) call 'value-infusion', i.e. where parties acquire a particular identity within themselves and quite apart from their leaders, then it is imperative that parties learn to be disciplined.

5.2. Literature Review

There has been a polemic debate on the desirability of discipline within parties (Jaensch et al 2004; Carey and Reynold, 2007). Jaensch et al (2004) note that proponents of internal party democracy have argued that it affords citizens the opportunity to directly deliberate with political elites *without* the mediating filters that are attendant to other democratic spaces and modes of political communication. However, the advocates of party discipline, who say that it promotes cohesion, unity of purpose, as well as clearer programmatic platforms, argue that internal party democracy undermines these goals (ibid.). Mimpen (n.d: 1) argues that "internal democratic procedures may raise possibilities for party splits and crises, possibly harming democratic stability". Similarly, Gauja (2006) argues that internal party democracy impedes decision-making. It is further argued that party activists are often a minority who do not represent voters, and that true democratic accountability is to the voters and not individual party members (Mimpen, n.d; Gauja, 2006).

5.2.1. Conceptual tensions: individual liberty versus collectivism

The apparent tension between the two concepts outlined above also speaks of a broader clash between two conceptualizations of politics *writ large* which might be described as that of liberal-individualism, on one hand, and collectivism, on the other. The tensions between the two concepts have given rise to two distinct bodies of literature, one rooted in the idea of unity and consensus, and the other rooted in the tenets of deliberative

democracy. The tension between the two concepts (namely internal democracy vs party discipline) is not new and can be traced back to divisions amongst early Russian socialists.

5.2.2. Defining party discipline

According to Giannetti and Laver (2005: 2) party discipline may be described as 'the outcome of a strategic game played within political parties, in which legislators who are party members respond to rewards and punishments'. In other words, party discipline describes the ability of party leaders to get members within the party to adhere to certain policies, procedures or protocols through an assortment of incentives and sanctions. Rewards may take the form of promotions, such as appointments to cabinet and/or important legislative committees and foreign trips abroad, among other enticements. Conversely, sanctions for deviation may take the form of exclusion or removal from important positions, 'de-whippings', suspensions or expulsions from the party. In essence, the enforcement of party discipline is designed to keep the rank and file of the party in line with party policies and, in the case of the legislature, to show a united front. However, given this system of rewards and punishments which accords the leadership of any party a fair amount of power, how can this be reconciled with calls for internal party democracy?

5.2.3. Democratic-centralism

The differences between the two camps described above on the role of the rank and file party members in the revolutionary struggle gave rise to Lenin's seminal work, *What is to be Done?* (1902) Lenin argued for the need for a vanguard party led by a competent professional revolutionary elite to guide the masses, as opposed to spontaneous actions from below. In an effort to bridge the duelling ideas of internal party democracy and party discipline, *Marxism-Leninism* spawned the notion of *democratic-centralism.* In theory, democratic-centralism operates upon the belief that there is freedom of discussion and deliberation by all members on a matter before a final decision is arrived at[108]. Once a decision has been taken, all party members are expected to publicly support the party decision, irrespective of whether they privately disagree with it or not (c.f. Bronner, 1988).

[108] This could be either through voting or through consensus.

In the case of those who disagree fundamentally with the party decision, it would be expected that those individuals would give up party membership on the basis of conscience or diligently abide by the rules until the next party congress when the next available opportunity to air grievances can be heard. Lenin's own views on the issue were articulated in the following words:

> The principle of democratic-centralism and autonomy for local party organizations implies universal and full freedom to criticise, so long as this does not disturb the unity of a defined action; it rules out all criticism which disrupts difficult unity of action decided upon by the party (Lenin, 1977: 433).

This 'fusion' of the two concepts has become characteristic of most leftist parties organized along Leninist lines. However, as democratic-centralism gave way to rigid Stalinist centralism in the USSR and the communist eastern bloc, the effective usurpation of decision-making into the executive echelons of these parties sharply attenuated the line between strict discipline and dictatorship (Valtin, 1988). The authoritarianism exemplified under Stalinist centralism has subsequently given rise to a number of stinging critiques of the democratic-centralism idea as a whole. Critics of democratic-centralism have argued that strict discipline is promoted at the expense of internal democracy, subsequently transforming these political organizations into oligarchies rather than political parties[109]. Tourish (1998) has gone so far as to suggest that democratic-centralism is entirely averse to any internal dissent. He opines:

> The evidence suggest that they[advocates of democratic-centralism] are strongly minded to view *any* dissent as precisely such a disruption, and respond by demanding that the dissident ceases their action on pain of expulsion from the party (Tourish, 1998).

He then asserts that vanguardism over a period of time would eventually give way to the culture of personality cults (ibid.).

Lawyer Pierre de Vos (2011) argues that the strong discipline as espoused by political parties such as the ANC 'pose a serious threat to the health of any constitutional democracy'[110]. Similarly, Krista Johnson also laments the 'incompatibility' of *democratic-centralism,* largely embedded in liberationist politics, with the prevailing liberal democratic

[109] To get a deeper appreciation of the conceptualization of political parties as oligarchies, see Michels (1911).

[110] To view his article, "Political Parties vs Constitutional Democracy", go to http://constitutionallyspeaking.co.za/political-parties-vs-constitutional-democracy/

disposition of the state. She argues that the strong discipline that is a characteristic of the ANC is antithetical to the fundamentals of a constitutional democracy (Johnhson, 2001).

Whilst there is certainly a danger that vanguardism could degenerate into hero-worship, it could be argued that the ruling African National Congress of South Africa, has largely avoided this. In 2008 the party even recalled the Head of State, who was perceived by some to be autocratic given his alleged penchant for not regularly consulting the various policy-making organs of the ANC in the processes of governance. Whether the party will eventually go down a Stalinist or Ceaucescu path, as Tourish (1998) holds, is still a matter of conjecture at this point. Suffice it to say that this possibility should not be precluded. Democratic-centralism aside, is it possible to foster strong discipline without it and is it necessary?

5.2.4. Party cohesion

As mentioned in a previous section, the central tenet of party discipline is to project a show of unity within parties. However, whilst party discipline may result in unity, it does not necessarily follow that this equates to cohesion. According to Giannetti and Laver (2005), party cohesion is the 'emergent coordinated behaviour reflecting the interacting incentives for individual legislators'. So in essence, party cohesion may be viewed as the consensus that arises as a result of the presence of some unifying factor such as party values, ideology, cogent programmatic concerns or a sense of fraternal belonging. The implication in the case of party discipline is that dissent from the party, whilst permissible, is generally not encouraged by the party leadership. Put differently, the sentiment held by party leaders regarding dissent is one of 'just because you can does not mean you should'.. The ethos of party cohesion, however, which also implies the existence of a 'value-infusion' quality, in essence also allows for the existence of 'collective responsibility', as it would be understood that the party line that is being enforced is one to which all party members freely agree to adhere to (see Carey and Reynolds, 2007). So far the previous sections have focused on the endogenous development of both party discipline and cohesion within parties, but what other factors determine the effective enactment of discipline?

5.2.5. Discipline in parliamentary and presidential systems

It is generally believed that the parliamentary systems, more specifically the Westminster variety, tend to engender higher levels of discipline within parties in comparison to presidential systems (Malloy, 2003; Carey and Reynolds, 2007). The constitutional configuration of a parliamentary system consists of a fusion of executive and legislative functions. The government which is formed by the majority party in the legislature continually strives to ensure discipline and cohesion so as to stave off confidence votes (Laver and Schofield, 1998; Malloy, 2003; Nikolenyi, 2005). The essence of party discipline is rooted in the idea that if the government (majority party) loses the vote on key pieces of legislation, this signifies a loss of confidence in the government and consequently leads to the collapse of that government (Malloy, 2003; Gianetti and Laver, 2005; Nikolenyi, 2005). Sartori (1994: 94-95) posits that:

> parties that have been socialized (by failure, duration and appropriate incentives) into being relatively cohesive/or disciplined bodies… disciplined parties are a necessary condition for *working* of parliamentary systems.

Further, it should be remembered that within the parliamentary system, the executive of ruling parties can invoke the threat of dissolving parliament and call for fresh elections. Such an action, it is thought, would bring any errant back-benchers into line as the rigours of an election midway through their terms would be simply unpalatable to many legislators.

However, in the presidential system, where there is a separation of power between the executive and the legislature, the resultant party system is often weak. The very idea of a popularly elected president who cannot be recalled by his or her party, who essentially wields veto power over legislation by way of not assenting to bills deemed undesirable, serves to also dilute party discipline (Linz, 1990). Further, in the American context in which the cabinet need not be filled only by party affiliates but also by technocrats with expertise in their portfolios, also further weakens party discipline within Congress. This is because the policy-making functions lie within the domain of the executive not Congress (c.f. Gianetti and Laver, 2005). Chebuib and Przeworski (1999) find that of 70 peaceful replacements of presidents in presidential systems between 1950 and 1990, only 4 (4.7 percent) were attributable to internal dynamics in their parties and other factors during interim periods. Conversely, of the 310 peaceful changes of prime-ministers about 148, (47.7percent) were the result of internal party politics or coalition collapse (ibid.). It is

apparent that the separation of powers, which puts greater emphasis on checks and balances by having the two branches of government 'compete' with each other ultimately lowers the level of discipline (Linz, 1990). Presidential systems are seen to be weaker in discipline due to the fact that votes can take place on non-partisan grounds and also due to the fact that the electorate may vote for a president from one party and the legislature from another party[111]. Why is the issue of discipline important given that presidential systems seem to function just fine in a context of low discipline?

One of the reasons why full discipline is important is that it informs voters about the future policy of a candidate. Whereas parties with less than full-party discipline may see candidates who put forward other policies to those of the party policy, thus obscuring the overall party platform (Castanheira and Cruzen, 2009). While party discipline may be positive, what prevents the high levels of discipline from morphing into dictatorship? Jinadu (2011) notes that discipline should be based upon the principle of due process, whereby party members accused of misconduct are afforded the opportunity to defend themselves before an impartial relevant party organ.

5.3. Party Discipline: The Kenyan Experience

During the 49 years that Kenya has been independent, political parties have oscillated between extreme discipline (something akin to tyranny – on some accounts) to a state where party discipline is virtually non-existent. Following the promulgation of the new constitution in 2010 and the enactment of the Political Parties Act 2011, a number of parties have been faced with challenges around the issue of discipline. In particular there has developed a tendency by some individuals to confuse or equate discipline with authoritarianism, on the one hand, and dissent with indiscipline on the other. Kennedy Masime, the Executive Director of the Centre of Governance and Development confirms the belief that there has been a problem of party leaders not knowing 'the difference between indiscipline and dissent' (telephone interview, 31st of January 2012). The binary opposition between discipline and dictatorship on the one hand and democratic expression and indiscipline on the other has been manifest in some parties and as a result has caused a certain amount of confusion. In addressing this issue, Miguna

[111] A classic case in point is Bill Clinton's presidency. Clinton, a Democrat, was elected President after twelve years of Republican rule in 1992. However, half way through his first term, the Democratic Party lost control of both the Senate and the House of Representatives to the Republicans.

Miguna, the Advisor to the Prime Minister on Coalition Affairs asks a very pertinent question '[i]s party discipline a reversal to the single party era ?'

5.3.1. Social Democratic Party

The Social Democratic Party suffered a serious exodus of its key members just prior to the 2002 general elections. This was partly on account of the fact that a number of members struggled to adhere to the strict ideological tenets set by the Party Chairman, the late Apollo Njonjo. It is not immediately clear whether these strict ideological tenets, designed to foster discipline, were within themselves undemocratic. However, in a multiparty context where parliamentarians defect to other parties without batting an eyelid, it may be that desperate times called for desperate measures (information gathered from interview with Mr Shem Ogolla, National Executive Officer of SDP, 9 November 2010, Summit House, Nairobi).

However, the introduction of a clause in the party constitution requiring that presidential aspirants on the party's ticket be degree-holders was viewed as undemocratic as it was perceived to target Charity Ngilu, the Party Leader.

5.3.2. NARC-Kenya

To date, perhaps the most drastic disciplinary action taken against sitting legislators by their respective political parties can be seen in the expulsions of Gideon Mbuvi (better known as Mike Sonko) of NARC-Kenya and Ephraim Maina of Safina, respectively.

Sonko and his counterpart William Kabogo were subjected to disciplinary action for supporting KANU's Uhuru Kenyatta in his presidential bid against their own NARCK-Kenya party leader, Martha Karua[112], during campaigns for the 2013 general elections. The two were also accused of supporting PNU's Yusuf Hassan against their party's candidate Brian Weke in the Kamkunji by-election in 2011. These actions together saw Sonko expelled from the party whilst Kabogo was given a three-month suspension. Prior to his expulsion, Sonko justified his actions by arguing that the party leader was also guilty of violating the party's rules by supporting the election of New Ford-Kenya's

[112] Uhuru Kenyatta who is the Deputy Prime-Minister and a Minister of Finance is also the Party Leader of KANU. It is interesting to note that Uhuru Kenyatta was also besieged by his Secretary-General Nick Salat over his close association with PNU and over allegations that he was likely to be the President Kibaki's successor in the PNU.

Bonny Khalwale during a parliamentary by-election at Ikolomani in Western Province in 2011. He furthered cautioned that if the party refused to accept him then he would move. He said:

> if they (NARC-Kenya) refuse to accept me then I will move to my Unga Revolution Party to Pursue my ambitions. My slogan will be *unga* and I will give *unga* (flour) to needy Kenyans during my campaigns[113]

It is worth noting, however, that Sonko's disciplinary proceedings are a classic case of the accountability dilemma, whereby a legislator's loyalty is split between the party and his/her constituents. In the course of the disciplinary hearing, Sonko was asked by members of the disciplinary committee to disperse his supporters to which he replied 'These are the people who took me to parliament I cannot tell them to leave' (*Daily Nation*, October 18th 2011). In an interesting development questions have arisen over the legality of Sonko's expulsion. The issue in question concerns the manner in which Sonko was expelled. The failure to disperse his supporters, prompted the party leader, Martha Karua, and Secretary-General to leave the hearing amidst the confusion. Sonko's expulsion was subsequently communicated to him through a letter which was copied to the Registrar for Political Parties. In response, Sonko's legal team has since argued that, technically, Sonko was 'not' given a chance to defend himself and to answer the charges (*The Nairobi Star*, October 25th 2011).

There also seems to be concern at the activities of certain politicians that appear to blur the line between the practice of intra-party democracy and indiscipline. An example of this concern and 'blurring of the lines' can be seen in a comment made by Samuel Poghisio, (at the time of writing Minister of Information and Broadcasting and Chairman of ODM-Kenya):

> It is a risky thing (appearing to support another party) [sic]. Those who expel MPs from their parties are the same ones who used to accuse former President Moi of high-handedness in KANU. We must be tolerant towards divergent opinion and uphold freedom of association

[113] See www.capitalfm.co.ke (19/08/2011) "Narc Kenya furious with Sonko, Kabogo" [accessed 11/11/2011]

5.3.3. Safina

Ephraim Maina, Mathira MP, was another casualty of expulsion from his party, Safina, also for supporting Uhuru Kenyatta's candidacy for the president in the 2013 general elections. The Safina Disciplinary Committee claimed that Maina was availed the opportunity to defend himself on two occasions against the charges levelled against him. It noted that his transgressions had been documented in both 'print and film'[114].

Further examples of the 'blurring' can be seen in the rebuttals and defence statements .of the MPs charged with misconduct. Maina, who claimed not to have received the disciplinary hearing summons sought to refute the charges by stating that he was a committed member of Safina. He said:

> The only person I ever campaigned for is President Kibaki who is my personal friend. But he will not be running for the presidency…I have been paying Sh10,000 every month to the party. They have never told you they don't need my money. Perhaps they want more, which I don't have" (*The Standard*, October 11th 2011).

He then went on to say that 'The alleged expulsion is baseless, illegal and null and void. I have instructed my lawyers to take appropriate action against the party' (*The Standard*, October 17th 2011). The MP argued that during the 2007 elections the party had resolved to not only support Kibaki's re-election but to officially co-operate with PNU[115]. At the time of writing, The High Court of Kenya had issued a temporary injunction halting the expulsion of Maina from the party, in what appears to be a matter of a conflict of interest. Maina argued that one of the Disciplinary Committee members, Cyprian Nyamwamu, acted as complainant, prosecutor, judge and witness at the hearings.

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[114] See statement released by Safina disciplinary committee confirming Maina's expulsion from the party available at www.marsgroupkenya.org/blog/2011/10/11/safina-expels-ephraim-maina-with-immediate-effect/ [last accessed 3/01/2014]

[115] Athough assertions by Maina on Safina's cooperation with PNU are valid, it should first of all be taken into account that Maina's transgression is not his support for Kibaki but supporting the Deputy Prime-Minister and Minister for Finance, Uhuru Kenyatta, the leader for KANU, which is a partner of PNU. In the absence of any official stance taken by Safina endorsing the presidential candidature of Kenyatta, it could be argued that Maina was in breach of his party constitution as he acted outside of his party's authority. While this would under normal circumstances constitute justifiable grounds for an MP's expulsion, there is also the matter of impartiality that could potentially nullify the disciplinary action. The plaintiff, Cyprian Nyamwamu, it emerges, has also been accused of being the complainant, prosecutor, witness and judge in Maina's case, which it seems is being viewed as a serious conflict of interest.

5.3.4. ODM

Perhaps the clearest indication of 'confusion' in distinguishing dictatorial tendencies from disciplinary action can be seen in statements made by William Ruto, estranged ODM Deputy Party Leader at the time of writing, Dujis MP Adan Duale and History Professor Macharia Munene, who all view certain aspects of party discipline as being dictatorial. Speaking in response to the de-nomination of ODM councillors suspected to be UDM supporters, Duale argued that the councillors were well within their rights to do so, as they were simply expressing an alternative opinion. He said:

> The ODM constitution allows members to hold different opinions. In any case the party they are saying we have defected to is an affiliate party of ODM. All this goes to confirm what we have always said about the dictatorial tendencies of the party (*Saturday Nation,* March 5th 2011; *The Star,* October 22nd 2011).

Professor Munene also faulted disciplinary action taken by ODM leaders as setting a dangerous precedent - one that traversed on the border of dictatorship. He opined:

> [a] party that claims to be democratic should not engage in acts which paint it as dictatorial…Now it (ODM) has fallen into the trap of those who have been claiming it has gone back to the KANU days of the dreaded Okiki Amayo. (*The Star,* October 22nd 2011).

Inherent in these statements is a fear that the introduction of party discipline will herald a return to the one-party era during which expulsions, as mentioned previously, meant complete political demise. Mugambi Kiai, however, argues that there is a clear difference between current disciplinary measures and those adopted in past years. He argues that unlike expulsions during the KANU era, expulsions effected now do not end one's political career (*The Star,* October 22nd 2011).

The most recent burning issues concerning party discipline have been over the issue of supporting political aspirants in rival parties against aspirants within one's own party.[116] Following the 2007 general elections, there have been a few cases of note. In ODM, William Ruto together with his Rift Valley allies, Isaac Ruto, Charles Keter and Joshua Kutuny, who were at loggerheads with their party leader, Raila Odinga, openly campaigned for Omingo Magara (a former ODM MP who had lost his seat after a

[116] This has become particularly accentuated following the 2007 elections whereby smaller parties do not front candidates for presidential contests but ally themselves strategically with the party of the incumbent or that of his/her major opposition challenger. This trend has actually touched upon a number of issues, including membership.

successful election petition was lodged against him) who was contesting for the South Mugirango seat on a People's Democratic Party (PDP) ticket[117].

5.3.5. FORD-People

In yet another case of party discipline, Assistant Minister for Trade, Mr Manson Nyamweya was suspended from his party FORD-People for his attendance of an ODM campaign festivity in 2011. The party's Secretary-General, Michael Namayi, stated that the decision to suspend the Assistant-Minister was taken after the Assistant-Minister reportedly mounted a verbal attack on the Party Chairman, Henry Obwocha, after he was summoned by the party's Disciplinary Committee. In response, the Assistant-Minister argued that he had attended the festivity in his capacity as an assistant-minister and not as a FORD-People member[118] (*The Standard,* November 22nd 2011).

Although it is true that current disciplinary action does not signal the end to one's political career, and it is true that clear circumstances exist under which definitive disciplinary action may be undertaken, in the current context of coalition politics where parties are quite fluid, the 'blurring of distinctions' cannot be discounted. In looking at the case of ODM, a blanket approach of expelling MPs who support other parties other than ODM would be rather tricky. Article 5.4.1. subsection (c) on the Termination of Membership in the ODM constitution defines the basis for termination as:

> … accepting an office, subscribing to or promoting activities of a political party or organization whose aims and objectives are in competition with or in conflict with those of ODM.

However, a closer analysis of this subsection reveals two key words: 'competition' and 'conflict'. In line with the provision of the ODM and PNU coalition agreement enabling each party to select personnel of its choice to fill its designated ministerial portfolios, ODM also selected a minister from the United Democratic Movement (UDM), Helen Sambili. Having failed to secure the ODM nomination in the run up to the disputed 2007

[117] After losing his seat, Magara was deprived of an ODM nomination certificate, which it was presumed he would get as the immediate former MP. He subsequently acquired a nomination certificate from the little known People's Democratic Party, a party affiliated to ODM rivals PNU, for his re-election campaign. William Ruto and his allies were accused of attending PNU parliamentary group meetings and for participating in other inter-party political groupings that are opposed to Mr Raila Odinga's presidential candidacy. Ruto and his allies have since left ODM and moved to the United Republican Party.

[118] However, it is not immediately clear how a party function relates to his duties as an Assistant Minister.

election she vied on a UDM ticket, a party deemed to be an ODM affiliate party. The apparent cooperation between ODM and UDM was also confirmed by Phineas Mugalo, ODM Regional Coordinator, who noted that 'UDM and NARC have a casual relationship with ODM, they voted for us and so we wanted to have an association with them' (interview at Orange House, November 19th 2010). Given this information, it can reasonably be assumed that UDM and NARC were at least not in 'competition' with ODM and consequently also not in 'conflict' with ODM.

5.4. Conflicting Laws

One of the main sources of the confusion between party democracy and discipline has to do with what appears to be a conflict between certain clauses of the new constitution and the Political Parties Act.

Chapter Four of the Constitution of Kenya 2010, Part 2, Clause 36 section (1) states that 'Every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any kind' (Constitution of Kenya, 2010: 29). The Political Parties Act 2007 Part IV, Section 17, Subsections 3 and 4 state that:

> (3) A person shall not be a member of more than one political party at the same time.
> (4) A person who, while a member of a political party (a) forms another political party; (b) joins in the formation of another political party; (c) joins another political party; or (d) in any way or manner, publicly advocates for the formation of another political party, shall notwithstanding the provisions of subsection (2) or the provisions of *any other law,* (emphasis added) be deemed to have resigned from the previous political party (Political Parties Act 2007: 332).

However, it goes on to say, 'Subsection (3) and (4) shall not apply to a member of a political party that joins another political party as a corporate member' (ibid.).

Whilst the Political Parties Act clearly prohibits individuals from being members of more than one party, there is also the issue of freedom of association, which is the democratic right of all persons above the age of 18. Whilst a number of politicians have been publicly seen - even visually recorded - in attendance of party functions and activities hosted by parties to which they do not belong, there arises the question in *what capacity?* The notion that individuals who belong to one party but attend functions or get involved

in the activities of so called 'friendly' or 'like-minded' parties is difficult to either prove or disprove. How does one prove or disprove that an individual attending a function of another party is in breach of their own party discipline, particularly if a past alliance between the two parties concerned was never officially severed?

Having illustrated the blurring of lines that currently delineate issues of discipline and dictatorship and indiscipline and internal party democracy, and having confirmed the confusion that exists between the ideas above, the second question may now be asked, *What are the challenges that political parties have faced in trying to enforce discipline following the return of multipartyism?*

5.5. Ethnicity as a Constraint in Party Discipline

Another observation that can be made is that ethnicity may present a particularly challenging dilemma when it comes to disciplining party members accused of misconduct. Due to the often multiple roles that Kenyan politicians hold, simultaneously being party members, constituency representatives and community leaders, quite often parties that attempt to discipline politicians perceived as being wayward have to contend with accusations that their party's actions are designed to humiliate the individuals and the communities from which they originate. Former Cabinet Minister and KANU Secretary-General, Joseph Kamotho, opined:

> [u]nfortunately, tribe and religious faiths have become factors which disgraced public servants seek sanctuary and sympathy when accused of wrong doing, disciplined for insubordination and ineptitude in their parties of choice. Any Kenyan leader who finds himself on the wrong side of the law finds every excuse to claim that his or [her] community is under persecution. Parties and their leaders are finding themselves being held hostage to such lawless members (*The Star*, April 18th 2012)[119].

In another article, Kamotho again highlighted the impact that ethnicity has upon party discipline: 'party leaders are constrained by a number of factors to act, one being the influence some of the deserters wield amongst their tribes'[120].

Perhaps a clear indication of the challenges party leaders face in disciplining errant colleagues who are not their co-ethnics was seen in the long running feud between

[119] To see the full article, go to http://www.the-star.co.ke/opinions/others/71928-leaders-should-not-retreat-into-tribal-cocoons.

[120] http://www.allkenyanews.com/2012/07/well-done-mr-president/ [accessed 16/07/2012].

Prime Minister Raila Odinga and William Ruto. Whilst differences between the two touched upon a wide array of issues, such as the Mau Forest evictions and differences over the recently promulgated constitution, the crux of these differences is fundamentally rooted in ethnic interests[121]. It is instructive to note that despite the threats of expulsion and suspension from ODM for among other things voting with PNU in parliament and campaigning for PNU candidates against ODM in a number of by-elections, both being serious transgressions against the party, William Ruto was never suspended or expelled from ODM. Despite reports in the media attesting to there having been an active behind the scenes agenda to try and pull Ruto and his political associates back into ODM, Ruto never came back to ODM. He officially decamped to the United Republican Party and became its Party Leader[122].

Dishon Nyaga, a former KANU party officer, used the analogy of a poor man marrying into a rich family to describe the situation above:

> [l]et me put it this way, if you marry into a rich family, then your wife behaves anyhow (sic), you will not do anything to her for you want her to stay in your home, you don't want her to return to her home (Telephone interview, November 23rd 2012)

However, further research on the challenges to party discipline reveals that some of the existing challenges that parties face today can be traced back to particular historical policies and processes: the colonial era and the Kenyatta era, which are examined in the following two sections.

5.6. Dissent as Indiscipline: Colonial Origins

While the confusion surrounding the distinctions between discipline and dictatorship, on the one hand, and legitimate dissent and indiscipline, on the other hand can be traced more recently to experience of the Nyayo single-party state, it can ultimately be traced to the colonial state. A careful analysis of the Kenyan colonial state reveals the general propensity of colonial authorities to conflate legitimate nationalist dissent towards

[121] The issue of the Mau Forest has to do with the attempts by the Government, spearheaded by the Prime Minister, to conserve the forest which is viewed as one of the most important forests that replenishes the country's water towers. The forest is thought to be tied to a number Kalenjin interests, as several prominent Kalenjin leaders own significant parcels of land within its environs and members of the Ogiek community (Kalenjin sub-clan) claim it as their ancestral land.

[122] For more on this, see (*The Star* , May 3rd , 2012).

colonial rule with acts of subversion and insubordination. This view is evident in the phraseology and language used at the time to describe the acts and actors of dissent: 'subversive(s),' 'malcontents' etc. In speaking about the response of colonial authorities to criticism of certain policies by KAU, particularly those of the African Land Utilization and Settlement Board, Berman (1990: 329) says:

> [s]ecretariat officers found it impossible to conceive that development and welfare policies about whose beneficial results they received frequent statistical evidence from the technical departments, could on the contrary be a source of African deprivation and discontent. Consequently they tended to see African opposition and dissent, even the moderate nationalism of KAU, as expressions of racial animosity and an unreasoning opposition to progress.

He goes on to say that:

> [t]he KAU came to be viewed as representing a form of reverse racism led by a small minority of semi-educated 'misfits' 'malcontents' and 'irreconcilables' with whom there could be no cooperation or reasoned interaction (ibid.)

The British Colonial Government publication, *The Origins and Growth of the Mau Mau: A Historical Survey*, better known as the 'Corfield Report', was laced with the same language and phrases that portrayed acts of nationalist politicians and the nationalists themselves as being wholly illegitimate. Fred Kubai and Markhan Singh, the founder of the East African Trade Union Council (EATUC), are referred to as being 'dangerous and unscrupulous agitators' (*Corfield Report*, 1960: 89). Further references to Kubai describe him as 'stormy petrel of the highly subversive trades union movement' (ibid.: 56). The Corfield report also sought to portray the newspapers and pamphlets produced by the Kenyan nationalists as sailing 'close to the breeze of sedition,' and described their contents as 'insidious poison' (ibid.). In his memoirs, Mugo Gatheru recounts one particular incident that happened between the 'Forty Group' and the governor. After the Forty Group had criticised the Government over its policy denying the right of Africans to farm in the White Highlands, the latter would dismiss them by labelling them 'foolish young men who talk and write hot-headed nonsense' (Gatheru, 2005: 135).

This attitude may have been occasioned by the exigencies of colonial governance to try and maintain control of the politico-administrative functions over the territorial space of Kenya, and hence the resort to more repressive methods of governance. These methods were also seen as necessary in order to maintain the agricultural economy and facilitate accumulation. This particular view of dissent was subsequently institutionalized by the

post-colonial elites as they routinely employed similar language to describe acts of dissent to the government and within the party. As in the colonial era, dissent increasingly came to be viewed as a trait of ill-disciplined individuals. A telling indicator can be seen in the appropriation of colonial expression by conservative members of KANU to describe dissenters, within the party as 'trouble makers' 'rabble-rousers', 'malcontents', 'radicals' and 'subversives', to name but a few.

KANU leaders used these colonial tropes to frame acts of dissent or any other views that questioned the status quo, thus institutionalizing this particular approach to dissent. In objecting to the presence of Russian and Chinese instructors at the Lumumba Institution, Justus *ole* Tipis declared that the school was involved in the 'teaching of subversion' (Good, 1968: 121). Perhaps yet another indicator of attitudes towards dissent can be glimpsed in a statement delivered by Tom Mboya in his capacity as the Minister of Justice and Constitutional Affairs in 1963:

> [The Government would use] the full rigour of the law against the Opposition if they step outside the bounds of legality… If the only role it can play is a destructive one aimed at the dismemberment, disorganization and disunity of Kenya, then it is serving no useful purpose and is a luxury we are not going to tolerate. We cannot afford it (Tom Mboya, cited in Goldsworthy, 2008:221)[123].

5.7. Discipline and Dissent in the Kenyatta State

The continuation of the types of attitudes described above was informed primarily by the failure to develop a cogent *ideology* and to effect a serious *routinization of party rules and regulations with which to create a sense of cohesion.*

5.7.1. Absence of cohesion

Most political parties in Kenya have been characterized by a distinct lack of cohesion, ideologically or otherwise. With the exception to the Lumumba Institute, there were no other concerted efforts to succinctly establish a sense of ideological cohesion through serious party debates after independence. Okoth-Ogendo (1971:12) states that:

> Much activity accordingly went into organizational tactics, especially the creation of a united front; correspondingly value thinking and political education were significantly deemphasized.

[123] Goldsworthy went on to say that 'Mboya was a thoroughly authoritarian personality in some respects, yet in other ways he always remained the concerned liberal' (ibid.:222).

This could partially be attributed to the attitude of the party Secretary-General, Tom Mboya. In the run up to independence, Mboya argued against engaging in substantive debates, as these would detract from the main prize which was *uhuru*. He said:

> A nationalist movement should mean the mobilization of all available groups of people in the country for the single struggle. This mobilization is based on a simplification of the struggle into certain slogans and into one distinct idea, which everyone can understand without arguing about the details of policy of governmental programme after Independence. (Mboya, 2008: 61).

Much of Mboya's concern was on the need to have a robust and well-disciplined movement with a strong leadership with the total commitment and loyalty of the followers to the leadership of the organization. He stated, 'The national leader needs an organization whose pattern allows him to lead and also to impose discipline and demand action whenever necessary' (ibid.: 62). In stressing this point, he affirmed '[t]he people have to be organized so that they are like an army: they must have a general, they must have discipline, they must have a symbol' (ibid.: 62). He went on to say:

> [a]nd, among the people themselves, they are intended to show the strength of the leader and the complete loyalty of his followers, and to persuade the few who may doubt the rightness of the cause that after all everybody else believes in it. (ibid.:63).

This particular concern with a quasi-militaristic discipline of the rank and file movement members and their complete loyalty to the movement's leaders is reminiscent of Carey and Reynold's notion of parties characterised by high discipline but low programmatic content as entities likely to be 'efficient predators for power' (Carey and Reynolds, 2007: 258). As such, parties that put a high premium on strict discipline at the expense of programmatic articulation are likely not to view individual dissent favourably. Whilst Mboya's attitude towards programmatic articulation may have been nonchalant to say the least, was it responsible for the failure of the KANU executive to implement the original KANU manifesto?

5.7.2. The disregard of the KANU manifesto

It appears that the exigencies of state governance at independence took priority over KANU party business as a whole. There is the notion that given the unique circumstances KANU encountered at independence, the stark realities it faced once in power made it difficult, if not altogether impossible, for the KANU Government to honour its own pledges. As such, the party manifesto at this stage was increasingly

viewed as an ideal than a definitive programme of action. Further, it may also have been the opinion of the KANU leadership that reneging on certain policies within the manifesto were not a serious 'offence' in the final analysis and consequently did not warrant much worry[124].

The other dimension to this argument is that upon ascending to power some of the top KANU leaders became enmeshed in a whole matrix of power relations, domestic and foreign. As a result, they became privy to some information and realities that were hitherto unknown to them. The gravity of power exerted by these matrices of relations may have been such that KANU leaders had to attend to these in a manner that effectively deferred, if not undermined, their initial plans.

In his correspondence with the Colonial Secretary Reginald Maudling, Michael Blundell proposed Kenyatta's name as a potential compromise candidate to the two feuding groups comprising Odinga, Gichuru, Mboya, Gikonyo-Kiano, on the one hand and Ngala, Moi, Muliro, Toweet and Shikuku on the other. In its parley with Kenyatta, the Colonial establishment, in conjunction with a few representatives drawn from settler political power, sought assurances from Kenyatta that he would not depart radically from the policies of the colonial administration. It sought Kenyatta's assurances mainly on the economy and, more particularly, on land ownership (*Sunday Nation*, September 24th 2008; see also Blundell, 1964; Kinyatti, 2001). Evidence of this apparent compromise between Kenyatta and the colonial authorities and white settlers can be seen in a particular incident. During one heated debate at the Lancaster House Conference in 1962, Kenyatta declared that the future of the White settlers was contingent upon readiness to admit to failures of the past and their willingness to cooperate with an African government (Blundell, 1964). However, Joseph Murumbi notes that at a subsequent meeting between Kenyatta and Blundell during which the former was queried by the latter whether he would renege on the deal in light of his Lancaster House comments, Kenyatta is said to have responded that he had not gone back on the Marlal deal, but was merely speaking out of exasperation at that particular point in time (*Sunday*

[124] However, it is equally plausible that given Mboya's aversion to definitive policy positions in KANU prior to independence, the manifesto was designed in a sufficiently vague manner so as not to commit the party to any position one way or the other.

Nation, September 24th 2008). In contextualizing these sorts of elite compromises, Daniel Branch and Nicholas Cheeseman state that:

> [t]he profound tension between the rhetoric of nationalism and the reality of social and economic domination were common to many post-colonial societies. The distinctive features of the Kenyan state lie in its ability to demobilise these forces through the primacy and strength of the executive and the provincial administration (Branch and Cheeseman, 2006; 14).

This view is further substantiated by Bruce Berman. He notes that to an extent the disregard of the KANU manifesto could also be attributed to the relationship that the new KANU ministers had with the civil-service (Berman, 1990). Since the new ministers were essentially socialized by the civil service with regard to the running of ministries, there was latitude for manipulation on the part of these agents to impress upon their new 'bosses' particular sets of policies:

> you know you felt you could probably 'con' him, that's not the right word but you could probably get things done more readily through a political minister and get them on the move than you would under the old system (ibid.: 414).

In describing how the matrix of international power relations conspired to exert influence over the Kenya Governments' processes of policy formulation, ideological orientation and its developmental character, Berman states:

> In 1961 a leader of the settler farmers was told by an under-secretary in the Colonial Office '… there is no Government in the world which has yet dared to offend this institution [World Bank] and, therefore, it is most important that with independence on the way, the Bank should be linked to Kenya's development. It would constitute a most potent stabilizing factor'. This remark, in conjunction with the evidence on settlement schemes, labour policy and covert administrative controls surveyed above, suggests that after Lancaster House, the metropolitan authorities were increasingly aware of what was at stake in 'decolonization' and moving purposively to forge external and internal arrangements that would sustain the patterns of development that had emerged over the previous decade and to secure British interests in them (Berman, 1990: 415).

He goes on to say:

> Institutional and ideological reinforcement of Kenya's commitment to capitalism and to its place as a 'developing nation' in the world system came from rapid growth and apparatus of "development assistance" (ibid.).

In similar fashion, Branch and Cheeseman (2006: 15) note that this constellation of power relations constituted what may be considered a 'pact of domination', in which the continuity of particular modes of rule required the effective 'demobilization of popular forces. They also state that the ability of the nationalist coalition to continue with

colonial modes of rule lay essentially in the ability of the coalition to marginalize the 'radical' elements amongst their ranks:

> [i]n the Kenyan case, the post-colonial state represented a 'pact-of-domination' (Cardoso, 1979:55) between transnational capital, the Kenyan elite, the provincial administration and the executive (here understood to be the colonial governor, the post-colonial president and their closest advisors, formal or otherwise). The ability of this coalition to reproduce itself over time lay in its capacity to demobilise popular forces, especially those 'radical' elements of the nationalist movement that questioned both the social and economic divisions of the post-colonial state (Branch and Cheeseman, 2006: 14)[125].

In the light of the above, it becomes easier to understand President Jomo Kenyatta's remarks in his foreword to Sessional Paper No. 10 urging the nation to forget 'theories' and debates and focus on 'building the nation':

> [w]hen all is said and done we must settle down to the job of building the Kenya Nation. To do this, we need political stability and an atmosphere of confidence and faith at home. We cannot establish these if we continue with debates on theories and doubts about aims of our society. Let this paper be used from now as the unifying voice of our people and let us all settle down to build our nation (Sessional Paper No. 10, 1965).

From the above, it is clear that the disregard of the KANU manifesto and the suppression of any alternative ideology was attributable to exigencies of governance and the covert commitments of the KANU senior executive to a particular set of policies advocated by foreign capital, the British Colonial Office and elements of the ex-colonial civil service. Whilst Mboya was certainly a crucial player in the various processes, specifically the development of Sessional Paper No 10, it is clear that he was only part and parcel of a particular process and could not direct it.

It is also clear that in spite of Sessional Paper No. 10, the disregard for the original KANU manifesto and the obscure rallying points of the party other than the popular slogan *harambee* were not enough to create a sense of cohesion amongst KANU members. Okoth-Ogendo noted that curtailment of debate increased not only party indiscipline but parliamentary indiscipline as well. He had this to say:

> It is not only the party, but the whole political discipline of the state, as embodied also in the parliament and government, that suffered. Members of the parliament

[125] For more on the role that charisma played in diluting constitutional provisions, see Okoth-Ogendo (1972).

> suddenly lost real interest in the Assembly except on occasions when their personal interests were affected (Okoth-Ogendo, 1972: 22)

The President's foreword to Sessional Paper No. 10 and the tendency to communicate government policy to backbenchers through the media were symptomatic of a general disinterest on the part of the President and the Executive in general to achieve cohesion through consensual procedures. The disenchantment of party members at the disregard of the original KANU manifesto, and their exclusion from the crucial processes of policy formulation and ideological articulation beyond a few debates in parliament can be seen in the words of G.G. Kariuki:

> [i]n early 1965 some backbenchers, myself included, formed a group under the chairmanship of Henry Wareithi, mainly to question the Government from within. We felt frustrated by its total disregard for the original KANU manifesto and its heavy reliance on the ex-colonial civil service. In the parliamentary group meeting, which Kenyatta always chaired we complained bitterly that we were not being informed about the day-to-day running of the Government or the party, but instead had to rely on newspapers and radio reports (Kariuki, 2001: 44).

Throup and Hornsby (1998: 38) highlight the importance of a salient party platform as a legitimating agent and tool for creating unity:

> Ideology is important, however, in building as self-sustaining, cohesive political party, and one of the key weaknesses of the new search for authority and legitimacy was that whilst Kenyans pragmatically bowed their heads to this new order, they had no particular commitment to what it represented.

Consequently, the disregard of the party manifesto, combined with the systematic exclusion of rank and file party members in the ideological and programmatic formulation of government policy, was seen to empty much of the value that these processes would have given to party members in KANU.

While the foregoing explains why the KANU manifesto was disregarded, how can the disregard of the KANU constitution and selective adherence to the law be explained?

5.7.3. Diluted constitutionalism

To a great extent, the selective adherence to the law can be explained by the fusion of rational-legal and traditional sources of public authority, or *neopatrimonialism* (Chabal and Daloz, 1999). Branch and Cheeseman (2006: 14) argue that the neopatrimonial nature of public authority in independent Kenya worked to curtail any prospects of backlash at the abrogation of key policies and the party constitution. They opine, '…the Kenyan post-

colonial state was bolstered by semblances of both 'rational-legal' and 'charismatic' authority' (ibid.). Similarly, Sihanya, (2011: 4) notes that within the post-colonial context, the sources of presidential authority were drawn as much from traditional conceptions of power as they were from rational-legal texts. He noted that '[a]gainst the backdrop of a repressive colonial legacy, the presidency was also equated with chiefly authority in traditional societies, which authority was often intertwined with religious authority'. Musila (2010: 281) also states that:

> At the core of Kenyan social imaginaries across the cultural, political and intellectual landscapes, lies a particular trope of veneration of both age and masculinity.

As such, Presidents Kenyatta and Moi derived a significant proportion of their authority from a culture that respected and did not question sage authority. The fixation with maintaining law and order notwithstanding, its seems that the culture of selective adherence to the law was not something peculiar to successive governments in independent African states but it could in earnest be traced back to colonialism itself. As noted by Arendt (1973: 214) in reference to what Cromer (1884) described as 'hybrid' system of government:

> informal influence was preferable to a well-defined policy, because it could be altered at any moment's notice and did not necessarily involve the home government (Arendt, 1973: 213).

In highlighting the informal discretionary power that colonial administrators exerted, she says:

> [t]hus does the bureaucrat shun every general law, handling each situation separately by decree, because a law's inherent stability threatens to establish a permanent community in which nobody could possibly be a god because all would have to obey a law (ibid.: 216).

Arendt calls the arbitrary nature of colonial government by bringing attention to the fact that colonial government was also referred to as *regimes des descrets,* which roughly translated means discretion in governance (ibid.: 244). In discussing the land question in colonial Kenya, Klopp (2002: 59) gives the example of Crown Land Ordinance (1915), which was altered by the colonial government to deprive Africans the legal right to lands outside the native reserves, after they cited it as proof of their legal right to the lands in question. Such was the nature, ironically, of early bureaucratic governance in Kenya. Perhaps the best indicator of attitudes towards laws and constitutionalism in general by successive Kenyan governments is captured by Jackson Angaine, the Minister of

Agriculture under the Kenyatta regime. He said '[s]ince law is made by man, it can also be amended by man if needed' (Angaine, cited in Jonyo and Owuoche, 2004: 64)[126]. This cavalier view towards the law subsequently led to a situation whereby a number of different versions of the party constitution were produced, consequently leading to the party constitution being ignored (Bienen, 1977; Okumu, 1979; Odinga 2008). However, it was also this particular attitude that in essence allowed for the various amendments to the national constitution that essentially changed the character of the state.

5.7.3.1. Constitutional change and the fusion of presidential and parliamentary systems

As mentioned in the previous section, the casual approach to the law adopted by senior members of the KANU Government led to the disregard of the KANU constitution. This attitude in turn resulted in the state constitution being amended "39 times", to quote Martin Shikuku, in order to enhance presidential power[127]. Similarly, G.G. Kariuki opines that:

> All the constitution(al) amendments were supposed to strengthen the power of the president and even to weaken the parliament. For the last many years parliament has been there not to serve the people, it has been there to serve the government (ibid.).

As such, immense powers were bequeathed to the Head of State through various constitutional amendments. The first amendment to the Lancaster House Constitution, Act No. 28 of 1964, transformed Kenya into a republic with a presidential government [128]. The third amendment to the constitution lowered the number of votes in parliament required to effect constitutional changes, from 90 percent in the Senate and 75 percent in parliament to 65 percent for both houses (Okoth-Ogendo, 1972).These amendments would subsequently have the drastic effect of eroding a strong faith in constitutionalism whilst making the presidency the most important institution, arguably at the expense of the constitution itself. Journalist Linus Kaikai said of Kenyatta that 'Kenya's bigman was the law unto himself with powers to reward or punish, vanquish or let live'[129]. The new

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[126] Odinga (2008: 229) notes that in constitutional agreements held at Lancaster House in 1962, Kenyatta stated that it was probably best to accept a constitution "…we did not want, but once we had the government we could change the constitution".

[127] See the 'Making of a Constitution', http://youtube.com/watch?v=jHrbiBB0syM&feature=relmfu

[128] See Act No. 28 of 1964, Schedule 1.

[129] See the "Making of a Constitution",http://youtube.com/watch?v=jHrbiBB0syM&feature=relmfu

found powers accorded to the President offered him latitude of discretion. Act No. 16 of 1966 (fourth constitutional) amendment, Act No. 17 of 1966 and Act No. 45 of 1968 (tenth amendment) all essentially had the net effect of curtailing dissent and opposition within the party whilst simultaneously ensuring the loyalty to the President (see also Gimode, 2007).

Act No. 16 of 1966 which conferred upon the president the power to establish and to abolish any office also stated that 'every person holds office at the pleasure of the President'. It also outlined that a member of parliament who had been sentenced to a prison term of six months or more would lose his seat. It further stated that an MP would lose his seat after eight consecutive absences in parliament, without prior notice to the House Speaker. However, the President could override this decision if he saw fit.
Similarly, Act No. 17 of 1966 (which subjected an MP to a by-election after defecting from his/her sponsoring party to parliament) and the tenth amendment, Act No. 45 of 1968, all essentially had the net effect of curtailing dissent and opposition within the party whilst simultaneously ensuring loyalty to the President (Okumu, 1982; Agweli-Onalo, 2003). The tenth amendment fundamentally altered the relationship that the President had to both KANU and Parliament, by providing for the direct election of the President. This act, to an extent, *presidentialized* the political system by insulating the president from factional conflicts within the party. However, since the President was still a member of parliament, and by virtue of the fact that he was head of KANU, he automatically became the Head of Government upon ascending to power. As such, these amendments in effect accorded the president both the powers of an executive president and those of a prime-minister (Agweli-Onalo, 2003). Consequently this had an unintended effect of lowering discipline within the party, as the pairing of MP with the President on the ballot only heightened the personal loyalty of legislators to the President and not the party.

While these particular amendments were cumulatively responsible for the creation of the 'imperial' presidency in Kenya, other amendments that were made during the early years after independence also had the net effect of eroding respect for the rule of law (Gimode, 2007). This was largely a result of amendments being made without restrain to either benefit or deprive certain individuals of positions of privilege or undue advantage. Charles Njonjo best illustrated this when discussing the constitutional amendment that

was enacted to allow Paul Ngei, a fellow detainee and personal friend of Kenyatta, to return to Parliament:

> now that change to allow Ngei, and it required two thirds majority as you know, to amend a constitution, to get two thirds, meant marshalling a lot of eh.. reluctant fellows, I had to tell people like Shikuku if you don't amend this, if you don't agree with this motion, I'm afraid parliament is gonna be dissolved and Kenyatta was going to[130].

Notwithstanding the relative freedom MPs were accorded within the confines of parliament to deliberate on national issues, it is clear that when it came to certain key policy decisions or positions taken by the Executive; these were not up for debate. The constitutional amendments cited above were not only to consolidate and enhance presidential authority, but were also effected with the express intention of increasing loyalty to the President and his government and tightening discipline. However, as shown in the section that follows, it is apparent that these changes did not necessarily translate into tighter discipline where the extra-parliamentary party was concerned.

This state of affairs prompted Bildad Kaggia to complain that the party was being 'wrecked'. Similarly, John Keen, in response to the apparent marginalization of party members, exclaimed, '[t]he party must be supreme and not act as a rubber-stamp as it is today' (*Daily Nation*, January 7th 1965). Despite these assurances, attempts to reorganize the party by General-Secretary Mboya all came to naught in the wake of his assassination. As such, no meetings of the full National Delegates Congress were held and no party elections organized for close to 13 years (Okumu, 1984). KANU atrophied further due to infrequent meetings of its National Executive Committee or Governing Council. With the exception of the KANU Parliamentary Group, few opportunities were available for any serious *routinization* of party principles[131]. In essence, party meetings – when they did take place – appeared to be mostly to serve the function of crisis management, as opposed to consultation and policy appraisal. These meetings seem to have taken place mostly during periods where front benchers had found themselves at odds with back benchers over proposed government policy. The attenuation of public space through

[130] See "The making of a Constitution": http://www.youtube.com/watch?v=d-UPg0pR5Jo

[131] Due to the fact that leaders themselves would periodically violate the party rules, the force of the rules withered. The fact that the Party Whip was not a linkage between the Government and backbenchers largely prevented the possibility of party discipline in the house emerging. The Party Whip, J.D Kali, was in all actuality linked not only to the back benchers but had strong linkages to the Oginga Odinga-Kaggia faction of KANU.

which vocal MPs could establish soapboxes gradually subdued opposition, but it did not, ironically, enhance cohesion between the front benchers and backbenchers. This is evident in the attitude of one legislator who said in parliament:

> [w]hen the President meets with us after we have had our discussions, somebody always stands up and begins singing in the most musical manner '*Kanu yajenga nchi',* and yet we are prepared to say KANU is not functioning…I have never sat down or stood up and sung 'Kanu *yajenga nch*'' because I do not believe that KANU is building the *nchi* (*Hansard*, February 25th 1971: 94).

There appears to have been no active attempt through the organs of the party to whip up support for government policies, as the Parliamentary Group meetings chaired by the President that included backbenchers were abandoned altogether (Okumu 1984).

As seen in the section above, the party executive failed to honour the party manifesto and diluted constitutionalism by ignoring its party constitution and also effecting a series of constitutional amendments that also effectively changed the character of the state by creating a 'hybrid system' of government that combined both parliamentary and presidential systems. This hybrid alteration however did not improve discipline. So how then was discipline ensured within KANU?

5.7.4. The carrot and the stick

Despite the concern with party discipline in Kenyan party politics, it is apparent that beyond the use of particular strategies of reward and punishment, discipline among party rank and file during the Kenyatta years was never really effected via the parliamentary whip or through established internal party organs, much less disciplinary committees in the case of extra-parliamentary party organization. This may partially be attributed to the neglect of the party apparatus. This may have stemmed from Kenyatta's own views towards the party as a whole, '…the actual party organization is not so important, perhaps, as the discipline in thought-lines which KANU must learn' (Good, 1968: 117). This particular approach, however, created a dilemma for party leaders, for in the absence of a strong party structure, how else was discipline to be ensured?

Attempts to institute party discipline were carried out through various strategies, both soft and hard. The soft measures for ensuring compliance to government and by extension party directives was through co-optation, whereby dissenters were brought into the fold by way of promotion and elevation or 'purchase' (read bribery). The hard

strategies included branch coups (in the case of ruling parties), detention and arbitrary arrests and sometimes physical elimination. Gimode (2007: 235) notes that '[a]ssassination is the most extreme measure to deal with political dissent'[132]. It usually followed that if the soft strategies failed then the sterner strategies designed to induce compliance with the government were employed (Widener, 1992).

A classic case in point was that of Bildad Kaggia. Having been at odds with Kenyatta on a wide range of policy issues, Kaggia became one of the first targets of these various strategies. An interesting example of this comes from a particular incident when Kaggia apparently refused to accept a piece of land that Kenyatta sought to give him in return for his compliance, an act to which Kenyatta responded with much fury and consternation:

> I give you a (sic) farmland and you have refused to take it; what else do you want? Surely, you don't feel well in the head. Go away! You will remain poor until you die. (Kinyatti 2008: 400)

After asking President Kenyatta if he was aware of the living conditions of people in the various low-income and informal residential areas in Nairobi, the President's trusted confidant responded to Kaggia as follows:

> Kaggia, why do you refuse to take farmland Kenyatta gives to you? That is to defy him. Have you forgotten who Kenyatta is? There is nobody in this country who would dare defy Kenyatta. Kenyatta is the law, he is the country nobody defies him (ibid.).

After realizing that Kaggia would not be silenced by an appointment as assistant minister and subsequent efforts to buy his silence by offering him a large plot of land, no expense was saved by Kenyatta to finish-off Kaggia politically. Incensed at Kaggia's attempt to reply to the president after he [Kaggia] had been severely denounced by Kenyatta at a rally, the latter showed his displeasure at this seeming defiance by calling him 'insane' and denying him the opportunity to speak. Kenyatta shouted out:

> Kaggia, are you asking me to let you speak? You must be insane. This is my rally, you are not speaking… if you want to speak, call your own rally. (Kinyatti, 2008: 390).

[132] For a full exposition on the how dissent was discouraged through hard strategies, see Gimode (2007).

Of Kenyatta's crusade against Kaggia, Ajulu (2000: 142) observed that 'Kenyatta and Koinange took personal charge of Kaggia's personal harassment'. Kaggia, who had been a domineering force in Murang'a politics since his return from detention, was deposed both as KANU branch chairman in 1966 and would later lose his seat in the 'Little General' election of that year (Odinga, 2008; Ajulu, 2000)[133]. Attempts were made much later to eliminate him even after he had rejoined KANU (Kinyatti, 2002: 401).

5.7.5. Loyalty as discipline

KANU under Kenyatta had stronger branches headed by local 'bigmen' relative to the party centre, which was weak. Loyalty to the President in this case meant the absence of dissent towards the Government. The President himself made sure that there was no uncertainty on this matter:

> If any Member of my Government feels what is called a crisis of conscience in regard to any Bill approved by my Cabinet, he should resign as a Member of the Government, whereupon he will become a backbencher. He will then be free to oppose the measure under Standing Orders of the House and his action will be judged by the people within his own constituency. Mr. Speaker, this is not a question of blocking any parliamentary opposition. The whole business of giving service to the people becomes more complex with each passing year. One of the vital requirements within a stable Government is discipline, and this discipline must be maintained otherwise there is betrayal of the people's trust (*Daily Nation*, March 22nd, 1972).

One of the principal mechanisms employed to that end lay in the periodic affirmations of loyalty towards the President and his government. In one fateful sitting, Tom Mboya stated that the house and the party '… expresses full confidence in the President and his government and condemns those dissident and confused groups'. (*Hansard,* February 15th 1966: 864). Another example of this can be seen in the proclamation by the Vice-President Moi:

> … noting the occasion of the twenty-first anniversary of the unjustifiable arrest and subsequent detention of our beloved President and Father of the Nation, Mzee Jomo Kenyatta. … This House (1) solemnly reaffirms its confidence and unflinching loyalty and support for His Excellency. (*Daily Nation*, October 17th, 1973).

Consequently, these acts in effect meant there was little room for opposition. However, this did not entirely remove all vestiges of dissent within the party as the elections of

[133] Although Kaggia's initial appointment as an assistant-minister may have been done out of a sense of camaraderie as both men had been detained in Kapenguria in the 1950s, there is also a chance that Kenyatta may have felt that by "rewarding" Kaggia with an appointment, he would be able to rein him in this time around, a feat he was not able to do during their KAU days.

1969 and, more particularly, 1974 showed. These elections saw the emergence of 'rebellious' MPs or politicians who were independent minded.[134] However, following the death of Tom Mboya, discipline was increasingly ensured through detention laws and arbitrary arrests enforced by the civil service and provincial administration. Among the politicians detained during this period were Jean Marie Seroney, Martin Shikuku, Chelagat Kimutai and George Anyona.. The attenuation of political spaces in which vocal MPs could establish soapboxes gradually subdued opposition, but it did not, ironically, enhance cohesion between the front benchers and backbenchers.

5.7.6. Extra-parliamentary discipline

Extra-parliamentary discipline was virtually non-existent due to the relatively decentralized nature of the party. On account of infrequent meetings of the party's National Executive Committee and National Governing Council, and the introduction of more than one party constitution[135] at a given time, as mentioned earlier, attempts at inducing party discipline were made mostly through oustings of branch officials. Consequently, discipline, which in this case meant the absence of dissent, was possible only through the loyalty of clients to their patrons[136]. Despite, the fact that branches were the most functional and active organs of the party, they were organized in such a way that they also served as patronage networks (Bienen, 1974). These alternative branches were often established during periods when leaders from the party centre struggled to gain control of the party. A leader from the party centre would sponsor rivals of a sitting branch leader by providing resources to start up alternative party offices, within the locales of official branches. Although it is plausible that alternative branches may have been created as a means of linking the party centre to the grassroots, their primary function was to undercut rival branches already in existence (Goldsworthy, 1982). Whilst branch control could in theory be established through the power of 'official' recognition,

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[134] In the early years of the Kenyatta administration, there was an element of tolerance towards what it termed 'constructive' criticism. This notwithstanding, no clear definition was ever put forward to distinguish between 'constructive' and 'malicious' criticism (see Widener, 1992).

[135] Over the years at least one different version of the party constitution was introduced within KANU; This happened largely without the input from the KANU Governing Council and without ever having officially discarded the original KANU constitution. For more on this See (Goldworthy, 1982 and Bienen 1974)

[136] Throughout much of this period there was little or no cohesion within the party. This is best evidenced by a speech that Kenyatta gave in which the theme of unity was stressed several times (*Weekly Review,* October 26th 1976).

via registration, the party centre was never able to establish clear control of the branches, especially in an environment of local factionalism (ibid.).

Due to the fact that branches were organized at the district level, ethnicity tended to be the complicating factor. Since its establishment, KANU had never been able to really deal with this problem. The experience of the African Peoples Party, which was formed because of attempts by General-Secretary Mboya to deprive Paul Ngei of the position of branch leader, is a clear illustration of this phenomenon. Odinga (2008) contends that Mboya was not keen to have Ngei as branch leader ostensibly because the latter was not seen as being pliable on account of his radical politics. It is also possible that given Ngei's independent mind and well known temper, the relationship between the General-Secretary and the prospective branch leader would not have been an easy one. When Ngei left KANU he took a sizeable number of the Akamba population in KANU with him to APP. Although APP came third in the 1963 elections, their vote showing convinced those in KANU that it was better to have Ngei in KANU than to have the APP form an unholy alliance with KADU.

That being said, by virtue of KANU's weak centre, the party's inability to control local factional power struggles in the branches inadvertently proved to be a stabilizing factor for national party leaders. Local factional conflicts meant that local party bosses spent much of their time trying to put out local 'fires' and only turned their attention to patrons higher up for resources to oil their own patronage machines and to stave off competition. In one sense, these contests of political supremacy could be considered as being 'democratic' in as far as branch faction leaders were accorded some measure of free-speech and could engage in a fair amount of verbal sparring without much censure from the party centre.

On the flipside however, the fact that very often these 'branch contests' went beyond the exchange of words and often resulted in the usurpation of power, also smacked very strongly of party indiscipline. The fact that these contests resulted in changes in personnel, in contravention of the KANU constitution, sometimes with no punitive sanctions from the party centre, could also be considered as evidence enough of serious shortcomings in party discipline. Consequently, this situation left branch leaders with little time to seriously contemplate mounting any challenges against national-level leaders. Within this context it could be argued that there was no urgency for party discipline as

these factional fights were as much about branch control as they were about demonstrations in which rivals tried to outdo each other in displaying loyalty to the Government and the President. Loyalty to the Party President was viewed as the most important marker of 'discipline', as those loyal to the President, it was thought, would never join the ranks of the known dissenters who disagreed with the Head of State or presumed to know better. The situation remained much the same through the transition to Moi's presidency after Kenyatta's death, until 1982.

5.8. Exit Kamau, Enter Kapkorios: Discipline and the Moi State

5.8.1. The Tightening of Discipline in KANU

Just prior to Moi's ascension to power, the state of discipline within KANU, as mentioned earlier, had crumbled considerably. This was evidenced by the emergence of the 'Change the Constitution' movement in 1976 and the failure of KANU to hold national party elections in 1977. The relatively open factionalism that saw the fragmentation of the party leadership crystallised into two main groups within the party: KANU 'A', led by GEMA leading light, Njoroge Mungai, and KANU 'B', a grouping of political elites that had coalesced around Vice-President Moi.

Although the new president had survived the intrigues and plots against his succession, the challenges that lay ahead seemed more daunting than those he had overcome. Amidst the poor state of the party, the fractured governing elite and the proliferation of ethnic welfare associations, questions arose of how he would create a sense of cohesion and order at the centre. One of the principal means of doing so was through the appropriation of the 'Nyayo' philosophy, in which the tenets of peace, love and unity were strongly emphasised. Whilst it did calm the nerves of the leaders of the KANU 'A' faction by signalling a continuity in the mode of rule, it appears that, like the 'African Socialism' before it, this alone would not be enough to promote cohesion and discipline within the party. In 1982, statements by former vice-president Oginga Odinga to the effect that Kenya was ripe for a second political party resulted in the establishment of a one-party state. The establishment of the one party state in Kenya happened soon after Moi hadexpelled from the party Oginga Odinga and George Anyona for intending to form an alternative party to KANU. As indicated in one statement by the President, Oginga Odinga once again found himself in the political wilderness:

> Odinga has cleared himself out of KANU- those who sympathise with him can follow (*The Standard,* May 21, 1982)
> .

The introduction of amendment 2A in the constitution, officially legalizing the one-party status of the country, was meant to herald greater party discipline. By denying MPs and regional party bosses the opportunity of either forming or joining another political party to continue their careers, MPs were stripped of both leverage and alternative recourse (Throup and Hornsby, 1998). The idea was that given this situation, KANU members, despite their varying degrees of wealth and local influence, would still be straight jacketed within the party. However, it is important to note that despite the tightening up of discipline within the party, this did not correspond with greater adherence to the party constitution and the state constitution.

It must be stated that although the inclusion of section 2A in the state constitution in June 1982 was in response to Oginga Odinga and George Anyona's intention to form an alternative party to KANU, it was merely a pre-emptive strike to prevent a possible exodus of MPs from the party. Just prior to Moi's succession, his adversaries in KANU 'A' had been on a rapprochement exercise with Oginga Odinga's faction of the Luo Union (Morton, 2008). Had Oginga Odinga been able to form his political party, there was nothing to say that the KANU 'A' faction would not have done the same and possibly forged a loose Kikuyu-Luo alliance outside KANU. As such, there may have been no real intention to strengthen KANU or to tighten the discipline of its members to the extent that it eventually reached. Due to the fact that the time between the legislation of the single-party and the *coup* attempt on August 1st 1982 was less than two months, the true intention may never be known for certain. Evidence suggests though that it was only in the aftermath of the coup itself that a decision was taken to 'revitalize' the party and transform it into the mighty organization that it became.

5.8.2. The coup and its repercussions

As was shown previously, the phenomenon of personal rule was not peculiar to the Moi regime, as the Kenyatta regime had started this tendency[137]. However, it is clear that there was a greater intensification of this trend following the proscription of all other civic and cultural organizations after 1982.

The abortive coup of August 1982 marked a watershed in Kenyan governance. Immediately afterwards, drastic steps were taken to ensure greater discipline and more particularly greater loyalty to the President (ibid.). In September 1984, Moi stated:

> I would like ministers, assistant ministers and others to sing like a parrot after me. That is how we can progress .... During Kenyatta's time, I sang only 'Kenyatta' .... I didn't have ideas of my own. Who was I to have my own ideas?... So you play my tune. Where I put a full stop, you put a full stop (Meredith, 2005: 384).

This re-emphasis of loyalty and its relationship to discipline may be observed in the parliamentary contribution of then Vice-President Mwai Kibaki:

> We of the parliament of which the president is also a member are totally loyal to him and that it is for this reason that we welcome the action taken to discipline, by expelling from the party all those whose behaviour has brought disrepute to the status of KANU members. This is so that any other such people will in future know that KANU is prepared to take strong and firm action. I am sure that we are all agreed that we are loyal to the president both in his two capacities as head of state and head of KANU (*Hansard*,, 14th September 1984)

Subsequent to this, all cabinet members were required to sign a document in which they 'agreed' not to criticize the president, the government, the party or any policies originated by them (Ogot, 1993). It is for these reasons that John Keen argues that KANU was a 'yes party':

> KANU was a yes party. Anything that Moi says or Kenyatta said it was accepted, it was a yes party, who could have opposed Kenyatta? Who could have opposed Moi? You risked going, going to detention because we had detention laws… We had to sing that song, the song of our boss[138].

Although elections and the control of party nominations had served as the main means of securing the discipline of MPs in the past, they were not always 100 percent effective. There always remained the possibility that a 'disloyal' member of parliament could be returned, unless if he/she was prevented from standing for election to parliament. As a

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[137] It was noted by Simeon Nyachae that KANU was Kenyatta (Interview, 4 November, 2010) .

[138] See "The Making of a Constitution": http://youtube.com/watch?v=jHrbBB0syM&feature=relmfu

result party 'revitalization' became one of the principal cornerstones for regime consolidation. District party chairpersons were introduced as a means of revitalizing the branches (Kanyinga, 1994; Kanyinga, 1998). These branch chairmen were responsible for ensuring loyalty to the President and the party among MPs within their areas. This was further strengthened by establishing the KANU Disciplinary Committee in 1986 which sought to keep MPs on a very short leash.

5.8.3 The second onslaught against ideology

There are a number of reasons that explain the failure of parties in the multiparty context to use ideology as a mobilizing tool and as an instrument to create cohesion and value infusion. To start with, as was noted earlier, the relationship that Kenya had with international capital and the exigencies of the Cold War all conspired to stymie the development of ideological discourses that deviated significantly from the 'African Socialism' stipulated in Sessional Paper No.10. Further, it could be argued that given the essentially 22 year absence of pluralist party politics in Kenya, from 1969 until 1991, the more ethnicized politics buttressed by accumulation that had replaced the ideological debates of the mid 1960s was institutionalized over that period. The Kenyan state had taken stringent measures to sieve out of the mainstream political domain any remotely leftist informed political positions.

A clear case in point was the assassinations of Pio Gama Pinto and J.M. Kariuki. Pinto had been known as a brilliant political organizer and articulate leftist ideologue with strong linkages to the Soviet Union and China. His assassination in early 1965 effectively stopped the further development of scientific socialism in Kenya. Although a liberal, Kariuki was vehemently critical of the growing inequality between the Kenyan elite and the masses and the ongoing ethnicization of politics. He argued that the latter was promoted to deliberately obscure the expanding gulf between the two groups. The assassination of both Pinto and Kariuki, coupled with the arrest of other relatively liberal minded politicians, such as George Anyona, Koigi Wamwere and Martin Shikuku, subsequently relegated ideologically based politics to the sphere of academia and underground politics.

Moi's ascension to power saw further reprisals against proponents of Marxism, who were perceived to be anti-Nyayo and also anti-government. As B.A. Ogot posits:

> … [in Short being anti-Nyayo] soon meant being anti-government and anti-party because *Nyayoism* was already depicting a new social order and restructuring political categories. This marked a further entrenchment of the political monolithism which had been introduced by Kenyatta (Ogot, 1993:193-194).

Charles Hornsby states that 'Moi represented a strand of political thought that was instinctively hostile to foreign ideologies and foreign influence' (Hornsby, 2011: 347). In targeting 'foreign ideologies' the Head of State singled out Marxism as an ideology that posed a serious threat to state security and he even accused leftist Kenyan academics of teaching the 'politics of subversion majoring in violence' (Atieno-Odhiambo, 2004: 171). The onslaught on the academic community's left leaning politics in some instances took on comical proportions, as evidenced by KANU Nakuru Branch Chairman Kariuki Chotara's call for the arrest of the 'troublesome lecturer' by the name of 'Karo Maksi'. Chotara apparently did not know that Karl Marx was a philosopher who had been dead for close to a century (ibid.: 170).

5.8.4. KANU Disciplinary Committee and the advent of more confusion

The Disciplinary Committee, whose principal function was to ensure that all MPs towed the line, was given the power to summon even cabinet ministers and recommend various disciplinary measures, including suspension and expulsion (Throup and Hornsby, 1998). During the Nyayo era, individuals perceived to be disloyal were hauled in front of the infamous Disciplinary Committee, which was chaired by the late David Okiki Amayo. A rendezvous with this dreaded Committee often signalled the end of one's political career, as very often the Committee would recommend either suspension or expulsion from the party[139]. It was this power of the Committee that prompted veteran legislator Martin Shikuku to lament, in the aftermath of the Okondo affair, why a cabinet minister of his calibre should have to 'kneel before his political juniors to confess some unclear sins' (*Daily Nation,* April 22nd 2007).

The KANU Disciplinary Committee was as much an instrument for settling scores and for silencing dissenting voices within the party as it was for discipline (Murunga, 2007). Due to the fact that the Committee often arbitrated on cases and passed judgement on

[139] The KANU Disciplinary Committee was established in 1986, as part and parcel of the party strengthening exercise. In one instance a former cabinet minister, the late Peter Okondo, who was once accussed of 'disloyalty' to the President by the Disciplinary Committee, is said to have wept after appearing before the Committee (Murunga, 2007).

issues in a manner that ran contrary to the state constitution, to a great extent this may be responsible for much of the apparent confusion between the binaries of discipline/dictatorship on the one hand and democracy/indiscipline on the other. An example of this can be seen in the case of Mwacharo Kubo, a one time MP for Taveta. Kubo was slammed with five charges of misconduct, with one of them being '…asking irrelevant questions in parliament…' (*Saturday Nation*, May 1st 2010). To charge an MP for asking irrelevant questions clearly went against the standing orders of the house and against the ethos of parliamentary privilege under the Powers and Privileges Act[140]. However, under the one party dispensation, in which MPs could only be members of KANU, the lines between freedom of expression and disloyalty could very often be obscured, particularly when it came to matters relating to the Government. A statement by the President in late 1986 to the effect that 'the party is supreme' in regards to the other branches of government appeared clear enough (*Weekly Review,* 21 November 1986:9; see also Throup and Hornsby, 1998). However, a subsequent statement by Party Chairman Okiki Amayo to the effect that 'political supremacy' rested with KANU whilst 'legislative supremacy' rested with parliament did little to clarify the ambiguity concerning the legislature's relationship to the ruling party. If anything, it could be argued that the statement only added to the confusion.

The fact remained that the chief activity of parliament beyond the formulation of laws is to query government business and policies, an activity that falls largely within the purview of politics. Consequently, the risks of running afoul of the KANU Disciplinary Committee were extremely high if a legislator were to carry out his/her duties properly. In order to illustrate the extent of this serious danger of running afoul of state power, former cabinet minister Gilbert Kabeere M'Mbijiwe exclaimed in the Meru language '*Kwaria ni igamba, gukira iringi*' (to speak is an offence not to speak is another) (*The Star,* October 22nd 2011).

Due to the sharply curtailed political space that was emerging, loyalty and by extension discipline, which previously only demanded that one be silent, was no longer sufficient. Increasingly loyalty had to be demonstrated through public affirmations of support and

[140] Restrictions on speech in Parliament came about as a result of an argument put forward by former Cabinet Minister and KANU stalwart Shariff Nasir. Nasir had stated previously, '…if members of parliament talk loosely and at a whim, the party should be empowered to discipline them'. (*Weekly Review*, 7 November 1986; see also Murunga, 2007).

praise for both the Head of State and the party whilst simultaneously deriding and denouncing individuals who had either been denounced by the Head of State or whose loyalty was is question. In short, the trepidation that the Disciplinary Committee introduced not only saw legitimate dissent officially transformed into disloyalty and indiscipline, but it also inaugurated a period during which sycophancy came to denote loyalty and consequently discipline. This characterization of authoritarian governance as party discipline and dissent as disloyalty and insubordination had serious repercussions later, following the reintroduction of multipartyism, as parties struggled to remain internally cohesive. The experience of discipline under Moi's one-party rule broadly introduced a period marked by confusion concerning what constituted legitimate party discipline as opposed to dictatorship and, similarly, what constituted legitimate democratic freedom of expression/association as opposed to indiscipline.

As has been shown in the foregoing discussion, the apparent formalization of disciplinary measures did not translate into the development of an institutional culture where the party rules and regulations were followed. The opposite became true, as MPs who tried to refer to the party constitution as their guiding principles were simply ignored[141]. This subsequently saw impunity rise to levels never seen before, as politicians at all levels realized that they could get away with ignoring the party constitution. This was aptly captured by a commentary in the Weekly Review:

> The party can hardly expect the rest of the country and its institutions to have respect for the constitution when the party itself does not adhere to its own constitution, and democracy is hardly likely to prevail when constitutions are treated with contempt (Weekly Review, cited in Hornsby, 2011:400).

[141] This point was corroborated by J.B. Muturi and in an interview with him (11 November 2010, Chester House)

DAILY NATION

The newspaper that serves the nation

No. 11171, Nairobi, Saturday, November 2, 1996 Price KSh20/00

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No party split, insist leaders

Kanu 'is using unratified law'

By EMMAN OMARI, Chief Parliamentary Reporter

Kanu has apparently adopted the unratified re-drafted party constitution which vests the party president with powers to postpone its elections indefinitely.

Last June, the party denied the existence of this constitution, but utterances by top Kanu officials since last Tuesday's National Executive Council meeting confirm that the ruling party was justifying its position using clauses contained in the draft and not in the version last revised in 1991.

Party Secretary-General Joseph Kamotho reaffirmed yesterday that the party president's powers to postpone elections are provided in the old constitution. He also defended the re- -fed version vesting such powers in the president if the survival of the party was at stake.

Mr Kamotho said the constitution, which has yet to be ratified, was being applied alongside the old one.

Mr Kamotho was repeating a statement he made on Tuesday when he first hinted that the party president has such powers. He was accompanied by the party National Chairman, Mr Wilson Ndolo Ndolo.

They also referred to the existence of a National Delegates Con-

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Mr Kamotho: 'A plot'

Prof Saitoti: 'We're one'

Queries over new Poverty Fund

By PAUL KATANA

A Minister in the President's Office was yesterday hard-pressed to explain the modalities of the proposed National Anti-Poverty Trust Fund.

Mr Kipkalya Kones, who was officially opening the Ninth General Assembly of the NGO Council, was asked to assure members that funds collected would not be used for political activities.

"Mr Minister, we want you to tell us which people will benefit from this Trust Fund, because we do not want to see a situation where the Government uses the funds to get votes in the coming General Election," an NGO representative said.

Mr Kones said the proposed Fund would not discriminate against anyone or any group of people but would be used to alleviate poverty, especially in rural areas.

"This is a national fund and it will be used to eradicate poverty as planned. The Fund will not at all

PAGE 2—COL 6

David Mwai Karuga is led out of court yesterday after denying four counts of recent violent robbery in Nairobi's Kirinyaga Road. He appeared before Chief Magistrate Esther Kithidah. ☞See story on Page 17. (Picture by SAM OUMA)

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Cheserem proposes limits on auditors • Page 12

Now Ndeti goes for the New York Marathon • Page 38

DID YOU?

See page 21 in yesterday's DAILY

Figure 5. KANU's Use of Unratified Law (*Daily Nation,* November 3rd, 1996)

Under the Moi regime, there emerged a paradox of sorts, whereby there was a veneer of institutionalization visible through branch revitalization and the introduction of a disciplinary committee. However, in tandem with this apparent 'revitalization' a process of de-institutionalization was occurring at the same time. Unlike in the Kenyatta era, defiance of even the state constitution was not unusual and the party constitution had all but been abandoned, as evidence by Figure 5. The party line became identified less and less with any formal legal texts and more with the amorphous philosophy and personal beliefs of the State President[142], as shown in Figure 6.

[142] Honourable Simeon Nyachae (Former leader of FORD People and former member of KANU) notes that the party constitution existed but was not followed: "the constitution existed but who followed it?" (Interview on November 8th, 2010).

THE STANDARD

NO. 24585 NAIROBI, TUESDAY, JUNE 8, 1993 CITY EDITION ESTABLISHED 1902 PRICE 12.00

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AXE FALLS ON UTs

The government has stopped the hiring of untrained teachers, according to Minister Joseph Kamotho. — Page 3

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THE DELIVERY OF TWINS

Dr Amoroso discusses the delivery of twins and stressed the need for their delivery to be done in hospitals

KANU top brass keep mum about talks but...

PRESIDENT LAYS DOWN THE LAW

PRESIDENT Moi said yesterday that the Government would not allow anyone to challenge lawful authority or jeopardise Kenya's peace.

By Amos Mwanza

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Waiting in vain for UN victims

Standard Reporters and AFP

NEW AND USED VEHICLES, TRACTORS AND SPARE PARTS

Mitsubishi Fuso Range 5 ton, 14 ton, 7.5 ton. Prime Mover Parts:

MITSUBISHI FUSO

Figure 6. President Lays the Law (*The Standard*, June 8th 1993).

In short, as the party exterior was hardening, the party interior was becoming even hollower. Whilst factional squabbles were seen during the Kenyatta era, there was no direct involvement of State House within these struggles over the party at lower levels. Little or next to nothing now united party members to each other except their loyalty to the KANU President and the desire to accumulate wealth.

The line between freedom of expression and insubordination on the one hand and enforcing party discipline and being authoritarian on the other had become extremely blurred. Former president Daniel arap Moi also commented on this "blurring" by issuing a telling a statement. Whilst recounting how he had warned of the dangers that multipartyism would introduce through tribalism, he mentioned how his advice was ignored. He said 'people mistook discipline in Kanu as a party for dictatorship', (*The Standard*, October 11th 2008). When looking at governance and party management under the Moi regime, it is clear that the mode of governance was anything but democratic, although it should be said that the open squabbling in government that marked the Kibaki administration was visibly absent during the Moi era. Given the general absence of collective decision-making and due to the fact that the crimes that perceived errant party members were accused of by the Disciplinary Committee were often not listed in the party's code of conduct, the disciplinary actions that were adopted by KANU were clearly authoritarian and not disciplinary. Perhaps the very concept of a disciplinary committee is what has currently stirred up a lot of anxiety among legislators. The perception that this committee is designed to intimidate legislators into either adopting

certain positions, or to possibly summarily suspend or expel members seems to be central here.

5.8.5. Confusion in the multiparty context

In as much as the 'second liberation' was a struggle for the reintroduction of multiparty politics and democracy, it was also seen to be a struggle for greater freedom within political parties themselves. Following the infamous 1988 *mlonglongo* elections, the commission of inquiry appointed by President Moi, known as the Saitoti Commission, that was tasked with collating views and opinions of Kenyan citizens and KANU members found that there were strong calls to bring to an end the dual practices of suspension and expulsion. Following the apparent abolition of these practices, the maintenance of discipline became more challenging.

The advent of multipartyism saw the new opposition leaders struggle to keep a 'lid' on their parties. Subsequent attempts at legitimately enforcing party discipline by party leaders in the wake of political pluralism were strongly resisted by both old and new members of parliament[143]. Citing a fear of the 'old ways', MPs justified their disobedience towards their party seniors as being 'legitimate', on the basis of the belief that their party leaders had growing tendencies towards dictatorial behaviour that had to be held in check. In one instance, Ngengi Muigai, a one-time DP Kiambu Branch Secretary and former MP for Gatundu South, was suspended by the party on the grounds of misconduct. In response, Muigai rebuked the party for '… suffering from the KANU mentality of using high handedness to tackle their critics' (*The Standard*, May 5th 1995). However, the Party Chairman, Mwai Kibaki, argued that the National Executive Council (NEC) had summoned Muigai, Kiptoo arap Koech (National Youth Co-ordinator) and Sam Muthee (Secretary for Education) to answer to charges of misconduct twice as mandated under Article 11 subsection B of the party constitution[144] (ibid.). Whilst on the surface of it the failure of Muigai, Koech and Muthee to attend the NEC disciplinary

[143] Although the Disciplinary Committee was disbanded, the post-Amayo era did not lend itself entirely to greater internal democracy in KANU. Despite the calls for new elections, critics of the status quo were frequently asked by the President to leave KANU and seek out new parties. Despite the emergence of KANU 'A' and KANU B' factions, which ostensibly signalled a relaxation of party control, discipline was maintained by a long-time Moi confidant, Nicholas Biwott, who was reputed not to hesistate to rein in those who ran amock from the 'party' line.

[144] This article confers the NEC with the power and authority to dismiss an officer from his/her post pending a ratification by the National Delegates Conference.

hearing came across as nothing short of indiscipline and insubordination, and the NEC appeared to have been acting genuinely in the interests of party discipline, the issue becomes murky when internal democracy is brought into the frame.

One school of thought argues that due to the fact that Kibaki was unsuccessful in his presidential bid, he should have relinquished power and handed over the baton to someone else. Whether the individual was Muigai or not was secondary, the ultimate principle should have been that others be given a fair chance at leadership, as this may have yielded different outcomes for the party. The second school of thought argued that the issue was not so much Kibaki's failure to relinquish the reins of DP leadership, but rather the methods of those advocating his resignation. They argued that violation of party rules and regulations in an attempt to effect a change of guard in the party went against everything that the party stood for by implicitly affirming that violation of laws as previously done by KANU was acceptable.

Whether the proposed disciplinary action against Muigai was purely in response to an act of genuine misconduct or was more in response to Muigai's open ambitions to become the party's 1997 presidential candidate, is difficult to say. However, the support that Kibaki drew from an unexpected quarter, none other than President Moi, seemed to cast some doubt as to whether the disciplinary action itself was legitimate and not an authoritarian move on the part of Kibaki. President Moi's statements in support of Kibaki highlight this point:

> I sympathise with some situations. This man called Ngengi… to attempt to fight Kibaki!... (laughter). Although, I and Kibaki (sic) do not come from the same party… respect for a leader is very important…. Even if you don't agree with anything, you should uphold the African tradition of respecting elders" (*Daily Nation* May 15th 1995).

Although Ngengi's actions against Kibaki, specifically convening of an 'illegal' meeting, was largely viewed as misconduct, his utterances to which Moi issued a swift rejoinder in defence of Kibaki are what cast doubt on Kibaki's actions. Ngengi had said that the 'Lancaster brand of politicians have been a bulwark to opposition unity since 1992'. Muigai may largely have been speaking in the context of a frustration experienced by the

'Young Turks' with respect to their elder counterparts, who were also complaining of a 'crisis of generational transition' [145].

Having established that attempts at enforcing party discipline did not yield any fruits in the form of greater party cohesion, it also has to be asked why ideology was never adopted as a tool for promoting cohesion in the multi-party context.

5.8.6. The absence of Ideology in the multiparty context

The collapse of the Soviet Union around the period of the emergence of multi-party democracy in Kenya left the ideology of communisms and, to some extent, socialism, greatly discredited. Without a superpower such as the Soviet Union to support leftist political parties as in the past, there was little chance that any political party espousing any variant of socialism would have been of any significance. Instead, it was the IMF, the World Bank and donor nations who were in a position to be of assistance to the emerging opposition. Even if ideologically focused parties had emerged, there is a strong likelihood that they would have had to become more pragmatic in their outlook and orientation overtime, if the experience of Uganda, Ghana, Mozambique and Ethiopia is anything to go by.

With a stagnant economy that began shrinking at a rate of approximately 3.9 percent per annum and an external debt of $ 7.5 billion in 1991 (IMF, 2000: 135). Any party assuming the reins of government would be forced to contend with international finance institutions (IFIs) and the structural adjustment programmes that were in place at the time. Further, prescriptions given to governments by these IFIs and donors have meant that political parties taking over government have had to tailor or reshape their policies to meet those prescribed by the World Bank and related institutions. An example is Poverty Reduction Strategy Papers, through which governments were being actively encouraged to develop long-term policies to deal with poverty reduction. This policy constriction has in essence rendered the serious exercise of ideology formulation virtually meaningless, as aptly put by Kiraitu Murungi:

[145] Lawyer Gitobu Imanyara argued this and highlighted the need to make a decisive break from the past (*Daily Nation* May 4th 1995).

> The agenda of policy-making in this country has been captured by the World Bank, the IMF and other donors. The government is merely implementing policy ideas developed elsewhere, and that is why we in parliament are being made irrelevant. The donors have taken our work, they are thinking for us. Now we are talking about Poverty Reduction Strategy Papers. Where did that language come from? Not from Kenya! That is terminology from the World Bank and IMF. Before that we were talking about Structural Adjustment Programmes. Where did that come from? Not from this country! It was also the World Bank and IMF terminology (*Hansard*, October 20th 2000).

This state of affairs has led Mkandawire (1999) to coin the phrase "choiceless democracies". In speaking on the impacts of globalization on party competition, he says:

> [a]t best competition between parties may then revolve around their respective claims on competence to govern and reputation for integrity - not and ideal solution for democracy if it is seen to privilege managerialism and technocracy over political debate and drives out engagement with alternative values-based perspectives on the public good (ibid.:30).

Even though the confusion regarding the binaries of discipline/dictatorship and dissent/indiscipline can ostensibly be traced back to poor cohesion occasioned by the absence of cogent ideology and well-articulated party programmes, a number of commentators and party leaders have also attributed this confusion to the absence of party law or an act of parliament designed to regulate political parties. They argue that the absence of party law that determines what constitutes a legitimate disciplinary action and what constitutes an *entrée* into the slippery terrain of authoritarian actions is central to this confusion. J.J. Kamotho argued that the absence of a law regarding political parties meant that KANU was the only party to which people could make reference on these issues. He then observed that given this scenario, very few individuals 'could claim to know what democracy was' (Interview, February 2nd 2012). Former KANU Organizing Secretary and Centre for Multiparty Democracy Chairman, Justin Muturi, stated that with the coming into existence of the Political Parties Act (2011), party constitutions would be given the necessary force of law. He further stated that what makes disciplinary action legitimate lies in whether those accused of committing transgressions against the party are accorded 'due process' and whether the proceedings are in accordance with those stipulated within the party constitution (Telephone Interview, February 2nd 2012). However, whilst the introduction of a party law may go a long way in clarifying the difference between enforcement of discipline and authoritarianism, there still remains the

challenge of constitutionalism. Njeri Kabeberi mentions that political parties in Kenya are a bit wary of the new Political Parties Act that has come into force:

> Many political parties constantly claim their role is to take over political power and not to sit in boardrooms like corporate organisations, so there is constant resistance to structured dialogue and systemic organisation. The perception then continues to grow that political parties see following the law as dictatorship and a hindrance, preferring in any given opportunity to suspend be it the national or party constitutions and other laws. Generally there is resistance to checks and balances (Kabeberi, 2011: 119).

5.8.7. Impact of Political Parties Act

As shown earlier, there has been an element of confusion that has emerged from conflicts between the Political Parties Act 2011 and some sections of the new Kenyan constitution. That notwithstanding, what has been the overall impact of the Political Parties Act in preserving party discipline? At present the impact of the act has not been particularly great in resolving the various disciplinary issues. The issue of party defections is still very much a problem and the Act has not managed to stem this activity. This can partially be attributed to legislative changes carried out by MPs to reduce the time period in which an MP who has defected from his or her political party can get nominated. The law has been changed from six months to three months and then to 45 days as the time period that must elapse before an MP can join another party and contest a by-election after defecting. Further, since the passage of the Act, not a single MP has been subjected to a by-election as required by the law in the event of defection. In addition, the tendency of those affected by disciplinary action to launch appeals in the courts of law has made it difficult for the Registrar of Political Parties and the Political Parties Disputes Tribunal to deal with these issues.

The recent party nominations held in preparation for the 2013 election, in which instances of candidates being imposed upon voters and other names being omitted from nomination candidate lists despite having received nomination certificates, is also a clear sign of ongoing irregularities which the Act has failed to address (*The Standard,* January 17th 2013).

5.9. Conclusion

Political parties in Kenya have struggled with enforcing discipline amongst their members. In the multiparty era, party defections have affected the internal development of political parties as politicians have switched parties without a second thought. More recently, this problem has been heightened by the advent of coalition politics where parties that cooperate or affiliate with each other prior to an election have also seen their share of disciplinary challenges. As has been shown, in the cases of some parties, the notion of party loyalty has become quite challenging. This is evident where one party, in a situation where two or more parties come together for an election, fronts a presidential candidate who is supported by the ordinary members of the other party/parties. This situation has led to number of parties lodging disciplinary cases against members who have been shown to support the leaders of other political parties, other than their own. The return of party suspensions and expulsions as mechanisms for dealing with disciplinary issues has led to accusations by affected members and those sympathetic to their situations that these parties have adopted the dictatorial tendencies that saw KANU achieve considerable notoriety during the 1980s. Moreover, the enactment of disciplinary measures may be complicated by what may be termed an accountability dilemma, whereby MPs are torn between the demands of their supporters and constituents and those of their sponsoring party, which do not always complement each other.

Further, as has been shown, ethnicity also poses a unique challenge to the enforcement of party discipline in Kenyan parties, as party leaders are fearful of the potential consequences that disciplinary actions on party members who are not fellow co-ethnics may have in terms of their support in those communities from which the errant MPs hail.

Confusion exists between the idea of legitimate discipline and authoritarian behaviour on the one hand and legitimate dissent and indiscipline on the other. This is occasioned by experiences of 'party discipline' mostly during the Nyayo era. However, the tendency to confuse dissent with indiscipline can also be traced back to colonial responses to dissent, whereby the colonial state chose to view 'legitimate' dissent as 'subversion', 'disorder' and 'indiscipline'. This attitude may have been occasioned by the exigencies of colonial governance and its attempt to maintain control of the politico-administrative functions over the territorial space of Kenya, and hence the resort to more repressive methods of

governance. These methods were seen as necessary in order to maintain the agricultural economy and facilitate accumulation.

The continuation of these types of attitudes was reinforced by the failure to develop a succinct and cogent ideology and routinization of party rules and regulations with which to create a sense of cohesion. This is evidenced by the constitutional amendments that took place between 1966 1968. Selective adherence to the party constitution was partly attributed to traditional conceptions of power in which the dividing line between discipline and dictatorship was very hazy. As such, attempts to maintain party cohesion and discipline were carried out through the use of hard and soft strategies. As a means of promoting loyalty, the state made amendments to the constitution for the purpose of not only consolidating power, but also of maintaining party loyalty to the President and government. These amendments were made primarily because it would be difficult to ensure loyalty through the party, whose higher organs rarely met. Further, because the party (KANU) had no serious content other than that it was the independence party, there was little that attracted the commitment of party members. However, these strategies served only to increase legislative discipline but not extra-parliamentary discipline, as party branch *coups* continued unabated.

However, in the aftermath of the 1982 coup and following the enactment of section 2A of the national constitution, strong measures were taken to ensure the loyalty of party members to the Head of State. The revitalization of the ruling party's organization and the establishment of the KANU Disciplinary Committee were two measures taken to strengthen discipline within the party. However, due to the continued disregard of the party constitution and the arbitrary manner in which the Committee worked, the confusion between discipline and dictatorship was only heightened.

It has also been shown that due to heightened paranoia within the executive, the maxim of silence as obedience and loyalty was not enough and sycophancy and platitudes became the new measures of loyalty in the Nyayo state. In the multiparty era, politicians long deprived of both voice and choice took advantage of the new dispensation to maximise their democratic rights. However, this exercise of democratic rights has sometimes bordered on indiscipline and any attempts to effect discipline on them have often been met with accusations of resorting to KANU's tactics of stifling internal party

democracy. Further, due to the fact that almost all political parties in Kenya in the early 1990s were still headed by members of the 'Lancaster House' generation, internal party dissent also came to be viewed as an attack on the gerontocratic leadership that had shaped Kenyan politics for a long time.

The prevailing confusion between authoritarianism and party discipline, on the one hand, and indiscipline and dissent on the other in Kenyan political parties is indicative not only of a lack of coherence, but broadly translates to a low score on the value-infusion dimension. The deliberate obfuscation of party programmes and platforms and the suppression of debate, coupled with the strict regulation of the public arena, greatly eroded internal cohesion within political parties and also significantly diminished their value infusion dimension.

The establishment of alternative KANU branches, coupled with infighting in the party centre and the party branches, is not only indicative of a lack of coherence, but also a severe lack of organizational systemness. Further, the failure of KANU to convene its National Governing Council and National Delegates Council meetings in the 1960s and 1970s is also a clear sign of this lack of organizational systemness in Kenyan political parties.

CHAPTER 6. ETHNICITY AND PARTY POLITICS IN KENYA

6.1. Introduction

Since the reintroduction of political pluralism in Africa in the late 1980s and early 1990s, the euphoria and excitement at this development has been clearly visible through the mushrooming of several political parties across the entire political landscape of the continent. However, much to the disappointment of many democratization optimists, the political parties that have emerged have often been found wanting. Beyond the challenges of being poorly funded, weakly institutionalized, personalistic and programmatically diffuse, African parties have been particularly noted for their tendency to mobilize ethnically (Ake, 1996; Diamond and Gunther, 2003). In their typology on the various types of parties, Diamond and Gunther (2003) describe these parties as uninterested in advancing nationally oriented programmes but only in securing material advantages for their own group. The conditions that have lent themselves to the growth of ideologically focused parties in Europe and in Latin America have failed to spawn similar developments in Africa. The fault lines of conflict have not been manifested in a class struggle, despite high levels of inequality and poverty, but through ethnicity. This has been true for most Sub-Saharan African countries, despite variations in the degree of ethnic polarization (Dowd and Driessden, 2008).

With the reintroduction of multi-party democracy in Kenya in 1991, the Forum for the Restoration for Democracy (FORD), a political movement led by luminaries such as Jaramogi Oginga Odinga, Kenneth Matiba, Charles Rubia and Martin Shikuku, among others, was poised to dislodge the ruling party, KANU, after 28 years of political domination. However, a year later, KANU was still in power, while the opposition remained weak and fragmented after having split into FORD-Asili, led by Matiba and FORD-Kenya, led by Oginga Odinga. Although the opposition's poor showing can be attributed to multiple factors such as KANU's advantage of incumbency, police harassment, a lopsided constitutional order and perverse electoral laws, ethnicity has been cited as the biggest challenge to opposition unity during the 1992 elections. The conventional view of ethnicity in politics is that it can be a threat to political stability, as ethnic polarization could induce conflict (Horowitz, 1985; Dowd and Driessden, 2008). However, a contrary view has been posited by Birnir (2007) which suggests the ethnically

dominated party systems may actually enhance the quality of democracy and, by extension, ensure democratic consolidation.

This chapter seeks to answer the following questions:

- What are the characteristics of ethnic parties in Kenya?
- How can the development of ethnically oriented parties in Kenya be explained in the post-single party era?
- Why has it been difficult for political parties to counteract ethnically oriented party politics?

However, before an analysis of the impact of ethnicity on Kenyan political parties can begin, it is prudent to first understand what ethnicity is and how it affects political institutions, especially political parties.

6.2. Conceptualizing Ethnicity

An ethnic group may be described as a collection of people who share the same myths of their origin, same language and the same culture (collection of symbols, rituals and mores). Members of a particular ethnic group are conscious of their own identity by being able to identify other groups that do share the same traits mentioned above. Ethnicity as a concept has been debated for years. At the core of this debate are two schools of thought: the 'primordial' school and the 'constructivist' school (Elisher, 2008).

The primordialist view of ethnicity argues that ethnicity is fixed and homogeneous (Shils, 1957; Geertz, 1963; Davidson, 1994). Anthony Smith notes that myths or narratives of common descent, shared culture and traditions are central to this school of thought (Smith, 1981). Also central to this approach is the idea of a genetic heritage that underpins the ties of kinship within the group, such that certain physical traits of a person are used as key identifiers of belonging in a particular group.

Constructivism, on the other hand, holds that ethnicity is a socially constructed phenomenon in which customs and norms are developed as a means of making sense of complexities of everyday life (Bates 1974; Cohen, 1974; Glazer and Moynihan, 1975; Portes and Bach, 1985). It argues that as societies change, so too do cultures due to processes of trade, intermarriage, migration and assimilation. Due to variations in the intensity of these processes, ethnic groups are not perfectly homogenous, as

primordialism portrays it to be. On the contrary, identity is a fluid concept and, as such, ethnic identities are in a constant state of flux as they are subject to all manner of social forces such as migration, cultural diffusion, intermarriage, to name but a few. Moreover, due to the fact that there are schisms of class within communities as much as they are between them, the notion of an inherent internal ethnic unity becomes problematic. Given that people are not born with an inherent consciousness of their ethnicity but are socialized into it, it only makes sense that an 'instrumentalist' or 'constructivist approach' be adopted.

Although within the broader public consciousness there has been a tendency to associate ethnicity with negative occurrences such as genocide, civil war and ethnic cleansing, ethnicity within itself is not a negative concept (Mboya, 2008).[146] Ajulu (2002) highlights the important role that ethnicity has played in cushioning the socio-economic challenges experienced by Africans as they migrated into the early urban centres. Ethnicity only becomes pernicious when it is mobilized to the detriment of other groups for purely political ends (Ajulu, 2002; Jonyo, 2003; Jonyo and Owuoche, 2004; Mboya, 2008).

Gurr (2003) cites five factors that may contribute to ethnic mobilization. These are discrimination against minority groups by dominant groups, competition for access to state power, the spread of ethno-political activism, and the efforts of ethnic leaders who mobilize their communities in response to an evolving political environment and opportunities (see also Londsdale, 2004). This type of ethnicity may be described as politicized ethnicity.

6.3. Political Ethnicity and Ethnic Parties

As noted by Ajulu (2002: 252) political ethnicity is hardly an inevitable outcome of primordial ties but occurs under very specific "historical conditions". Its salience is usually apparent in circumstances whereby particular groups feel that they are under attack or in a situation where dominant groups feel the need to project their numerical strength (ibid.). Shaheen Mozzafar (1994) opines that '…[e]thnic collective action is predominantly a process of strategic political interaction between self-interested actors and divergent interests'. (cited in Berman, 1998: 312). The instrumentalization of

[146] cf. Mboya, (2008).

ethnicity is also highlighted by Anyang Nyong'o (1989). He posits that '…[i]ndividuals, no doubt, have ambitions to be this or that in society. But they can only fulfil these ambitions if they recognize, use, cajole, or even manipulate these social forces as vehicles for the fulfilment of their ambitions in life' (ibid.: 230).

Through the rubric of shared cultural identity, political elites have sought to increase their proximity to the state and enhance their prospects for accumulation by persuading prospective constituents that their collective material well-being would be greatly improved through political organization. This political organization may find expression in one or two forms, either through ethnic associations that lobby government through pork and barrel politics, or through the formation of ethnic political parties that may actually compete in elections with the hope of gaining direct access to the government. Wanyande (2005: 45) notes that ethnic associations, such as the Luo Union, Abaluhya Association and the New Akamba Union all 'articulated their demands to the state, which consequently processed the demands into public policy'. The decision of a particular ethnic group to form a political party as opposed to just an ethnic association may in part be motivated by the perception that a party would be more successful in delivering as one of their own would be in government as opposed to relying on political leaders whose political survival may not be linked directly to any one association. As such, ethnic parties can be categorized into two, namely the *mono-ethnic party*, and the *multi-ethnic party*. The latter may be subdivided into the *multi-ethnic alliance party* and the *multi-ethnic integrative party* (Diamond and Gunther, 2001; Elisher, 2008).

6.3.1. Mono-ethnic parties

According to Gunther and Diamond (2003: 183) ethnically based parties often do not have extensive or well developed structures, as more often than not these parties are 'content to use existing state structures to channel benefits towards their particularistically defined electoral clientele'. These parties differ from nationalist and sub-nationalist parties. Sub-nationalist parties usually have very clear political goals, primarily in the way of greater autonomy from the state or complete secession (cf. Londsdale, 2004). Conversely, ethnic parties are not known for having any cogent ideological goals and, as mentioned earlier, are satisfied to achieve their aims within an existing state structure (Gunther and Diamond, 2003: 183). Gunther and Diamond do note, however, that the mobilization efforts of such parties can be termed 'exclusive', as they are not carried out with the aim of galvanizing the support of members outside the

group (ibid.). They attest that '…[t]he electoral logic of the ethnic party is to harden and mobilize its ethnic base with exclusive and often polarizing appeals to ethnic group opportunity and threat'. They further say that "the potential electoral clientele of the party is strictly defined and limited by ethnicity" (ibid.). Examples of ethnic parties include the *Alliances de Bakongo* (ABAKO) of 1960 in Congo-Kinshasa (now DRC), the Tigre Peoples Liberation Front (TPLF) in Ethiopia, and the Inkatha Freedom Party in South Africa (IFP), among others. However, the electoral challenges that these parties may face, particularly in situations where the party concerned represents a minority group, may lead to the formation of what Diamond and Gunther (2001) refer to as 'multi-ethnic parties'.

6.3.2. Multi-ethnic parties

Multi-ethnic or ethnic congress parties (see Gunther and Diamond, 2003) may arise out of a fusion of two or more distinct parties that represent different ethnic groups. They may also be formed when political elites drawn from different ethnic backgrounds and who enjoy support in their respective communities come together to form a political party. The multi-ethnic party can be further categorized into two distinct party types, the *multi-ethnic alliance party* and the *multi-ethnic integrative party* (Elisher, 2008). Elisher (2008) notes that these two types of party can be distinguished by the degree of internal stability that they each enjoy and their respective motivations. Multi-ethnic alliances are strategic unions which are formed in the hope of securing electoral advantages for the groups concerned (ibid.). Due to the fact that these alliances are unions of convenience they are fragile and ephemeral (Horrowitz, 2000; Elisher, 2008). In contrast, multi-ethnic integrative parties tend to last longer as they are usually formed with the hope of closing any inter-ethnic divisions that may exist. These parties are not electoralist, as they often survive challenges in the form 'electoral defeats' and/or 'leadership contests' (Elisher, 2008:9).

In identifying these party types Elisher (2008) lists three ways in which they can be analysed. He first of all suggests an examination of the *leadership composition*, whereby the top party positions such as vice-chairman, secretary general, treasurer can provide clear indications of which category they may fall into. Next is an examination of *party factions*, in which any factions that exist can be assessed to determine whether they are generationally based, programmatic, ethnic or based on influential personalities within the party. A third indicator is that of *national coverage*, whereby measurement may be

undertaken to establish the spread of parliamentary candidates countrywide and within each regional administrative boundary. *Party Nationalization Scores* (PNS) are the final indicator. These are designed to identify the party's electoral support nationwide[147].

Applying the three measurements above in the case of the mono-ethnic party, the leadership composition would be homogenous and hence no factions would emerge around ethnicity except those focused on generational differences or power struggles. Similarly, the strength of these parties is confined to the geographical area in which their supporters are and hence they tend to have a low PNS. The multi-ethnic alliance party is a party built for the purpose of electoral convenience and, as such, it is no stranger to processes of fusion and/or fission. Factions within these parties tend to occur as a result of ethnic competition between dominant groups in the party or due to personality clashes amongst its top leaders; ideological and programmatic quarrels do not feature here (ibid.). Despite their ethnic factionalism and their ephemeral nature, these parties can still prove formidable in an election due to their ability to compete nationwide (ibid.). The multi-ethnic integrative party does not suffer ethnic competition, however cleavages may emerge that reflect generational differences or personal differences among key leaders in the party. These parties are thought to have the highest PNS ratings compared to the mono-ethnic (lowest PNS) and multi-ethnic alliance party (high).

6.4. Explaining the Rise of Ethnicity in African Politics

There have been three major explanations of the emergence of ethnicity in African politics. The first is rural to urban migration; the second is elite-interest and ethnic manipulation; and the third is the nature of governance during both the colonial and the post-colonial eras.

6.4.1. Rural to urban migration

One explanation for the emergence of heightened ethnic consciousness can be attributed to labour migration patterns during the colonial era. With the active disruption of indigenous local economies by the colonial administrators, there followed mass migrations of rural inhabitants into burgeoning towns and cities in search of employment

[147] In order for the PNS index to be meaningful, it must be used in tandem with actual electoral results as not all members belonging to a particular ethnic group will support the party that purports to represent them (See, Elischer, 2008).

opportunities. In some instances, these opportunities would take employment-seekers to entirely different countries where language barriers and a general lack of familiarity with their environments served to strengthen bonds amongst the migrants. Epstein (1958) and Lentz (1995) cite the development of 'tribalism' as a coping mechanism against the backdrop of a rapidly changing social and economic environment[148]. With the migration of rural folk into new urban centres there emerged social and spatial ethnic enclaves which served to 'resocialize' recent rural immigrants into urban life (Lentz, 1995: 311).

Young (1996) argues that ethnic affiliation is generally a natural tendency and, within itself, is not a negative trait. Furthermore, Lentz posits that ethnicity served as an 'outlet' through which disenchantment with the colonial government could be expressed without directly antagonizing the colonial authorities (ibid). The dissatisfaction with government policies and activities was not only limited to the colonial authorities but extended also to the first post-independent governments (ibid.). The basic premise of this particular school of thought is that heightened ethnic consciousness is a product of the complex social and economic dynamics in urban areas. This view also holds that tribalism and ethnic chauvinism were the products of collective disillusionment with government, which eventually degenerated into ethnic-chauvism, as particular ethnic groups were singled out and blamed for any grievances that were being felt at that particular time (ibid.).

Although rural to urban migration during colonialism and post-colonialism may have contributed to the emergence of an ethnic consciousness and eventually ethnic chauvinism in response to the exigencies of urban life, this particular view does not adequately explain how negative ethnicity came about[149]. Whilst it is plausible that tribalism could have emerged as a convenient scapegoat for disaffection with the state, it is likely that these feelings would be fairly diffuse and not as pernicious as in the case of politicised ethnicity. Moreover, it is difficult to fathom how these sentiments would have

[148] Other writers such Mayer argue that rural 'tribal' identities were not necessarily reproduced in urban settings. He points to the role of social choice in the determination of social relationships whereby, in his words, "different migrant groups accorded varying degrees of importance to their home ties and tribal loyalties on the one hand and new urban friendships and associations on the other" (Mayer, 1961, cited Lentz, 1995: 309).

[149] In talking about 'negative ethnicity' Mboya (2008: 70) describes negative ethnicity as that form of ethnic consciousness that purposively denigrates or discriminates against other ethnic communities.

emerged without the instigation of "cultural entrepreneurs" who may have hoped to benefit from this new found solidarity[150].

6.4.2. Elite-interest and ethnic manipulation

The role of elites in helping to create an ethnic consciousness has been documented by several authors (see for example Bates 1974; Lentz, 1995; Berman et al 2004; Carment, 2007). Earlier writings on the elite factor in promoting ethnic consciousness (see Bates, 1974) argued that due to uneven rates of development, educated individuals from remote regions used their positions to not only try to spread the benefits of modernization to their communities but to also benefit themselves in the process (ibid.). It was thought that processes of disjointed and uneven development eventually resulted in the emergence of educated elite classes that did not share common interests that bonded them firmly together (Bates, 1974; Lentz, 1995). Bates notes:

> To share the benefits derived from their advanced positions …
> The result of these pressures is that the more advantaged members of the group are forced to draw into their sphere other of their kind. And the social-climbing less advantaged generate a mythology of consanguity in search of modern benefits. The initially advantaged groups thus consolidates itself in the modern sector and comes to view itself as an ethnic grouping (Bates, 1974;468-469).

This view essentially highlights the role of elites in engendering ethnic consciousness. It is argued that the pressures presented by less advantaged kinfolk and the exigencies of modernization that have widened the gulf between privileged elites and disadvantaged kin have led to the construction of narratives of shared community. However, it attributes the origins of politicised ethnicity to the pressures of modernization, in which privileged elites respond to their less advantaged kin by wanting to accord them the same material well-being. However, whilst elites may find themselves hostage to the pressure of kinship ties by virtue of their proximity to the perceived 'fruits of modernity', these patron/client linkages can also be viewed as a valuable political resource (Lentz, 1995; Jonyo and Owuoche, 2004).

Elites, with their access to education, were not only the main agents behind the new ethnic associations in urban areas, but were notably involved in processes that redefined the prevailing understandings of what constituted the ethnic group. This was done by reinterpreting historical myths, group values and moral codes (Lentz, 1995; Berman,

[150] Lentz (1995) notes that the dynamics of urban life created socio-economic disparities within ethnic *enclaves* and hence 'tribal' communities were not homogenous.

1998; Berman et al 2004). In addition, the projection of ethnic identity by elites was also seen as a convenient distraction that was meant to paper over the growing socio-economic inequalities within ethnic groupings. As greater emphasis on the 'self' led to a greater consciousness of the 'other', there followed increased competition between and amongst groups for access to the 'fruits of modernity' (Lentz, 1995; Berman et al 2004). However, as elite contributions to this type of social engineering are considered, this should not be done without taking into account the role that governance has upon shaping these social identities.

6.4.3. Governance and ethnicity

At the advent of independence many countries on the continent faced the dual challenges of state and nation-building respectively. In the case the of the former, the first post-independent governments faced the problem of extending the state apparatus not only in territorial terms but also in such a way that it encapsulated the majority that had previously been excluded under colonialism (Conteh-Morgan, 1997). The provision of goods and services to a once disenfranchised population was a central task for most if not all African governments. Connected to this first challenge was the task of creating social cohesion amongst diverse groups of people that paradoxically had been bound together in the dispensation of the colonial nation-state whilst at the same time having been kept separate via divide-and- rule, whereby mutual mistrust was actively promoted in the interests of the maintenance of colonial power (see Lentz, 1995).

In this context, it was argued by independence leaders such as Kwame Nkrumah, Julius Nyerere and Sekou Toure that one-party systems not only promoted development but also resembled the pre-colonial traditional governance systems. These systems were praised for their ability to accommodate different views whilst searching for consensus (Mazrui, 1986; Meredith, 2006). However, far from accommodating alternative views, the one-party systems of Africa quickly evolved into authoritarian systems. Cold War tensions between the capitalist West and the communist East quickly found expression in proxy conflicts on the continent and saw governments centralize power and restrict opposition both legally and in practice. Conteh Morgan (1997) notes that after the proscription of opposition parties, there followed a process of mass demobilization whereby civic organizations that had not been co-opted by the state were outlawed (Anyang Nyong'o, 1989; Anyang' Nyong'o, 1992). Despite the absence of any challenges

to state power from the civic-public realm and coupled with the concentration of power in the executive arm of government, holders of state power were still not assured of their security of tenure, as a growing number of military regimes on the continent showed (Mazrui, 1986). As a result, political leaders began to take further steps towards the consolidation of their power by strategically manning state security institutions, the judiciary and the civil service with members of their own ethnic communities as a guarantee of loyalty. This process broadly symbolized the collapse of the nationalist consensus and effectively prostrated the nation-building project (Anyang Nyong'o, 1989; Wanyande, IDEA, 2007).

Be that as it may, the *ethnicization* of politics in Africa cannot wholly be attributed to the failures of the African founding fathers, but should also be linked to the nature of colonialism. Berman, (1998) notes that one of the principal aims of indirect rule that colonialism established was to deny the possibility of any inter-ethnic alliances being formed by the African peasantry so as to ensure that processes of accumulation were not threatened. He notes that '…the power of chiefs and their control of patronage was a fundamentally conservative instrument of political fragmentation and isolation' (ibid.: 317-318). Due to the limitations in reproducing all the features of institutions, the "modern" societies that did emerge from colonialism were but a partial reflection of the European societies that they were meant to copy (Berman et al, 2004)[151].

As a result of this bifurcated state structure, colonial chiefs came to exercise almost untrammelled power in what has been referred to as decentralized despotism (c.f. Mamdani, 1996; Berman et al, 2004). In this view, the introduction of colonialism and new modes of production, and the disjointed penetration of capitalism in many African societies accentuated class divisions within many societies and also introduced new cleavages along religious lines. The net effect of all this was a redefinition of what constituted community membership (Berman, 1998). The moral economy of social obligations within the group between the well-off and the less well -off established the

[151] Certain features of liberal European states, such as public access to legislative and policy processes in addition to civil liberties were absent in the African colonial states. Subramanyam (2006) notes that even in settler colonies the governor or governor-general retained considerable veto power over policy in the legislative council.

bedrock of clientelist networks[152]. Given that the chiefs were often the main channels through which resources from the centre of the colonial state were distributed to the periphery, divide and rule methods created the modern framework of ethnic competition for the accumulation of state resources (see Owuoche and Jonyo, 2004: 36).

6.5. Political Ethnicity and Political Parties in Kenya

As mentioned previously, the agitation for a return to multi-partyism in the early 1990s, and its subsequent reintroduction, generated a great deal of optimism among political reformers, the clergy and ordinary *wananchi* (citizens). However, this optimism was followed by an anti-climax when the original opposition movement, FORD, fragmented and consequently failed to capture power. It has been argued that the initial split of FORD into FORD-Kenya, led by Odinga, and FORD Asili, led by Kenneth Matiba was not merely a result of personality clashes, but was also motivated by 'ethnic arithmetic' (Wanyama, 2010)[153]. The formation of another party, the Democratic Party of Kenya (DP), headed by former Vice-President Mwai Kibaki, further dispelled any hopes of opposition unity. Although all these parties claimed to be multi-ethnic, the DP was generally perceived to be a party representative of the Kikuyu elite, whilst Matiba's FORD-Asili was seen as a party that generally represented the Kikuyu who lived south of the River Chania. The departure of the party's Vice-Chairman, Paul Muite, among a host of other associates, to the little known Safina party, left FORD-Kenya increasingly looking like a party that accommodated the interests of the Luhya and the Luo communities alone[154].

Immediately following the reintroduction of political pluralism, minority communities within the ruling party, KANU, such as the Kalenjin (President Moi's ethnic community), the Maasai, the Turkana and the Samburu, became extremely wary of multi-partyism. The historic fears of domination by the larger Kikuyu and Luo ethnic communities resurfaced and led to more vociferous calls for the introduction of *Majimbo* (ethnic federalism). The calls for *Majimbo* were made in the hope that they would not only give

[152] Although redistribution within the communities may have emanated from wealthier kinsfolk, colonial chiefs were the critical linchpin in this process as they constituted the focal points in the distribution of material resources from the state.

[153] It was argued by many close associates of Kenneth Matiba that since the Kikuyu had the advantage of having larger numbers over their Luo counterparts, it was only fair that a Kikuyu should lead FORD.

[154] Muite's decision to leave FORD-Kenya was in part the result of a disagreement that he and Odinga had over the party's close cooperation with KANU after 1992.

the message that they (the minority groups) refused to be dominated politically by the larger groups, but that members of the Kikuyu, Luo and Kisii communities were 'visitors' in the populous Rift Valley where several of them were settled[155]. This talk of *Majimbo* and the eviction of what were referred to as *Madoadoa* (aliens) by ethnic barons within KANU eventually precipitated the first round of ethnic clashes that seriously affected the Rift Valley and the Coast Provinces. Despite a formal ban on ethnic associations, the clashes that took place led to a flurry of discussions between the KAMATUSA and GEMA communities[156].

The results of the 1992 presidential elections showed that President Daniel arap Moi won with only 36 percent of the total vote. He however was able to garner the requisite of 25 percent in at least five of Kenya's eight provinces, which was constitutionally mandatory. The election results clearly revealed a distinctly ethnic bent in the voting patterns, with all the parties managing to secure high percentages in their respective ethnic strongholds (Oloo, 2010). Despite attempts by opposition parties to band together under the United National Democratic Alliance (UNDA), splits among political parties continued to occur, leading to the formation of what could be perceived as distinctly ethnic parties. The death of Jaramogi Oginga in 1994 led to the ascendance of Kijana Michael Wamalwa as the new FORD-Kenya Chairman. However, a power struggle between Wamalwa and Raila Odinga, a son of the late Oginga Odinga, led to a split in which the latter moved to the National Development Party (NDP) with his followers. The NDP quickly emerged as a party of the Luo whilst FORD-Kenya remained a party mostly dominated by the Bukusu sub-clan of the Luhya community.

The 1997 general elections confirmed for a second time that ethnicity was a defining factor in Kenyan politics. FORD-Kenya got the majority of its votes in Western Province, the traditional home to the Luhya, whilst NDP got the lion's share of its votes from Luo Nyanza. The Social Democratic Party, headed by Charity Ngilu, found its foothold in Eastern province, home to the Kamba community, with DP getting just under 50 percent of its total votes from Central Province. KANU once again had its

[155] During the 1960s and 1970s the Government of Kenya undertook an extensive resettlement programme under the World Bank Yeomen Scheme. This scheme saw the resettlement of close to two million people in newly opened areas of the Highlands.

[156] KAMATUSA is an acronym for Kalenjin, Maasai, Turkana and Samburu communities, while GEMA refers to the Gikuyu, Embu, Meru Association.

showing in the traditional KAMATUSA areas as well as in North Eastern and Coast Provinces. Despite President Moi gaining 40 percent of the total vote, an improvement from 1992, KANU's majority in parliament was paper thin. It then became apparent that KANU would have to pursue alliances with other parties.

Not long after the election KANU began making overtures to NDP, which led to a cooperation of sorts between the two parties. This cooperation would eventually culminate in a merger between the two parties in 2001. The initial reactions to this merger resulted in the formation of the National Alliance Party of Kenya, which was composed of DP, FORD-Kenya and the National Party of Kenya headed by Charity Ngilu[157]. With the merger of KANU and NDP into New KANU, there followed a period of reorganization within the party, whereby additional KANU vice-presidential posts where introduced to reflect regional and ethnic balance and diversity. Professor George Saitoti, a Maasai, however, was dropped from his vice-presidential post and so was the party Secretary-General Joseph Kamotho, who was replaced by Raila Odinga. Although it was widely expected that the merger of KANU and NDP into New KANU would lead to the ascension of Raila Odinga to the presidency, the party was quickly thrown into a crisis when President Moi chose Uhuru Kenyatta, son of the late first president of Kenya, Jomo Kenyatta, and one of the regional vice-presidents as his preferred successor. It was believed that Moi's choice of Uhuru would once again split the Kikuyu vote that had been won by Kibaki in 1997 after Kenneth Matiba refused to contest.

6.5.1. Party splits and ethnic arithmetic

The period from the reintroduction of multi-party democracy to the unseating of KANU, i.e. 1992 to 2002, witnessed intense manipulation of ethnic arithmetic, vividly illustrating how political ethnicity has been used by politicians. This initially resulted in the failure of the opposition to capture power from what had generally become an unpopular and discredited ruling party, KANU, in both the 1992 and 1997 general elections. However, the same manipulation of ethnic arithmetic eventually propelled the opposition to power in the 2002 elections.

[157] After disagreements with members of the SDP Secretariat over her candidature in the 2002 elections, Ngilu broke away from SDP and formed NPK, which was composed mainly of members from the Kamba ethnic community.

6.5.1.1. FORD-Kenya

Following the initial split of FORD just prior to the 1992 elections, the close cooperation between FORD-K and KANU can probably be best understood against the backdrop of ethnicity. Although Oginga Odinga had suffered many political misfortunes at the hands of KANU, his former party, he actively pursued a policy of cooperation with the ruling party, to the disaffection of some of his party top colleagues (Elisher, 2008). It could be argued that since Oginga Odinga's resignation from KANU in 1966 and his subsequent banishment from politics after the Kisumu incident in 1969, mentioned earlier, the Luo community were left in a political wilderness. As such, they were systematically marginalized politically, which automatically meant being deprived of much needed development assistance (Wanyande, 2003). It is highly likely that heightened communal pressure from the Luo community is what induced the FORD-K chairman to pursue a policy of cooperation with KANU as a means of getting access to much needed state resources and development funds.

Despite winning the 1992 elections, amidst opposition disunity and ethnic clashes, the KAMATUSA group in KANU were still fearful of a possible Kikuyu-Luo alliance and as such were eager to stave off such a union by all means as such an alliance remained a significant threat to the former's grip on power. While the differences that emerged between Oginga Odinga and his Vice-Chairman, Paul Muite, may partly be attributed to differences in character as well as generational differences, Muite himself would later say his departure was caused by an increasing concentration of decision-making functions into the hands of a small coterie of Luo officials (*Daily Nation* May 22nd 1992). However the death of Oginga Odinga quickly led to the end of the cooperation between KANU and FORD-K. Leadership tussles between the late Oginga Odinga's son, Raila, and Michael Wamalwa, the party's Interim Chairperson, resulted in the departure of the former in 1996 together with other Luo members of the party to the National Development Party (*Daily Nation*, November 12th, 1997). This split from the ruling party transformed FORD-K into a mono-ethnic party (*The Standard*, November 14th 1994; Oloo, 2010; Elischer, 2008).

6.5.1.2. FORD-Asili

Similarly, FORD-Asili, led by Kenneth Matiba (a Kikuyu) and Martin Shikuku (a Luhya) was a party that represented the interests of the southern Kikuyu and the interests of a section of the Luhya community. Despite its strong showing in the 1992 elections and

the charisma of its leader, Matiba, the party was not immune to the challenges that had befallen FORD-K. The party suffered a serious leadership crisis mostly due to the unpredictable behaviour of Matiba, who would routinely skip parliamentary sessions and whimsically announce new party policies without consulting the top party leadership. Kanyinga (1998) notes that the conflicts that emerged between Matiba and Shikuku led to a '…dissipation of the Luhya-Kikuyu alliance'. The dissolution of the alliance resulted in the defection of five Luhya MPs to the ruling party KANU. The leadership conflicts became extremely intense, to the extent that they eventually touched upon actual party 'ownership' (*Daily Nation*, November 6 1997). The Shikuku faction claimed that they were the 'owners' of the party by virtue of being the founder members and having persuaded Matiba to run on their ticket. In a dramatic rebuttal, the Matiba faction countered this by arguing that since Matiba financed the party and its operations he was the actual party 'owner'. He attempted to make this message clear by physically locking out his party colleagues from the party headquarters and by confiscating all party documents and files (*Daily Nation*, October 21, 1994). The two factions eventually held separate elections and the new appointments within each faction excluded the supporters of the other and saw conflicts between the Luhya and the Kikuyu within the party increase. By the time of the 1997 general elections, the party had atrophied to such an extent that it was no longer a force to be reckoned with, even in its traditional strongholds. The Matiba-Shikuku conflict only came to an end after the Matiba faction formally split and formed a new party, Saba Saba-Asili.

6.5.1.3. Democratic Party of Kenya

Although it had members drawn from different ethnic communities, the Democratic Party of Kenya was generally viewed as a party with the explicit intention of trying to re-establish Kikuyu political and economic hegemony in Kenya (Kanyinga, 1998). Several of its high ranking leaders, such as Njenga Karume, Kihika Kimani, George Muhoho and Ngengi Muigai, were members of GEMA. The party Chairman himself, Mwai Kibaki, had also been a one time member of the association when it was first established in the early 1970s (Kanyinga, 1998; Elisher, 2008)[158]. DP had immense political and economic capital at its disposal that had been acquired through accumulation during both the 'Harambee' and 'Nyayo' eras and, as such, its main aim was not to radically alter the

[158] See the DVD by Hilary Ng'weno, *Making of a Nation*: Episode 7, the Rise and Fall of the Community 1967-1977.

structures of state but to protect the wealth of its leaders (Kanyinga, 1998). Due to the fact that that DP was seen as a threat to the ruling party KANU, President Moi resolved that goodwill towards the Government would be the key criteria for the distribution of resources, as shown in Figure 7 (*Daily Nation*, August 1st 1994).

COMMENTARY

Goodwill must form basis for resource distribution

By KURGAT SERONET and KIPTURU KANDAGOR

Ever since President Moi – while addressing a public rally in Nyamira on May 5, 1994 – announced that development funds would in future be channeled to those areas that strongly support the ruling party, the opposition politicians have been up in arms issuing threats that are extremely inimical to the well-being of Kenyans.

They proceeded to boycott Parliament and disrupt its proceedings by staging walkouts. Lately, they have been threatening to impeach the President through a vote of no confidence and they have even gone ahead imprudently to plead to the international donor community to deny this country development assistance.

These outbursts and calls are consistent with the uncaring behaviour by the opposition politicians ever since the advent of multi-partism in Kenya. An honest assessment of the political development in Kenya for the last three years shows that Kenya was not ready to embrace competitive politics.

First, elections were held at a wrong time given that this country was facing a massive food shortage due to prolonged drought. Secondly, Kenya was hosting a large number of refugees from war-torn neighbouring states which further eroded the basic economic reserves which could have been available for use by the locals. And finally, due to economic recession worldwide,

President Moi: Controversial statement

Many people have been sacked, retired or simply laid off both in the public and private sector. The process of retrenchment continues without a proper social safety net to cushion the trauma of sudden unemployment. It is for this reason that the Kenyan Government is seeking assistance if the SAPs are to be successful.

The strange calls by some of the opposition leaders to curtail aid to this country would not only have a devastating effect on the living standards of Kenyans, but also reverse the economic reforms that are already in place.

state the developmental strategies being pursued by his Government. It is within this context that the architects of our constitution foresaw the need to give the President executive authority to discharge the duties of his office with the greatest freedom.

In most democracies of the world, the leader of the government of the day has a free hand in making appointments of chief officers. He has the authority to hire and fire. For example in the United States of America – the supposed paragon of democratic ideals – immediately after the swearing in of a new President, he is legally empowered to overhaul the entire public sector by making his own appointees.

In most cases, the appointments are rewards for party support as well as for the realisation of the campaign manifesto of the President's party. Similarly, even in the allocation of national resources, the President has the freedom and authority – subject to parliamentary approval – to appropriate them in accordance to his campaign promises and to what he perceives to be of national interest.

Section

Lately, there have been complaints from a section of opposition legislators, particularly Luo MPs, that President Moi's government has deliberately marginalised areas they represent in so far as allocation of develop-

support his government's policies.

Although Kenya is comparatively a young nation, it prides itself as a resilient and most developed, peaceful and stable state in this region of Africa. She has managed to effect a smooth transition of leadership, and evolved a system characterised by regular and relatively free and fair elections. This is largely due to adherence by the government to the rule of law and respect for fundamental heights of its citizens as enshrined in the constitution and the international conventions to which Kenya is a signatory.

The recent threats by some opposition members like Raila Odinga, James Orengo, Paul Muite and Kihika Kimani to institute a vote of no confidence against the President; calls for civil disobedience, civil war, strikes, demonstrations, aid curtailing, . . etc are all aimed at causing disaffection – and hence an unlawful change the government as by law established. Needless to say, these, are treasonable acts.

Today, we can see and feel the improvement of our economy as evidenced by the appreciation of the Kenya shilling against the major international currencies. Credit for this goes to the Minister for Finance, Mr Musalia Mudavadi and the Governor of the Central Bank, Mr Micah Cheserem who have diligently interpreted and implemented the necessary physical and monetary reforms.

Figure 7. Goodwill as Basis for Resource Distribution under Moi (*Daily Nation*, August 1st 1994)

The application of this policy eventually saw the defection to KANU of a number of councillors in traditional DP strongholds in Meru (Kanyinga, 1998). The fortunes of the party also begun to dwindle as members of the Meru community became increasingly disgruntled at their general exclusion from the top decision-making positions within the party. The defection of John Keen and the Maasai, and the wrangles between Kibaki and the Kamba MPs, namely Charity Ngilu and Agnes Ndetei, also highlighted the ethnic unease that had emerged within the party. However, generational rifts also arose after the ethnic clashes that followed the 1997 elections in the Rift Valley Province. Tensions between the old guard and the 'young turks' in the party were centred on the former's involvement in the GEMA-KAMATUSA talks that were aimed at reconciling the Kikuyu and the Kalenjin and Maasai in the region (Kanyinga, 1998; Akiwumi Report, 1999). Despite these problems, the DP had a good showing in the 1997 elections, coming in second only to KANU, which automatically meant that the party became the official opposition. However, due to its mono-ethnic composition, the party was forced to enter

into serious negotiations with FORD-K and Charity Ngilu's NPK in preparation for the 2002 general elections, which President Moi was constitutionally barred from contesting.

6.5.1.4. The merger of KANU and NDP

After the defection of Raila Odinga and his colleagues to the National Development Party in late 1996, this party was transformed more or less into an ethnic party (*Daily Nation*, November 12th, 1997). Perhaps the best testament to this can be observed in the election results of 1997 in which the party secured 48 per cent of the total vote in Nyanza province, the traditional home of the Luo (Kanyinga, 1998; Elisher 2008). Although its performance in other provinces was not particularly strong, its almost total domination of Luo Nyanza was enough to convince KANU, the ruling party, that cooperation in whatever form was necessary in order to firmly consolidate its [KANU's] hold on Parliament (Kanyinga, 2003). Although KANU was the only truly national party with active branches in all nine provinces, it was deprived of the votes of both the Kikuyu and the Luo, two of the largest three ethnic groups in the country.

During this particular period, the Matiba faction of FORD-Asili held a series of discussions with Raila's NDP which, it was hoped, could lead to a Kikuyu-Luo alliance (Kanyinga, 2003). In light of this, KANU then reached out to NDP as a means of plugging into the Luo stronghold. The NDP, which marshalled the support of almost the entire Luo community behind it, agreed to the cooperation with KANU (ibid.). This cooperation eventually crystallized into a full merger with KANU to form what was dubbed New KANU. This development saw Raila Odinga assume the position of New KANU Secretary-General. However, the merger was dissolved following the imposition of Uhuru Kenyatta by the outgoing President and Party Chairman, Daniel arap Moi. Soon after this, Raila Odinga left KANU with his supporters and other disgruntled KANU stalwarts and joined the Liberal Democratic Party, in which Raila became the Party Chairman and Joseph Kamotho (former KANU Secretary-General who, ironically, had been replaced by Raila during the merger) became the party's new Secretary-General.

6.5.1.5. The Rise and fall of NARC

Just prior to the 2002 general elections, there was a flurry of political activity that also reflected ethnic horse-trading. In reaction to the merger of KANU and NDP in late 2001, the leaders of FORD-Kenya, DP and the newly formed NPK led by Charity Ngilu convened a series of meetings to chart their electoral strategy, resulting in the formation of the National Alliance Party of Kenya (NAK). With the formation of the NAK, the constituent parties brought together voters from the Kikuyu, Luhya and Kamba communities and Mwai Kibaki was selected as the alliance's presidential candidate. While the selection of Kibaki may have been motivated by his experience in politics and government, it was not lost on KANU that his candidature was likely to be a major vote puller amongst the Kikuyu who were eager to remove Moi. In trying to prevent the coalescence of the Kikuyu around a single leader, Moi fronted the candidacy of Uhuru Kenyatta. It was thought that since Kenyatta the younger was a fresh face and untainted by KANU's chequered past, he would bring a new air of optimism, compared to Kibaki who was perceived as an old timer and who was too socialized in the old ways of KANU. It was also hoped that Kenyatta's candidacy would evoke memories of the 'good old days' when the country enjoyed relative economic prosperity under Uhuru's late father, Jomo Kenyatta. However, with the departure of Odinga and his associates, together with some disenchanted KANU heavyweights, KANU was quickly thrown into a crisis. In the light of the departure of some key regional lieutenants and in particular Raila Odinga with the Luo vote, Moi resolved to split the Luhya vote by appointing Musalia Mudavadi as the Vice-President of Kenya. Despite these attempts at ethnic manipulation, Kibaki won the election, after Raila's LDP had joined forces with NAK to form the National Rainbow Coalition (NARC), which had fronted Kibaki as presidential candidate. NARC also included a few other small parties.

Despite NARC's ascension to power in 2003, the new party was rocked with a crisis within its leadership. The disagreements between members of the LDP and NAK revolved around the distribution of cabinet posts. The LDP leader, Raila Odinga, argued that the Memorandum of Understanding (MoU) that the parties had signed before the election promised him the position of Prime Minister under a new constitution. He further argued that the MoU stipulated that cabinet positions would be allocated on a 50/50 basis to reflect a balance in the power-sharing agreement. As things stood, the top cabinet positions were given to the Kikuyu and its GEMA sister communities. When the

MoU promises failed to materialize, the rift between Mwai Kibaki and Raila Odinga began to affect the operations of the party. The leadership tussles escalated and resulted in the two parties adopting opposing views in the constitutional referendum of 2005. LDP voted Orange, which was the symbol of those against the proposed new constitution, whilst NAK voted for the Banana, which symbolized those in favour of the proposed new constitution, dubbed the 'Wako Draft'[159].

After losing resoundingly to the Orange side, the President purged his cabinet of all LDP ministers, with the exception of a few ministers that had chosen to ally themselves with the NAK side. In the midst of this crisis, a section of KANU MPs were invited to join the government in what was dubbed a 'Government of National Unity'. In trying to maintain the momentum of the referendum, LDP transformed itself into the Orange Democratic Movement, which also enlisted the cooperation of some KANU members, mostly drawn from the Kalenjin side of the party. However, in the run up to the 2007 elections a leadership contest between Raila Odinga and Kalonzo Musyoka or 'Kalonzo' as he was known (a Kamba) resulted in the party splitting into ODM, headed by Raila, and ODM-Kenya led by Kalonzo. ODM's support came broadly from the Luo, the Nandi sub-clan of the Kalenjin, most sections of the Luhya community and a fraction of the Kamba community. On the Government side, once it became clear that NARC was no longer a suitable vehicle to accommodate the different ethnic groups, new parties began to emerge, such as NARC-Kenya, which was led by Martha Karua, Shirikisho, led by Chirau Ali Mwakwere and the Party of National Unity (PNU) which the president himself chose to use as his re-election vehicle.

The presidential election was however seriously tarnished by the inability of the Electoral Commission of Kenya to clearly state who had won the poll, which resulted in the most serious case of post-election violence the country had ever witnessed since independence. The violence, which was witnessed in Nairobi, rural and urban centres of the Rift Valley and in Kisumu town claimed 1133 lives (CIPEV, 2008). In the Rift Valley, those affected in the initial attacks included mostly the Kikuyu and the Kisii. However, members of the Luo community were targeted in the counter attacks that followed in towns such as

[159] This particular draft was referred to as the 'Wako Draft' on account of the fact that the draft, which was altered by the Attorney-General, Amos Wako, differed from the one produced at the Bomas of Kenya, named the 'Bomas Draft'. The latter recommended a whittling down of executive powers while the former, sought to strengthen the powers of the presidency.

Naivasha. Several Kikuyu people also fell victim to attacks in Kisumu town, the Luo capital, while the town's Luo inhabitants were themselves targets of police brutality. Although the violence was eventually stopped through the diplomatic efforts of former United Nations Secretary-General Kofi Annan, which culminated in a government of national unity, with Raila Odinga being appointed Prime-Minister and Kibaki remaining the President, the 2007 elections became a poignant reminder of the perils of ethno-political mobilization. Parties in particular were criticized for their role in the process. Their apparent complacency between electoral periods was criticized, as it was argued that they could have used these periods to mount serious national recruitment drives which could have given the parties a greater national outlook. This criticism eventually prompted the introduction of the Political Parties Act in June 2008. Section IV, subsection 14 (a) of the Act (on *Prohibition of Ethnic and Religious Parties etc)* states in no uncertain terms that:

> The Registrar shall not register a political party which is founded on an ethnic, age, tribal, racial, gender, regional, linguistic, corporatist, professional or religious basis or which seeks to engage in propaganda based on any of these matters.

Although one of the main aims of the Act is to remove the presence of any ethnically oriented parties, ethnically tinged statements by various politicians cum community 'spokespersons' have continued to be made, largely without any censure or punitive action. Shortly after the formation of the Government of National Unity in February 2008, discontent began to emerge within ODM. A section of Kalenjin party members, led by Agriculture Minister William Ruto, complained that their ethnic community had been deprived of what they perceived as an adequate number of ministerial portfolios. Most recently, accusations levelling blame upon some Kalenjin politicians for organizing the post-election violence in addition to various corruption charges has seen these politicians and their kinsmen not implicated in these accusations threatening to leave the party (*The Standard*, January 13th, 2011). An apparent falling out between William Ruto, ODM Deputy Party Leader, and Prime Minister Raila Odinga has caused other Kalenjin leaders perceived to be erstwhile allies of the PM to also distance themselves from Raila Odinga. Another clear indication of the importance of ethnicity as a driving force in party politics can be found in a statement made by the former president Daniel Arap Moi, 'We in KANU had consulted Rift Valley MPs, especially those from North Rift region, and asked them to remain in KANU but they turned to us a deaf ear' (*The*

Standard, January 16th 2011) As if to echo the statement made by the former president, Eldoret East ODM treasurer Paul Kiprop said, 'We also need to reconcile with KANU because we should be one as a community. We also respect retired President Moi as our elder who can guide us and give direction for the community' (*The Standard*, January 14th 2011).

However, following disagreements between ODM leaders over the eviction of Kalenjin communities settled near the Mau Forest, the United Democratic Movement, UDM, a little known party that was established just prior to the 2007 elections was identified by several disgruntled ODM Kalenjin MPs as an alternative party. However, these Kalenjin politicians have since joined another party, the United Republican Party (URP).

6.6. Explaining the Ethnic Orientation of Parties in Kenya

While there is a general view that Kenyan parties are essentially ethnic in their composition and in their focus, at least on paper no party could be described as being 'ethnic'. A perusal of various party manifestos and constitutions reveals, at least formally, that none of the parties has a *raison d'etre* that is ethnic. Furthermore, a study undertaken by Michael Bratton and Mwangi Kimenyi on voting in Kenya found that ethnicity was not the main motivation when it came to voting for a particular party. The findings of their survey revealed that 70 percent of the respondents identified party policies as their main criterion for party support. A further 66 percent said the integrity of party leaders was key in determining party support, while 55 percent noted past governing experience as being the fundamental reason behind offering their support to particular parties and not the ethnic identity of the candidates (see Bratton and Kimenyi, 2007).

However, statistical tallies of the 1992 and 1997 elections show that ethnicity does coincide with voting patterns in the country to a very large degree. How then can the discrepancies between voter responses in the Bratton and Kimenyi study and actual electoral tallies be reconciled? Posner (2005) suggests that the influence of the institutional arrangements, coupled with other contextual dynamics shape actual voting behaviour, as compared to their perceptions (c.f. Posner, 2007). The underlying idea here is that whilst voters may prefer not to vote along ethnic lines, the prospect that members from other communities may do so may be enough to convince them to do the same. Posner opines:

> [t]he fact that so many survey respondents told me that tribalism was wrong…does not imply that it is absent either from their calculations or from their behaviour. Despite their preference for a situation in which resources are not distributed along ethnic lines, they find themselves trapped in an equilibrium where ethnic favouritism is the rule, and where they lose out in access to resources if they ignore its implications for political behaviour (Posner, 2005:104).

Further, there is also the idea that voters may perceive members of their own ethnic community to be more knowledgeable of their local problems and, as such, an individual from the community would seem the most obvious choice. Given this scenario, the likelihood of many voters voting along ethnic lines cannot be discounted.

The penetration of ethnic consciousness within the broader Kenyan body-politic can be attributed to a number of factors. On the one hand, the uneven penetration of capitalism combined with varying degrees of proximity to colonialism could be said to have contributed to the emergence of an ethnic consciousness (see Ajulu, 2000). Atieno-Odhiambo (2004) also corroborates this view by pointing out the divergent grievances between the Kikuyu and the Luo. Whilst these processes might have led to burgeoning ethnic consciousness, would these alone have led to the salient forms of political organization that have since come to characterize Kenya's politics? Berman (1998) Anyang- Nyong'o (1989), Londsdale (2004) and Jonyo and Owuoche (2004) all maintain that the saliency of ethnicity only becomes apparent in situations where ethnic identity has been actively encouraged. Ajulu (2002: 252) opines that ethnic consciousness has often been heightened during times of acute competition for resources and power.

In circumstances where different communities are juxtaposed and bounded together in the territorial space of the nation-state, while simultaneously having been actively separated by colonialism, a single notion of what constitutes a political society becomes problematic. Ordinarily, it would be expected that in circumstances where there was a lot more interaction among peoples from the various ethnic communities over time, opportunities for more mutual understanding and less mutual suspicion would have emerged. The reality of colonial rule in Kenya was such that enforced separation of communities combined with restrictions on mobility in essence led to the creation of bounded ethnic communities in which particular *reinterpretations* of cultural values, norms,

as well histories were promoted (Okoth-Ogendo, 1972)[160]. However, what did this all mean in political terms?

Under conditions where communities are forcibly isolated from one another, any political associations that would emerge, if allowed, would have to do so endogenously within the confines of each community. As a result, presumably multiple political communities, all with very different perceptions of polity and society, would emerge, in light of their respective experiences (cf. Berman, 1998). Okoth-Ogendo (1972: 11), notes that the creation of Local Native Councils (LNCs) in the 1920s and 1930s, to an extent effectively ensured that political consciousness was localised and bounded.

The limitation of African political activity to district parties after the 1955 emergency, contributed directly to the emergence of "politicized ethnicity" in Kenya. District boundaries during the colonial period coincided with ethnic boundaries, such that almost every ethnic grouping more or less had its own district (Wanyande, 2005). Okoth-Ogendo (1972:11) states that in the wake of the ban on national parties, between 1955 and 1960, the LNCs were crucial in advising the Governor on the selection of 'appropriate' African individuals to join the Legco (ibid.). Some of these men would be drawn from the LNCs around the country (ibid.). Tom Mboya explicitly outlines the impact that district boundaries had upon the development of the nationalist movement:

> Of course these restrictions produced the opposite of orderly development, and greatly aggravated tribalism. It was clear from the outset that these district organizations would be a threat to national unity, because we could see district loyalties building up and reflecting tribal loyalties (since district and tribal boundaries were often the same)…. We have never been able to escape completely from district consciousness which developed under this period. (Mboya, 2008: 75)

It must be taken into account that these ethnically-moulded district boundaries were inherited intact and were not changed until the promulgation of Kenya's new constitution in August 2010. The inevitable result of this particular administrative configuration was the emergence of mono-ethnic parties, as national parties were completely outlawed by the Lyttleton Constitution (Okoth-Ogendo, 1972; Bienen, 1974; Kanyinga, 1997; Ajulu, 2000).

[160] These interpretations of culture in Kenya and in Africa in general were quite distorted and various aspects of those reinterpretations were more or less fabricated out of convenience for the purposes of governance (see Berman, 1998: 317- 318).

In the absence of a coherent notion of citizenship in which a strong national identity based in democratic citizenship can be entrenched, it was difficult for political parties to become truly national, as parties are reflections of the social milieu in which they exist (c.f. Salih, 2003).

6.6.1. Colonial legacy, blurred citizenship and stymied nationalism

An argument may be made that the Western concept of citizenship is not wholly applicable to the African context. According to Walter (1989: 160), citizenship denotes "…a set of normative expectations specifying a relationship between the nation-state and its individual members which procedurally establishes the rights and obligations of members and a set of practices by which these expectations are realized". Under the rubric of the nation-state, this concept of citizenship presupposes a single political community. Consequently, it does not cater for states in which there exists more than one political community (Ndegwa, 1998: 600).

6.6.1.1. Blurred citizenship

According to Ndegwa (1998), a strong identification with (national) citizenship by people who value it usually occurs in circumstances in which the struggle for a particular set of rights and liberties is realised and claimed by the citizens. Whilst it is true that the anti-colonial struggle in Kenya was as much about an acquisition of full citizenship as it was about land, the type of citizenship that had been agitated for by KANU was not what was received from Lancaster House (ibid.). Lancaster House offered Kenyans a citizenship package that neither reflected the ideals of their struggle nor any indigenous culture (ibid.). The Lancaster House Constitution sought to officially entrench the idea of distinct political communities within Kenya by creating seven regional assemblies, separate judiciaries, public service commissions and police forces. As such, the Lancaster House Constitution did not envisage a single political community but multiple political communities based on ethnic and, to a lesser degree, racial diversity. In short, it envisioned Kenya as an ethno-federalist state. Although the Lancaster House Constitution was later drastically altered to eventually establish a unitary state, the single political community as conceived under liberal notions of citizenship would remain elusive in Kenya.

Although both citizenship and ethnicity are social constructs, in Kenya and in Africa generally, ethnicity is 'concretized' through social practices that are part of people's daily existence, as opposed to citizenship, whose obligations only become apparent at different intervals – voting and supporting a war effort or a national football team are some of the instances that may arouse patriotic sentiments (see Ndegwa, 1997). The rational-legal concept of citizenship, steeped in the liberal tradition, does not prescribe an obligatory role for citizens in the state in order for them to attain their civil rights and liberties, as these were conceived of as being inalienable. As such, the exercise of these rights and liberties under this regime is thought to be a purely personal matter to be decided upon by the individual and not the state per se. However, the idea of ethnic 'citizenship', as posited by Ndegwa (1997), seems more apt, particularly when the phenomenon of people being confined within their rural communities is taken into consideration.

Beyond the reciprocal relations that embed legitimacy and authority within ethnic groups, the idea of active participation in, and the fulfilment of, communal obligations in exchange for rights, marks the concept of 'ethnic citizenship' in the tradition of civic-republicanism (ibid.: 603). In contexts where citizens are not compelled to participate actively in the public sphere, it is likely that they will possess only weak attachments to national citizenship, particularly if they actively participate in their local communities. The dyadic exchanges that often define relationships within local ethnic communities will provide members with a greater sense of belonging, as obligations and entitlements are woven very strongly into their everyday lives. This in part explains why there was no major backlash from Kenyan people following the withdrawal of their civil liberties and rights by an increasingly authoritarian regime.

But this explanation is incomplete. It must be supplemented with Mamhoud Mamdani's idea of the 'citizen and subject'. According to Mamdani (1996: 2005), the label 'citizenship' during the colonial era was mostly applicable to the white settler population and to a lesser degree applied to people of mixed racial heritage and to Indians[161]. Africans, or 'natives', as they were often referred to, were described as 'subjects'. While race was the distinguishing factor among so-called citizens, ethnicity was the prime

[161] The term 'mixed racial heritage' is used to describe individuals descended from both white and black families.

marker amongst the subjects[162]. Ndegwa (1998:354) states that even after independence, Kenyans never became national citizens substantively and remained 'subjects' or 'ethnic citizens'. So, even with the advent of independence, nationalist leaders came and filled the void left by the colonial administrators and continued to govern in more or less the same manner as the former colonial administrators. The reluctance of some communities to wholly transfer their allegiance from the confines of their ethnic communities to the nation-state at the behest of their political leaders in essence stymied nationalism and eventually led to the collapse of the nationalist coalition (see Ndegwa, 1997).

It is important to note that political elites are the key linkage between the local community and the national arena (ibid.). These elites assiduously manoeuvre between the two spheres. Despite their education on nationalism, citizenship and human rights and their affirmations of the same, the Kenyan founding fathers were prolific leaders in their ethnic communities in addition to being recognized nationalists. As such, these leaders to varying degrees superimposed their own ethnically moulded views of 'civil-society' onto the national arena. Conflicting demands between a national public and a local public created tensions that eventually led to the disintegration of the nationalist coalition. This view is also captured by Atieno-Odhiambo:

> [t]he parting of ways between Odinga and Kenyatta was ideological but it was also intensely local and reflected their different understandings and dreams. Their positioning represented conflicting understandings of the African past because both of them had been immersed in the inventions of the past. Both men brought with them an ethno-cultural understanding of politics. Each understood only too well the demands of democratic citizenship. Both men were deeply cultural and espoused values that were locally rooted, Kenyatta in Gikuyu individual enterprise and personal virtue, Odinga in clan-based communocratic and achieving values plus a tradition of resisting authoritarianism of any sort. (Atieno-Odhiambo, 2004: 177).

6.6.1.2. Elite manipulation and the disintegration of the nationalist coalition

The divergent experiences of the different ethnic communities in Kenya also had a profound impact upon the nationalist movement. As noted previously, the smaller communities had reservations about shifting their locally based allegiance from their ethnic groups to the nation-state. Even after the law that prevented the development of

[162] Under the terms of the situation, the 'subjects' were governed under customary law by 'chiefs' who, in the Kenyan case, were government appointees. These chiefs were the principal agents of what Mamdani (1996) refers to as 'decentralized despotism', which characterized the brutal and violent nature of indirect colonial rule. Note that there was never a single code of customary law that related to all; each ethnic group had its own code of law.

pan-ethnic parties was scrapped, nationalist leaders failed to establish one truly nationalist movement and the nationalist cause was stymied. At the heart of their disagreements were fears of domination of the smaller ethnic groups (KAMATUSA) by the Kikuyu and Luo groups respectively. In an attempt to synthesize this paradox of unity against colonialism and division among nationalists themselves, Gellner (1983:82) contends that in anti-colonial struggles African people were 'united by a shared exclusion and not a shared culture'. This particular view does shed more light on why the smaller tribes in their struggle against colonialism eschewed KANU and coalesced around KADU and its banner of ethno-federalism or *majimbo*. Although KANU, which accommodated the Kikuyu, the Luo and a section of the Luhya, defeated KADU and *majimbo* by the end of 1964, this did not vanquish ethnicized politics.

Even after the establishment of a *de facto* one party state the 'leech' of politicized ethnicity remained. This was due to a failure to successfully promote a coherent view of Kenyan citizenship as the prime marker of identity, whose content and character was informed by indigenous values. Although the primacy of ethnicity in politics ostensibly took a back seat to the ideological struggles that emerged within KANU between the Odinga and Mboya factions, in reality, it remained at the forefront of politics[163]. The departure of Oginga Odinga and other radicals from KANU firmly catapulted ethnicity back to the centre of politics (Muigai, 2004)[164]. Kenyatta's unexpected heart attack in 1966 brought to the fore the issue of succession. With Odinga having been pushed out of KANU, it was generally assumed that Mboya, the former's nemesis and co-ethnic would be the natural successor to Kenyatta. However, the close lieutenants around the President, who feared a Mboya presidency, actively worked to prevent such an eventuality by reducing his influence in the party and trade unions and, in the end, by having him assassinated.[165]

Although Kenyatta and KANU had initially preached national unity, Kenyatta succeeded in establishing an ethnically structured state which was visible in two ways. The first was

[163] The publication of Sessional Paper No. 10, as mentioned earlier, effectively nipped in the bud a politics of ideology and paved the way for politicized ethnicity to take centre stage.

[164] As a result of government harassment, KPU failed to garner seats outside of Nyanza province and was consequently portrayed as a purely Luo party.

[165] Following the President's unexpected heart attack, a number of constitutional amendments were proposed as a means of ensuring that Mboya would not succeed Kenyatta. One of the proposed amendments was an increase in the age of eligibility for the presidency from 35 to 40. (Mboya at this state was aged 37). Another key amendment was to water down the power of the presidency.

through the recruitment and selection of persons to state jobs on the basis of ethnicity, while the second was through the emergence of GEMA, which envisioned Kikuyu hegemony in Kenya (Muigai, 2004)[166]. While it is tempting to assume that Kenyatta's bias towards the Kikuyu may have arisen from perceived feelings of entitlement, this bias may have arisen out of the exigencies of governance. Given the community's many years of suffering both prior to and during the Emergency, Kenyatta may have felt the need to compensate the Kikuyu through various ventures as a means of containing the restlessness that had understandably emerged over the years (Widener, 1993). Furthermore, given the rapidly expanding gulf of inequality that had emerged between the urban petit bourgeoisie and the rural peasants, many of whom were landless squatters, the distribution of land amongst other resources may have been considered necessary not only as a way of containing another possible Mau Mau uprising, but also as a way of cementing his leadership amongst the Kikuyu, who were split along regional lines (Widener, 1993; Bienen, 1974)[167].

The appointment of several Kikuyu to important positions in the state's security apparatus could again be seen as another measure of ensuring state stability and security (see Ng'weno, 2007). Following the aborted coups in Zanzibar and Tanganyika and Uganda in January 1964, and an unexplained mutiny attempt at the Lanet Barracks in Nakuru on January 24th 1964, the restoration of law and order was imperative (ibid.). It was thought that the only way of ensuring loyalty amongst the armed forces was through the appointment of co-ethnic leaders who could be counted upon to ensure the security of their Head of State and maintain their stature amongst the community[168].

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[166] In trying to consolidate his grip on power, Kenyatta appointed a number of Kikuyu politicians to the cabinet. It must also be noted the new occupants of these state offices were still linked to their kith and kin in rural areas and, as such, used their positions to assist the less well-off members of their community.

[167] There has often been a speculation that since the Kikuyu from Murang'a (formerly Fort Hall) were the ones who took up arms against the British, Kenyatta's leadership of the entire Kikuyu Community was tenuous, as he hailed from Kiambu, south of the River Chania. The Kikuyu from Kiambu were sometimes considered to be more passive and less confrontational towards the colonialists. In Kenyatta's first cabinet, his top three lieutenants hailed from Kiambu, while only two were from Murang'a and one was from Nyeri.

[168] The need to ensure loyalty among the armed forces was heightened when, in 1965, a consignment of arms from the Soviet Union was "discovered" in the basement of a government building. It was alleged that the arms had been clandestinely brought into the country to topple the Kenyatta Government. It was further alleged that Odinga and his fellow radicals were the masterminds of this conspiracy due to their close links to the Soviet Union. Although it turned out that the arms were actually destined for Uganda, the incident aroused enough suspicion among Kenyatta and his lieutenants to view the Odinga faction with a lot of distrust.

The invocation of ethnic idioms in the late 1960s and early 1970s could be understood as a means of guaranteeing loyalty and legitimizing the monopoly of power held by the GEMA communities. John Lonsdale corroborates this when he says:

> Kenyatta tried to claim legitimacy for his rule. He conjured up, from ethnic cultures of laborious self-respect and unequal merit and in the contingent course of a campaign to destroy "the left", the common principles of nationhood. Kenya he nearly said was a nation precisely because its people were not detribalized (Lonsdale, 2004:90).

References to the Luo as being 'foreigners from the west' were often a way of marshalling support among the less enthusiastic members of the Kikuyu to support Kenyatta and not Odinga (Atieno-Odhiambo, 2004:179)[169], as Widner (1992: 46) also argues:

> Ethnic idiom also gave the emerging bourgeois elite in Kikuyu-dominated Central Province the basis for overcoming the fractiousness of those Kikuyu who had not benefitted from the transition to independence to the same extent … [s]o long as the Kikuyu masses believed that [political dominance] was also of prime importance to them, appeals to tribal solidarity would serve the double purpose of reinforcing the Kikuyu leadership's position at the centre, and repelling challenges based on class antagonism within Kikuyu society.

While western conceptualizations see citizenship as the prime marker for inclusion and participation in mainstream political and social life, indigenous conceptualizations of citizenship may revolve around what Atieno-Odhiambo refers to as 'rituals' that are intended to project identity, legitimacy and authority (see also Ndegwa, 1997: 601). These rituals or rites of passage are thought to underpin the criteria for inclusion into 'civil-society'[170] and hence form the boundaries between 'insiders' and 'outsiders' (Klopp, 2002). One such ritual was the practice of male circumcision, which was used not only as a legitimating tool but also as a tactic to exclude communities that did not practice this ritual from participation in the public space dominated by practitioners of this ritual. Ndegwa (1998) and Atieno-Odhiambo (2004) note that the insertion of the issue of male circumcision within broader debates about leadership largely served as a potent

[169] As the capital city, Nairobi was and still is the seat of power. Being located in Central Province, the traditional home of the Kikuyu, the capital city was the preserve of the Kikuyu. A testament to this fact is that until very recently, every mayor of Nairobi has been Kikuyu. The Luo originally hail from Nyanza Province, located on the eastern shores of Lake Victoria.

[170] Atieno-Odhiambo (2004) notes that perceptions of civil society (the space between state and society) have been largely filtered through ethnic lenses and the right to participate within this space was not so much through the legal requirements of national citizenship but rather through certain traditional initiations that participants to civil society are expected to have undergone.

exclusionary devise. Due the fact that the practice of male circumcision established what Ndegwa (1997) calls 'hierarchies of power' *within* communities, the appropriation of discourses on male circumcision within political speech, singularly transposed those hierarchies onto the wider political arena. Consequently, the criteria for leadership and participation within particular communities were now being used as the criteria for leadership and participation for *all* communities.

With citizenship 'blurred', nationalism stymied and ideology suppressed, what then became the binding force among the different communities in Kenyan politics?
Despite the apparent bias towards the Kikuyu that was visible through their elevation in politics and business, it is most likely that any consternation at this state of affairs was assuaged largely through a process of 'selective inclusion' (see Jonyo and Owuoche, 2004: 40), whereby elites from other communities were given some form of representation at the cabinet and sub-cabinet levels (Atieno-Odhiambo, 2004). Bienen (1974) contend that to this end KANU under Kenyatta became the focal point through which other communities competed for the residual 'spoils' once his inner circle had 'gouged their fill'. The dispensation of patronage, via local power-elites to various communities, in exchange both for political and policy support, also went a long way in accentuating the top-down/bottom up linkages between state and society (Widner, 1992, Orvis, 2001; Muigai, 2004).

The move to allow local political elites to exercise autonomy in their ethnic strongholds was a deliberate attempt by Kenyatta to keep other communities within KANU out of the opposition[171]. It is worth noting that this particular method of political management was not new, but was, in fact, a continuation of the colonial practice of incorporating 'government-friendly' parliamentarians from different ethnic backgrounds as a means of showcasing the national character of government and by extension national popularity. Muigai (2004:212) notes that as part of his strategy to maintain control, Kenyatta established a system of shifting ethnic coalitions within the party:

[171] It is thought that Kenyatta had a very different view of the role of political parties in governance compared to his counterparts elsewhere across the continent. All evidence suggests he did not feel that the party was the sole instrument through which political order could be maintained. Widener (1992) holds that Kenyatta was of the belief that the use of the party in governance would not only compromise professionalism and efficiency but could actually stall government operations in the event of conflict within the party. It must be noted that KANU had no formal organs for conflict resolution (ibid.).

> The Kalenjin had replaced the Luo in the shifting coalitions that made the Kenyatta state, the stability and legitimacy of which depended on the existence of these coalitions. Consequently, the state was a continuously shifting series of coalitions both within and outside Kikuyuland.

While this system of utilizing local notables from various communities was a continuation from the colonial era, there was one difference. Whereas under colonialism these local political elites were members of different political parties, namely the district parties, during the Kenyatta era these local notables were members of the same party, KANU. Establishing a system of shifting coalitions may have been a way of ensuring that no particular group had sufficient time to mount a challenge to the state leadership. Widener (1993: 55) affirms this by saying:

> Those who receive the benefits of patronage can use their newfound status or wealth to challenge leadership. Only a head of state that is exceptionally clever in their ability to elevate and demote the 'barons' with whom they ally themselves or keep them guessing can long maintain power.

Despite this strategy of 'shifting coalitions', two main informal factions emerged in the party, KANU A and KANU B. The KANU A faction was composed mostly of the President's ethnic group, the Kikuyu, while KANU B, which was initially led by Tom Mboya before his assassination, was composed of members of other ethnic groups (see Episode 4, 'Shifting Alliances', of Hillary Ng'weno's *The Making of a Nation*, 2007; see also Muigai, 2004). A careful analysis of the time period in which these new factions emerged reveals that they coincided with a period during which there were growing imbalances in the distribution of resources across ethnic regions (Widner, 1992). The full extent to which these imbalances stymied nationalism would become apparent with the rise of GEMA.

6.6.2. GEMA and re-emergence of ethnic associations

Having previously noted the exigencies of governance as a major reason behind the elevation of the Kikuyu in state and in business, the appropriation of ethnic identity and the cultivation of ethnic consciousness by political elites was, as mentioned earlier, also a means of justifying unaccounted for wealth. Stephen Karimi and Philip Ochieng affirm this view: 'parochial feelings were only inculcated in the minds of the masses by certain individuals so that those individuals could achieve material ends' (Karimi and Ochieng, 1980, cited in Widener, 1992: 44). Widner (1992:45) is also explicit in emphasizing the instrumentalization of ethnicity by politicians, 'Ethnic division in Kenya is less a

reflection of the existence of distinct, well organized, cultural communities than a consequence of the tactics politicians have used in securing public resources for their constituents'.

Furthermore, Mboya (2008: 71) contends, 'When a leader feels himself weak on the national platform, he begins to calculate that the only support he may win will come from his own tribe: he starts to create an antagonism of this sort, so that he can at least entrench himself as a leader of his tribe'. Against this backdrop, the emergence of GEMA in the early 1970s could be seen not as a conscious effort to promote cultural bonds between the Gikuyu, Embu and Meru, but rather the most convenient method through which to promote and protect the economic interests of GEMA's patrons. According to Widener (1992), GEMA, which seems to have been a successor to KANU A, was formed in response to the efforts to ensure fair redistribution of resources across the regions (see also Okello and Owino, 2005). In the absence of a formal opposition party, J.M. Kariuki together with the then Deputy Speaker of Parliament, Jean- Marie Seroney, mounted efforts to establish pan-regional alliances as a means of soliciting support for the redistribution of land and other resources and to check the executive:

> The redistribution of resources towards the Rift Valley groups did not appeal to Family leaders who stood to lose benefit and status. The group decided to fight back by strengthening the Kiambu-based ethnic welfare society, the Gikuyu Embu Meru Association (GEMA), mobilizing resources to generate a tighter organization and signal its bargaining power, always under the guise of 'cultural preservation' (Widner, 1992: 92)[172]

The significance of GEMA's rise was not lost among other non-GEMA political players. In commenting upon the rise of GEMA and other ethnic welfare associations, Kariuki's view was that the inauguration and strengthening of such bodies as GEMA, Luo Union and the New Akamba Union was '…the most retrogressive step we have ever taken and constitutes a tragedy in terms of our own advance towards nationhood' (Widner, 1992: 92-93). The birth of GEMA made room for other 'cultural organizations' such as the Luo Union and the New Akamba Union to flourish (Widner, 1992; Okello and Owino, 2005).

[172] The "Family" here refers not only to the President's family members, but also refers to other members who were part of the President's inner circle (see Widner, 1993: 76-77).

Whereas Kenyatta's decision to keep KANU more or a less a catch-all party was intended to give all groups a political home, the fact that the party as an entity was never really the preserve of any group in particular could be seen as a contributing factor to the rise of ethnic associations in the 1970s. Members of the 'Family' derived their political influence from their close links to State House and not from control of the party apparatus. Similarly, initiatives to establish a countervailing force to the 'Family' operated mainly through both parliamentary and extra-parliamentary channels (*harambee*) and not via any party organs (ibid.). As the clash of interests on either side became apparent, the natural reaction was to formalize these groupings. It may even be asserted that the formation of these cultural organizations was the only feasible means of organization in an increasingly restrictive political environment. Since the assassination of J.M. Kariuki in 1975, successive efforts to form pan-regional alliances similar to the one that had been crafted by Kariuki and his Kalenjin ally, Jean Marie Seroney, were severely discouraged (Widner, 1992; Muigai, 2004). The new licensing requirements for public rallies and *harambees* severely constrained the main avenues of political organization and, by extension, mobilization[173].

In the light of this fact, it was almost inevitable that the KANU party would suffer some neglect. Comments by 'Family' insider, James Njiru, on the state of the party only served to highlight this fact. In questioning the prevailing view that the party was decaying he said '[t]he party is much alive and we all know it. Perhaps those who suggest that the party is dead are not politically alive' (ibid.: 93). It is interesting that Njiru would come and state that the party was not decaying, considering that he had previously introduced a bill in parliament that officially sought to establish a one-party state, ostensibly as a means of 'strengthening' the party. Widner (1992) notes that the constrictions of political space and more particularly on extra-parliamentary pan-ethnic alliances, essentially did away with issue-based politics as ethnic welfare associations clamoured for resources and patronage from the state (ibid.). Delegations of ethnic associations visiting State House were not uncommon (c.f. Ng'weno, 2007). The growth of ethnic welfare associations consequently allowed KANU to atrophy further, as it ceased to be an appropriate platform through which grievances and resources claims could be made (

[173] Widner (1992) notes that since the proscription of the KPU and the subsequent detention of its leaders, the formation of an alternative political party was virtually taboo. As such, checks on the Government had to come from the parliamentary contributions of backbenchers and their extra-parliamentary activities.

Muigai, 2004; Okello and Owino, 2005). According to Owino and Okello (2005: 82) these associations also 'played a subliminal role in political mobilization'.

The relegation of the party as a pivotal platform in aggregating disparate interests became clear from statements made by Martin Shikuku in 1975. In a parliamentary session, Shikuku lamented that the Government was trying to kill Parliament in the same the way it had killed KANU. His statement was backed up by Deputy Speaker Seroney, who, in response to calls for Shikuku to substantiate his allegation, stated that there was 'no need to substantiate the obvious' (c.f Ng'eno, 2007). Shortly after that, the two men were detained as part of ongoing efforts to stifle the independent voice of Parliament.

Perhaps another indicator of the primacy of ethnic welfare associations could be seen in the central role that GEMA opened up for the succession debate through its 'Change the Constitution' crusade[174], described earlier in Chapter three. However, following the intervention of the President, which abruptly brought this enterprise to a standstill, the eminence of ethnic organizations was curtailed[175]. Although their influence in politics was minimal, there always remained a fear that they could still be used to potentially mobilize support for opposition parties. As such, they were outlawed altogether after Kenyatta's death by his successor Daniel arap Moi, who proceeded to strengthen KANU by establishing a one-party state.

6.6.3. Nyayo and the rise of KAMATUSA

Although the Nyayo era heralded a new, more intense phase of restriction upon political and associational life, whereby no political organizations other than KANU were allowed to exist, this did not do away with ethnicized politics[176]. Kanyinga (1998) notes that the one-party establishment, far from fostering the national unity that Nyayo leaders professed, created new fissures of ethnic discontent. The Nyayo state under Moi saw the fortunes of the Kalenjin and other 'KADU groups' rise at the expense of the GEMA community. It was, to use Michela Wrong's phrase, 'Kalenjin's turn to 'eat' at the trough

[174] The 'Change the Constitution' movement was a deliberate ploy engineered by key members of the GEMA such as Kihika Kimani and Njenga Karume to prevent the automatic ascendency of then vice-president Daniel Toroitich arap Moi who was Kalenjin, a non-GEMA community.

[175] Previously, the government didn't restrict the gatherings of these ethnic organizations as on paper they were concerned only with cultural issues and not political concerns.

[176] Few Civic organizations were given lee-way to operate during the Moi era (See Kinyatti, 2002).

of the state' (Wrong, 2009:113). Despite the fact that opposition to the Moi regime came from many different quarters which were ostensibly pan-ethnic, the vast majority of opposition to the regime came from the Luo and Kikuyu communities. While this opposition to the Moi regime was mostly attributable to the ever-increasing restrictions on political association and freedom, it was also attributable to other factors. The opposition, to a fair extent, came about as a result of diminishing economic activities among the Kikuyu and feelings of exclusion by the Luo in the Nyayo state. Widner (1993) maintains that the dwindling fortunes of the coffee and tea producers in Central Province in contrast to the thriving production of these cash crops in the Rift Valley greatly heightened the disillusionment of the Kikuyu towards the Moi regime. This is corroborated by Wrong (2009: 114):

> [i]t was sometimes hard to tell exactly where government incompetence ended and deliberate sabotage began. But the collapse of the coffee industry, troubles in the tea factories, the decline of Kenya Cooperative Creameries – all involving sectors at the head of the rural Kikuyu economy – would be viewed by the Kikuyu as part of a malevolent plot to pauperise the tribe Moi feared. And they pointed to the state of roads, schools and hospitals in Central Province as further proof of the president's vindictive determination to make them pay for past 'eating' .

In spite of the fact that after Mboya's assassination and Oginga Odinga's detention soon after, two politicians from the Luo community were appointed to the Cabinet, the community, having coalesced around Odinga's leadership, for all intents and purposes remained politically marginalized. The feelings of marginalization and exclusion felt by these two communities were not lost upon the Kalenjin elites as they perceived the agitation for a return to mulitpartyism as nothing more than a smokescreen to remove Moi from power and secure an opportunity to accumulate wealth (see Akiwumi Report, 1999)[177]. Simiyu Barasa confirms this idea: '[i]n the African political dictionary, democracy means giving our tribe the chance to eat and cannibalize what has been left of our country because your tribe has already eaten' (*Daily Nation*, August 16, 2004). A former minister in the Moi regime put it as follows: 'Kikuyus got so much land during the Kenyatta regime (sic) and they now sit here complaining whenever other people are

[177] Lynch (2008) notes, contrary to popular misconception, that the majority of people within the Kalenjin community did not benefit from Moi's rule and harboured strong reservations to his rule. The invocation of ethnic idioms as a means of marshalling electoral support for his regime is best evidenced by a Kalenjin proverb, *Ngo samis murian kobokot ne bo* (a rat stinks but it has its own home) (ibid:552). This proverb which was used by KANU campaign agents was thought to mean that Moi may be a "rat but he is our rat" (Ibid).

given land' (*Daily Nation,* December 11th 1998). In similar fashion, Mutahi Ngunyi also asserts that "For the most part, the Kikuyu will only take you seriously as a leader if you have property. In fact, the moment you accumulate some wealth, you automatically become a leader" (*Daily Nation,* December, 5, 2003).

With nationalism having been stymied, and a clear articulation of citizenship having also been nipped in the bud, the conditions for the development of ethnicized politics were created. The vanquishing of ideologically based politics followed by the erosion of political space rendered ethnicity as the main mobilizing force, as opposed to issue-based politics, in what has been perceived to be the zero-sum game of resource distribution in Kenyan politics. It is to this zero-sum game logic of politics that the most serious episode of electoral violence ever to hit Kenya can be attributed.

The post-election violence that took place between December 29th 2007 and the beginning of February 2008 was in part attributed to a pernicious ideology that had developed, namely the '41 tribes against 1' and other forms of hate speech that were propagated by ODM and PNU respectively (CIPEV, 2008). This ideology, which was a product of a widespread perception that the Kikuyu under Kibaki's government had benefited disproportionately in material terms at the expense of the other 41 ethnic groups, was singled out by the Waki Commission as having contributed extensively to the heightened feelings of animosity that preceded the violence (ibid.). Following the violence, Parliament enacted the Political Parties Act of 2011 to conform with the new constitution that had been promulgated in 2010.

6.7. Political Parties Act

As mentioned above, the introduction of the Political Parties Act (2011) was intended not only to regulate the activities of political parties but also to resolve their shortcomings. In particular, the Act seeks to do away with the idea of ethnic parties by ensuring that all political parties have some semblance of national support. Section 14 (1), subsection (a) of Part IV of the Act , which is on the 'Formation, Registration and Regulation of Political Parties', as stated earlier in the present chapter, prohibits the registration of political parties that are based on ethnicity, age, race, gender, geographical region, language, corporation, profession or religion, or which engage in propaganda based on these criteria.

The Act came into force on November 1st 2011[178]. In light of its operationalization, political parties were required to comply with the new tenets of the Act, as a condition for full registration, by April 30th 2012. The Act envisages that a party that has been fully registered should meet the threshold of having offices in at least 24 of the country's 47 counties and have no less than 1000 members in at least 24 of those counties[179]. At the time of writing, a total of 51 political parties had been fully registered, having presumably met the criteria delineated under the provisions of the Act. Despite this legislation, Kenyan parties continue to be marked by ethno-regional dynamics. A clear indication of this is the formation of four coalition blocks in preparation for the 2013 general elections, namely: the Coalition for Reform and Democracy (CORD), the Jubilee Alliance, the Amani Alliance, and the Eagle coalition, which have united different political parties that are seen to represent the different ethno-regional interests within the country[180]. Centre for Multiparty Democracy Chair, Justin Muturi, opined that:

> In the end political party system in Kenya will be ethnically articulated rather other (sic) policy realignment. This is a threat to the survival of political parties in Kenya and the development of our democracy, it is a massive threat to national cohesion and survival[181].

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[178] Former Justice and Constitutional Affairs Minister Mutula Kilonzo stated that the political parties Act would be operational from November 1st 2011 (see *In2Eastafrica* article available at http://in2eastafrica.net/minister-parties-law-to-take-affect-by-next-month/, accessed November 23rd 2012), although not all aspects of the Act have been enforced, such as on elected officials holding party positions. One of the aspects of the law that did come into force was the one prohibiting the formation of political parties on a sectarian basis.

[179] The new constitution did away with the eight provinces that existed and transformed the 46 districts that existed into 47 counties.

[180] CORD is comprised of the Orange Democratic Movement (ODM) led by Raila Odinga, Wiper Democratic Movement, led by Kalonzo Musyoka, and FORD-Kenya, led by Moses Wetangula. ODM's stronghold is thought to be in Luo Nyanza, WDM's is the Kamba region of the former Eastern Province while FORD-Kenya is strong in the Bungoma region of Western Kenyan. The Jubilee Alliance brings together Uhuru Kenyatta's The National Alliance (TNA) and William Ruto's United Republican Party (URP). TNA is thought to be strong in the Kikuyu heartland of Central Region while URP is firmly entrenched in the Kalenjin occupied areas of the Rift Valley. The Amani Alliance consists of Musalia Mudavadi's United Democratic Front Party (UDF), New Ford Kenya of Eugene Wamalwa and KANU, led by Gideon Moi. UDF and New Ford Kenya both draw the majority of their support from Western region, while the former ruling party that used to enjoy countrywide support is thought to draw its support mostly from the Rift Valley. The Eagle Coalition, which unites Peter Kenneth's Kenya National Congress and Raphael Tuju's Party of Action are thought to be strongest in Murang'a county of Central region and in some parts of Luo Nyanza.

[181] For more on this see http://safariafricaradio.com/index.php/reforms/1896-party-hopping-a-recipe-for-ethnic-politics [accessed 14/01/2013]

So this begs the question as to why political parties continued to exhibit an ethno-regional bent despite most political parties having some modicum of national presence? Why have parties failed to counteract ethnicized politics?

The Executive Director of Safina, James Wanjohi, contends that for many political parties it is still a lot easier to make ethnic appeals for support than on the basis of ideology. He concedes that:

> It is easier for parties to bank on ethnic emotions than on ideological emotions. For the politician who preaches ideology will find that his competitors who preach ethnicity will be winning, then they too will think why shouldn't I switch to what works. You have politicians who tried to resist the lure of ethnic politics, Raphael Tuju, Wangari Maathai and even my own party leader Paul Muite. In 2007 he didn't make it to parliament. He spoke against corruption in Kibaki's government and lost a lot of support but he also spoke against corruption during Moi's time and his support was high. So you ask why did he get support initially for speaking against corruption? Was it because it was Moi's government? (Interview, November 21st 2012)

He further lamented that in trying to advocate for a politics rooted in policies and programmes, ethnicity still remains a powerful force amongst the electorate. He said:

> The challenge that Safina has been experiencing is the one of ideology. We have been appealing to the less fortunate, as poverty knows no tribe, no race, no religion. But the majority of people do not listen to the ideology, and so just like the problem I mentioned earlier they will flock to the parties where politicians speak in ethnic terms. But we would rather be (sic) two people in our party than be a big party preaching ethnicity[182] (ibid.).

This suggests that in some instances the ethnic character of political parties is not necessarily determined at the elite level, but may be a function of grassroots preferences. So are parties always responsible for fuelling the politics of ethnicity?

According to Dishon Nyaga of the National Alliance Party of Kenya (TNA), even though parties have something resembling a national presence, in the sense that they may have party offices in more than half of the counties across the country, they find that the support the party gets is greatest in the home region of the party leader (Interview, November 21st 2012).

[182] Safina was one of the parties that was part of President Kibaki's PNU coalition. The party recently made the news for expelling one of its members of parliament, Ephraim Maina, who was seen publicly taking part in the activities of another political party headed by Uhuru Kenyatta, the man seen as the most popular Central Kenya legislator.

A retrospective analysis of the role that ethnicity has in shaping the composition of political parties also appears to corroborate this phenomenon of ethnic party politics being influenced by voters. This can usually be seen in cases of party defections, where members of one political party defect to another, not out of choice but out of necessity, lest they risk being relegated into political oblivion.

Kiraitu Murungi, who had been officially associated with FORD-Kenya, defected to DP. He cited that his switch was '…an adaptation to the emerging realities' (*Daily Nation,* November 10th 1997). This move appears to have been in line with a general move of the party members in the broader Mt. Kenya region to support Kibaki's DP. However, given the case that Safina, the party to which Murungi had initially switched his support was not registered, all indications are that he would not have retained his Imenti South seat had he chosen to remain in FORD-Kenya at the time of the 1997 general elections. In an interview with Justin Muturi, the pressures presented by ethnicity in making the decision regarding party affiliation were all too apparent. He cited the case of a colleague, a former cabinet minister who insisted that he was 'Kanu *damu*' (KANU to the blood), but that because of the ODM-Kenya 'wave' which had hit Ukambani (the traditional homeland of the Kamba) he had no choice but to join that party if he wished to make it back to parliament (Interview with Justin Muturi, 11th October 2010).

Karolina Hulterstrom's research on elite attitudes towards ethnicity in Kenya and Zambia drew similar conclusions concerning the role of the electorate in determining the party choices of prospective parliamentary aspirants. One of her interview respondents cited the case of a particular MP who was at odds with his party leader but had little choice but to stay in the party if he wished to be re-elected:

> There are no ideological differences between Kenyan parties…. So we don't join different parties because we believe more in the one party than the other or even because we believe more in the leadership of our party. Look at XX he doesn't respect his party leader at all but he can't join any other party if he wants to come to parliament (Hulterstrom, 2006: 17).

Perhaps a more salient indication of this phenomenon of supporters determining the party choice of MPs are the cases of Dr Valentine Omolo Opere and the late Joshua Orwa Ojode. In justifying their defections, both noted that they had little room to manoeuvre and consequently switched parties as a result of pressure from their constituents. Ojode noted:

> Our supporters are in NDP, they want us to join them there and that is what we have done. There is nothing we can do, our options are as limited as those of somebody in Baringo (President Moi's home district) choosing between KANU and the Opposition (*Daily Nation,* November 12th 1997).

Opere, who was much more unequivocal in his justification, affirmed that:

> My supporters told me point blank that they want to re-elect me but I was in the wrong party. They said they would only vote for me if I abandoned FORD-K and joined NDP (ibid.).

Whether these defections were genuinely informed by voter preferences, or were motivated by opportunism and the advantages of being allied to a party led by a popular personality, is difficult to determine. However, it is likely that it was a bit of both, as this would not be the first time that politicians were transforming challenges into opportunities. The case of Professor Peter Anyang Nyong'o is a also testament to this phenomenon. Unlike his fellow counterparts from FORD-Kenya who defected to the NDP, Nyong'o defected to the Social Democratic Party, which he had been associated with for a while with fellow academic Dr Apollo Njonjo. One commentator, Oketch Kendo, noted:

> It is instructive to note that most of these MPs did not win because they have strength of their own but because they identified with a godfather. They benefited from a mindset, under the delusion of tribal solidarity (*Sunday Standard,* January 4th 1998).

As has been shown previously, the ethnicization of Kenyan politics has been predominantly a consequence of elite manipulation over an extended period of time. As such, ethnic based political parties, whether mono-ethnic or ethnic congresses, have to a large extent come into existence by design. Whether it be FORD-Kenya's initial cooperation with KANU or the cooperation of KANU with the NDP, or the formation of the National Alliance Party of Kenya (NAK), these alliances have largely had ethnic underpinnings. Although the National Rainbow Coalition was ostensibly an amalgamation of elites who were anti-KANU and anti-Moi, the contours of ethnicity within the coalition were not long in coming, following the accession of NARC to power.

Despite this, there is also some evidence to support the idea that some parties become ethnic parties by default. In other words, some parties may not have intended to become parties that represent particular communities by design but rather this is the result of

circumstances beyond their control. A classic case in point is the transformation of FORD-Kenya from a political party representing the interests of a plethora of different communities and different professional elites in 1992 to one that essentially came to represent what could arguably be said to be the interests of the Luhya, more specifically the Bukusu from Bungoma and Trans Nzoia Districts.

While the Political Parties Act may go some way in ensuring that all parties have a presence countrywide, however insignificant, it is still too early to tell whether this law will actually do away with the ethnic factor in party politics. The Act expressly bans the formation of parties on an ethnic basis, but it seems powerless to prevent parties already formed on a national basis from *transforming* into parties that outwardly display a distinct ethnic bent.

6.8. Conclusion

While ethnicity in politics is nothing new in Africa, as the experiences of Rwanda and Burundi in the 1990s illustrates, it has probably remained one of the biggest challenges to political stability. With resource allocations and national development policies being informed by ethnic arithmetic, it has proven to be a serious obstacle to good governance and development in Africa. Its pervasiveness across the continent, although in varying degrees, is not only a reminder of the fragility of the post-colonial state in Africa, but also a clear indication that the continent is ideologically bankrupt. Whether this can be attributed to an exhausted sense of nationalism, a deeply entrenched logic of accumulation from the state as the centre of resource distribution or both, one thing that remains clear is that ethno-political mobilization remains a key threat to African development and needs to be urgently counteracted.

Multi-partyism is not the principal cause of political ethnicity, it merely removed the camouflage that the one-party state in Africa had put over the processes of ethnic competition for resources within states. Kenya has been no exception to this. With its political administrative units having been designed to reflect ethnic boundaries during colonialism, political organization along ethnic lines became the order of the day and came to be deeply ingrained in the political psyche of the nation. Even with the arrival of independence and the subsequent introduction of the one-party state, the survival of the colonial infrastructure was sure to promote ethnic competition within the new state.

With the ethnic clashes of the 1990s and the late 2000s, it became clear that an overhaul of the entire constitutional dispensation was in order. However, as has been shown, despite the introduction of a constitutional order and a new party law to accompany it, ethno-regional politics remains as entrenched as ever. As a change in laws alone appears to have failed to remove the yoke of negative ethnicity, it is clear that other approaches will be needed to transform the political culture of negative ethnicity that has been fed by clientelistic politics into a positive multiculturalism that will enable Kenyans to realize the true meaning of Kenyan citizenship.

With respect to institutionalization of political parties, the Kenyan experience of political ethnicity has shown that the scores for multi-ethnic parties differ from those of mono-ethnic parties, with the latter generally scoring higher on the *value-infusion*, and *coherence*, but not necessarily organizational systemness as a whole. However, on reification within the public mind, this is contingent upon how well established and well resourced the individual parties are; with bigger parties generally likely to become more reified, as it were on account of their access to media and other publicity resources. In the case of Kenyan parties, whether a party is mono-ethnic or multi-ethnic has not been of much importance, as parties such as the Democratic Party of Kenya which were perceived to be largely mono-ethnic entities still managed to become fairly well established within the public consciousness.

As can be seen by the patterns of party-hopping, multi-ethnic parties generally tend to score poorly on the value-infusion index, as the ethnic networks of clientelism within these parties generally tend to supersede any inclinations of loyalty to the party as a whole. Further, this phenomenon of party-hoping is a clear illustration of an apparent lack of coherence.

Mono-ethnic parties are more easily reified within the public consciousness, in comparison to multi-ethnic parties, as there are strong beliefs within the ethnic group from which the party draws its membership that the party is representing the ethnic group and is aimed at ensuring that group's welfare. While mono-ethnic parties may not be entirely immune to political opportunism, as some party members may be motivated by purely selfish reasons, such parties are likely to

produce a greater sense of belonging and sense of security and, as such, they are likely to score higher on the value infusion index in comparison to multi-ethnic parties. Further, given the pervasive hold of ethnic forces in Kenyan politics, mono-ethnic parties also tend to score higher on coherence than multi-ethnic parties.

CHAPTER 7. POLITICAL PARTIES AND VIOLENCE IN KENYA

> An electoral process is an alternative to violence as it is a means of achieving governance. It is when an electoral process is perceived as unfair, unresponsive, or corrupt, that its political legitimacy is compromised and stakeholders are motivated to go outside the established norms to achieve their objectives. Electoral conflict and violence become tactics in political competition (Fischer, 2002:2).

7.1. Introduction

Since the end of the Cold war, there has emerged an extensive literature on political and electoral violence in new democracies (Pederson, 2002; Solimano, 2004; Besley and Persson, 2010)). These writings have frequently recounted the dangers that political and electoral violence pose for democratic consolidation in these states. Despite this, the literature on political party violence, or the relationship between the two, is surprisingly thin. Even more scarce is the literature on political party violence in Africa. This is in spite of the fact that political parties are seen as one of, if not the, main agents of political socialization of the citizenry. Beyond performing the traditional functions of representation (i.e. aggregation and articulation) and the government function (i.e. assuming the reins of office or performing the public oversight role when in opposition), political parties act as conduits for systematizing political competition. It is often assumed, without being explicitly expressed, that well institutionalized parties are central in shaping the broader political behaviour of the electorate. It is thought that democratic institutions, specifically political parties, allow not only for the articulation of grievances, but they also help to formalize bargaining processes between disparate groups within society (cf. Welfling, 1973: 54-58; Sartori, 1977: 56; Kelley, 1992:31; Laakso, 2007)[183]. In this way, political parties are thought to lower the chances of extra-legal avenues of protest being pursued. However, in a cross country electoral survey of 87 presidential and 116 parliamentary elections that were held between 1990 and 2001, Staffan Lindberg noted that approximately 80 percent of the elections in Africa experienced some form of violence (Lindberg, 2004, cited in Laakso, 2007: 224).

Social conflict in the emerging democracies of the developing world can be attributed to many factors, such as high levels of inequality and mal-distribution of resources, weak institutions and the salience of ethnicity, while political violence is very often attributed to a weak electoral system (Laakso, 2007). Whilst a large proportion of all political conflicts appear to take place in periods either immediately preceding the poll or

[183] Welfling, cited in Janda (1993).

immediately after, the extent to which political parties can be seen as having been influential in spawning the violence is not clear. Mehler (2007) has noted the challenges of connecting parties to violence, as the parties themselves are very often poorly organized and it is not always easy to link acts of violence to the party as a whole, as opposed to individuals.

The 2007 post-election violence that rocked Kenya was undeniably one of the worst episodes of political violence to ever occur in the East African nation since the Mau Mau uprising in the 1950s[184]. A total of 1,133 deaths were documented and the damage to property was estimated to run into billions of shillings – approximately Ksh 300 billion (*Daily Nation*, March 13th 2013). In the midst of the crisis, as attacks and revenge attacks were taking place, there were accusations and counter accusations by ODM and PNU against each other about who was responsible for the violence. Preliminary investigations were carried out by a state appointed judicial commission and the evidence that emerged concluded that the attacks '…showed planning and organization by politicians, businessmen and others who enlisted criminal gangs to execute the violence' (CIPEV, 2008: 348). Further, although six individuals, i.e. three high ranking politicians, a former police commissioner, a former permanent secretary and head of the national civil service and a radio presenter at a local radio station, were identified as possible suspects, one of the ICC judges, Judge Hans-Peter Kaul, offered a dissenting opinion. The judge argued that the evidence suggested that the attacks had a corporate character, given the various alleged networks identified. Whilst not explicitly stated within his opinion, he appeared to imply that amongst these corporate entities were the political parties themselves. The judge subsequently recused himself from the case following this dissenting opinion.

While Kenya is no stranger to electoral violence, having experienced it in both the 1992 and 1998 elections, the violence of the 2007/2008 electoral period differed in that, in addition to the high number of police killings in Kisumu and other areas, for the first time violence was spawned by agents who were not part of the state apparatus, or linked to the ruling party as in the past. Although the ICC pre-trial hearings focused on

[184] The actual loss of life during the *Mau Mau* emergency period is still the subject of much speculation. The official figure holds that approximately 11,000 black Kenyans and 32 white settlers perished during the period, including 1,090 convicts who were hanged. However, figures produced by the Kenya Human Rights Commission put the death toll at about 90,000, whilst David Anderson contends that the number of deaths was around 25,000 (See http://bbc.co.uk/news/uk-12997138).

individuals, the accusations and counter-accusations levelled by political parties against each other and the opinion of the dissenting judge makes a compelling case for the need for a deeper insight into the violence and the role, if any, that political parties had in its execution.

As such, this chapter seeks to answer the following questions:

- Is there a connection between political/electoral violence and political parties in Kenya?
- If so, to what extent can this be attributed to the (low) levels of institutionalization of political parties in Kenya?

7.2. Conceptual Issues

According to Nawreen Sattar, political party violence may be defined as:

> …any incident where political party functionaries engage in violent acts with the aim of short and long term political gain against workers of opposing parties, members of different factions of their own party, against state agents, and against civilians (citizens who are not party members or activists), resulting in death, injury, or destruction of property (Sattar, 2008).

Although instances of party violence both within them and between them have been documented time and again by the media all over the world, as mentioned earlier, literature dwelling specifically on the subject is lacking. Most analyses on the issue are anecdotal and under the rubric of electoral or political violence, which essentially downplays the role of parties in violent political conflict. Political violence may be defined as any violent act(s) in the form of physical or verbal assaults and intimidation on persons and damage to property in the furtherance of political objectives (Moser and Clark, 2001a: 36). Political violence, like democracy, is a contested term (Frazer and Hutchings, 2008; Olhassen, 2009). Discussions on political violence fall broadly within two schools of thought, i.e., those who argue that there is an inextricable link between violence and politics and those who maintain that violence and politics are fundamentally two distinct phenomena that are essentially antithetical to one another (ibid.).

The first school of thought has seen many a theorist ponder the various applications of violence in the realization of political aims. Hobbesian and Machiavellian views of violence essentially conceive of violence as a mode of domination, in essence laying the foundations of Weberian expositions, which see the primacy of the state in the political

realm. The monopoly over the means of violence is seen as an essential defining feature of the modern state. Whilst classical discourses on violence may have espoused a view in which violence as a mode of domination was seen as being a precursor to order and stability, other theorists such as Marx, Sorel and Fanon recognized the dehumanizing and exploitative nature of repressive violence in its political and socio-economic forms and, as such, advocated a revolutionary type of violence. This meant a revolutionary violence appropriated to emancipate those oppressed by the violence of the first kind. So, whilst the violence of domination is used to *exert* power and revolutionary violence is used to *empower,* the common denominator is that violence is principally a political instrument.

Contrarians to the ideas above see the relationship between violence and politics as tenuous at best, if not non-existent. In Arendt's views of politics, power and violence are de-coupled and seen largely as anathema to each other. Power is viewed largely as not being a coercive tool but as constructive and more as an arena in which structures are built to facilitate cooperation and the exchange of ideas. Consequently violence is seen as being anti-political in light of its destructive nature (Arendt, 1969).

The end of the Cold-War, which coincided with the end of the era of anti-colonial struggles, arguably saw the discourses of liberation through armed struggle suddenly go out of vogue. This apparent 'end of history' that Fukuyama (1990) noted as the triumph of liberal democratic discourse inaugurated a period in which the use of violence in politics was largely illegitimated, except for cases when the use of force was provided for by the United Nations (UN) Charter and sanctioned by the UN Security Council.

7.2.1. Political Parties and Peaceful Competition

As frameworks of democratic expression and platforms that link the governing with the governed, political parties are considered as the foremost pillars of democracy. They are viewed as the legitimately sanctioned organizations for engaging in political competition. By their very nature, political parties are entities designed to channel political conflicts by ensuring that contests for power are achieved in a peaceful and constructive manner (Blondel, 1990; Laakso, 2002). By performing the functions of representation, education and socialization, political parties are thought to be central in efforts to promote a positive political culture and hence democratic consolidation. Unfortunately, evidence suggests that the view delineated above is more normative than the reality indicates

(Gunther and Diamond, 2003; Sattar, 2008). The recent political crisis in the Ivory Coast whereby militia groups belonging to the ruling party of former president Laurent Gbagbo and those aligned to his successor, President Alasagne Outtara, are a testament to the reality that political parties are not always non-violent. The militias associated with their political parties caused the deaths of more than 600 people following a disputed presidential election.

7.2.2. Anti-System Parties

Gunther and Diamond (2003: 178) note that political parties can, in some cases, undermine democratic values and raise the prospect of conflict. They cite proto-hegemonic parties, or 'anti-system' parties, as being those parties that have not always excluded the use of violence (Gunther and Diamond, 2003). Anti-system parties are essentially parties that seek to replace an existing democratic system with one that is intolerant of political pluralism (Adorno et al, 1950; Sartori, 1976: 133; Sridharan and Varshney, 2001; Gunther and Diamond, 2003; 178)[185]. These parties, which are often highly disciplined, tend to be associated with *polarized* party-systems, such as the Weimar Republic, in which the National Socialist or Nazi party was able to emerge (Gunther and Diamond, 2003). Beyond fascist parties, there exists a second tier of anti-system parties that subscribe to the use of violence and, more specifically, terror to achieve their objectives. Whilst the objects of parties that have terrorist wings or are allied to terrorist organizations may vary, in general one of the main aims of these parties is to '…eradicate the solidarity, cooperation and interdependence upon which social cohesion depend'. (Chalk, 1998: 376, cited in Danzell, 2011). Mehler (2007) talks of how such political parties have struggled to dissociate themselves from violence.[186]

It should be noted, however, that 'anti-system' parties may be distinguished from African parties with militias in a number of ways. First African parties are not inherently 'anti-system'. Their intention is seldom, if ever, to completely transform the political, economic and social fabric of society. In most cases, these parties have no clear

[185] Anti-system parties may also be referred to as 'proto-hegemonic parties'. These parties are typically cell-based, although this does not preclude them from being or becoming mass-based.

[186] The contemporary era has also witnessed the emergence of political parties with links to violence, such as Hamas in the Palestinian Territory of Gaza and the Basque Party in Spain. Whilst these entities are not anti-systemic parties per se by virtue of their goals of self-determination, they may be considered anti-system in as far as they reject the political status quo.

programmes and, consequently, are different from proto-hegemonic party types. Except for a few cases, for African parties there is generally no real specified commitment to the use of violence[187]. More often than not, the appropriation of violence is purely tactical (Sisk, 2008). In the *Fanonical* conceptualizations, the political party is largely seen as unable to escape the thralls of repressive violence, despite its attempts to do so (Fanon, 1962). Although emancipative violence is seen as the antidote to a politics of colonial domination and repression, parties in this view are almost akin to 'agent saboteurs', whose pursuit of power through existing constitutional means does not result in radical transformation of the system, but rather a perpetuation of the violence of domination (ibid).

While the capacity of ruling parties to dispense repressive violence is well known, the development of militias associated with opposition parties is very often in response to state repression. Whether the violence that they espouse is emancipatory is, however, another story. Mehler (2007) identifies different situations in which violence has been used by distinguishing between violence as a political means and violence as the dominant mode of life. He lists the depth of social cleavages, the quality of the state's monopoly of violence, the legitimacy and efficiency of the electoral process and the organizational capacities of political parties, as factors that may underlie violence instigated by political parties (ibid: 217).

The factors listed above, which, quintessentially, are of a structural nature, are also noted by other writers as factors likely to precipitate the resort to violence by parties. Crenshaw (1981) and Sisk (2008) make particular mention of the institutional configuration of given polities that may predispose certain systems to violence (see also Huber and Powell, 1994). They note that in developing contexts, party violence is likely to occur in majoritarian systems with their winner take all logics and/or repressive political systems, whereby legal avenues for political expression are blocked off and where the state does not posses a wholly efficient monopoly over violence.

A rational choice approach to the political use of violence would see it as being purely strategic, whereby the benefits of violence are thought to outweigh the costs as well as

[187] This commitment is in reference to legally registered political parties.

the expected benefits of other alternative courses of action. The approach also assumes that if protracted use of violence fails to produce the desired results or the alternative non-violent actions are seen to yield greater returns, then violence will be abandoned in pursuit of those options (Abrahms, 2006).

7.2.3. Categories of violence

Looking at the various causes of violence, it is possible to categorize them according to two different dimensions, namely structural and strategic.

Structurally induced violence

- *Violence as an expression of grievances.* This is violence that erupts in the aftermath of a disputed election, or violence that occurs as a result or perceived unfair treatment or discrimination, e.g. the case of the opposition Social Democratic Front (SDF) in Cameroon, which after winning the municipal elections in 1996 was denied the chance to install their candidates in the big cities.

- *Violence as a means of domination by the state and government parties*. This type of violence is exclusively used by ruling parties and is often carried out by either official security personnel, or party militias and thugs under the guise of party youth wings. An example would be the 'Ninjas', a militia that was closely linked to former President Pascale Lissouba's regime in Congo in the 1990s.

- *The use of violence by former ruling parties.* An example of this is the case of the Central Africa Republic whereby the Central African Democratic Rally (RDC), a political party that had long and well established networks in the country's security forces, was able to exert and maintain considerable influence in the armed forces and eventually caused many problems for the new regime that followed.

- *The provocation of violence as a means of discrediting the opposition.* Mehler (2007) also mentions that governments are capable of provoking violence as a means of discrediting the opposition. He cites increased instances of this trend after 11 September 2001 in Cote d'Ivoire, whereby the government hired thugs to provoke violence at an opposition rally. The outburst of violence eventually led to the arrest and subsequent imprisonment of Laurent Gbagbo, the then opposition leader

- *Electoral Violence.* Mehler (2007) explains that this mode of violence can take two forms that occur either in the run up to, or in the aftermath of, an election. Examples include the Central African Republic, 1992, 1998 and 1999 and parliamentary elections in Congo in 2006. The second type of electoral violence that is mentioned is violence that is carried out specifically to prevent an election from taking place under prevailing electoral rules. The 1997 presidential elections in Mali are cited as an example (ibid.: 210).

- *Violence as a means of raising the costs of authoritarian rule.* In processes of democratic transition, the provocation of violence as a means of raising the costs of authoritarian rule has also been documented (cf. Stepan, 1990). The logic behind this line of thought is that continued use of repression will raise the costs to the regime through media attention and exposure to international attention. Mehler (2007) notes that violent action could ultimately reduce the prestige and the legitimacy of such regimes and their overall political capital.

- *Absence of a legitimate monopoly of violence.* This situation pertains to those instances whereby other actors, such as regional leaders, and local chiefs, among other sub-state actors, possess the means of violence in such a way that they can destabilize the state.

Strategically induced violence

- *The use of violence 'as an instrument to profit from a 'historical opportuntity.* This happens where a political party resolves to take advantage of a rupture in the regime and tries to seize power partly through violent means, e.g. the case of *Rassemblement Democratique Republicain* (RDR) in Cote d'Ivoire.

- *Violence as an instrument for the acquisition of violence rents.* In Chad, violence was used by rebels as a means of securing what Mehler (2007 : 208) terms "violence rents", in the form of accommodation/incorporation into government. He also documents the case of the Central African Republic, where the former head of state and political party chairman Dacko, received a hefty state pension for discontinuing the use of violence.

7.2.4. Prolonged Violence

The third conceptualization of violence focuses on the regions which have experienced prolonged instances of conflict such that the violence has become systemic and almost a way of life. In this particular case, the use of violence as opposed to co-operation in political contests may have become the norm (Mehler, 2007: 209). Chad, which has been rife with political assassinations, is again pointed out as an example. Another example is the Angolan presidential elections of 1992, whereby after the first multiparty presidential and parliamentary elections held after a 17 year civil war, the main opposition challenger, the National Union for the Total Independence of Angola (UNITA), refused to accept the outcome of the elections and reinitiated the civil war not long after (Southall and Wood, 1998).

While it would be reasonable to assume that the effective use of violence or, alternatively, peace, is contingent upon the *ability* of the parties to organize and mobilize their supporters, establishing a strong link between parties and political or electoral violence in Africa is a rather complex exercise, which is not always easy to do (Mehler, 2007). The absence of clear membership rosters among many political parties makes it particularly difficult to directly link political parties to violent acts (ibid). There has been a tendency for people to claim that they are party members without ever having filled out membership forms (ibid.). Even in cases where people known to be members of certain parties commit acts of violence, it is not entirely clear whether they do so on behalf of the party or whether they do so of their own volition. Furthermore, the *personalistic* nature of political parties also makes it very difficult to link acts of violence to parties as entities, as these acts may not be linked to party organs in any way and may not have emerged out of any collective decision-making exercises. Certain acts of violence may be carried out by party adherents out of loyalty to particular party leaders (ibid.). It is not uncommon for the names of the party leaders to be better known than the parties themselves (ibid.), which is not surprising given the tendency of political elites to engage in rampant party hopping[188]. So, given this scenario, is there a relationship between violence and the degree of party institutionalization?

According to Omotola (2010), the degree of institutionalization that political parties display in terms of internal coherence, discipline, organization and understanding of

[188] See Randall and Svasand, (2002b) and Kanyinga (1998).

democracy may all have a significant bearing upon the degree of political stability and, by extension, the presence of political violence. It is thought that well institutionalized parties are able to effectively perform the functions of aggregation, representation and articulation of popular interests and grievances (Randall and Svasand, 2002). Beyond that, as one of, if not *the* main, agents of political socialization among the citizenry, political parties are crucial to the creation of a healthy and vibrant political culture (Popkin, cited in Randall and Svasand, 2002). As such, parties that practice internal democracy balance this by also effectively promoting party discipline. Through this socialization, parties are able to impart the virtue of restraint in the face of perceived great injustice. Adrienne Lebas acknowledges this by saying:

> Where opposition parties are weak, in the sense of being incapable of delivering and disciplining collective action, or where they are fragmented, they are unlikely to have a substantial effect on individual and group behavior during regime transitions (Lebas, 2006: 3).

However, as can be seen in the case of some proto-hegemonic parties, like the Nazi party, even well institutionalized parties can cause serious damage to the very notion of democracy and even be antithetical to it. That being said, producing the proverbial 'smoking gun' in attempts to link African political parties to violence is a tall order. However, it may be possible to gauge at another level the extent to which violence is either condemned or condoned. The patterns of violence themselves may provide the key as to the degree, if any, of party involvement.

7.2.5 Party violence in time and space

Nawreen Sattar (2008) notes that it is important to critically examine the nature of violence that is taking place in contexts where political violence has unfolded. She notes that party related violence has two dimensions and, as a result, there is a need to determine whether the violence is electoral or inter-electoral (political) on the one hand (violence in time), and/or whether it is nationally or locally organized (violence in space), on the other. The typology below illustrates the dimensions she describes.

Table 2. Electoral versus inter-electoral violence: a typology

	Nationally Directed	Locally Directed
Electoral	-Intense limited term violence -Party's national level leadership directed.	-Intense limited term violence -Local politician directed.
Inter-Electoral	-Low level limited term (issue dependent) sporadic violence (issue based , urban protests), - Party's national level leadership directed	-Low level continuous violence -Directed by local party notables jockeying for spoils and influence

Source: Sattar, (2008)

7.2.5.1. Electoral violence

Electoral violence essentially refers to acts and incidents of violence that occur immediately prior to or immediately after electoral contests. This form of violence is thought to be generated mostly by electoral issues and processes connected to electoral contests. Electoral violence is most often manifested but not restricted to the deliberate disruptions of rivals' political rallies, attacks on political party and campaign offices and vandalization of party property. Electoral violence may also be seen in the face-to-face encounters of supporters of competing candidates.

7.2.5.2. Inter-electoral violence

Inter-electoral violence can be defined as the violence that occurs in routine encounters that political parties have with each other between electoral periods. As can be seen from the typology in Table 1, this form of violence is of low intensity and of short *duree*. It is thought to be issue-dependent and more common in urban settings.

7.2.5.3. Nationally directed violence

Violence at this level is said to occur if it has been planned and/or coordinated collectively by the party leadership in what Sattar (2008) describes as in '…the interest of the national level party leadership'. The main characteristic of this sort of violence is that it is often utilized as a means of "changing the rules of the game" (Sattar, 2008; see also Lebas, 2006). More specifically, in national arenas where political institutions are

suffering from severe decay and that are simultaneously undergoing processes of democratic transition, violence, whether applied or implied, may be adopted as a bargaining tool. It is further argued in this instance that the idea of popular uprising could provide the party with an "upper hand" in negotiations for power (Sattar, 2008; c.f. Lebas 2006; Mehler, 2007). Nationally directed violence in the inter-electoral period is essentially of low intensity and short duration, often assuming the form of issue-based protests, usually in urban areas. However, in electoral periods, this form of violence tends to be intense and may actually be designed to make the country ungovernable.

7.2.5.4. Locally directed violence

This type of violence most often takes the form of turf wars, whereby local power barons or aspiring ones, use violence so as to either maintain or consolidate political dominance in an area. In electoral periods, it is very often intense but short. However, in non-electoral periods, it is considerably less intense. A central motivating factor of this type of violence is the economic/commercial viability of the area/locale where the violence occurs (Sattar, 2008). In conceptualizing this form of violence, an additional notion is taken into consideration, namely the concept of 'sub-national authoritarian zones' (ibid.). The theory behind sub-national zones (SNZs) holds that in processes of democratization, there is unevenness in the way these processes spread geographically across the political landscape (Gibson, 2005; Sattar, 2008). As a result, 'pockets' of authoritarianism may persist in various locales, despite the fact that at the national level, formal democracy may be in place (Sattar, 2008). Within these 'authoritarian zones', local power barons are thought to posses a significant amount of control and influence within the political affairs of the area. These barons may be legislators (MPs), or some other form of executive local government officials. Although in most cases these local 'bigmen' are thought to retain control over local administrative structures and control the policing powers, it must be noted that this scenario would normally apply in contexts where the system of government is federal in nature, or in countries where there is an element of local administrative autonomy in a devolved political system. However, as Hermann (2009) states, in neopatrimonial systems, in which bureaucratic rational legal authority is fused with more personalized forms of authority, it is possible for local political actors to assert some control over some aspects of a given system locally. Due to the 'altering dynamics' that elections often imply within SNZs, the emergence of a strongman within an opposition stronghold is likely to elicit violence (Sattar, 2008).

It is argued that if, on one hand, the strongman within an opposition zone is perceived to be fighting a losing battle, and in the event that the party centre is also not assured of a win, it will make a series of moves to dissociate itself from the excesses of its *man or woman on the ground* [own emphasis] (ibid). On the other hand, if the party centre is assured of a win at the national level, its reaction is likely to be different. It is likely that the party centre will turn a blind eye to the excesses (in the form of violence) of its local point persons, if they believe that these individuals would by all means ensure their victory at the local level. Sattar (2008) describes this as a 'don't ask don't tell policy'. Through this *manufacture of consent*, or rather an *absence of dissent*, it is argued that local power barons end up making themselves virtually indispensable to the party centre by effectively employing violence. Although in this instance no direct linkage may exist between the party centre and violence, it is understood that it is very unlikely that the local strongman or woman would succeed without some support from the party centre (ibid.)[189]. Sattar asserts:

> [u]ltimately the key point here is that it is very difficult for a strongman to survive unless he has support for him (sic) own's party leadership and in order to gain and retain this support, the strongman will attempt to make himself politically valuable at the party centre. In order to retain support he must control the outflow of information from the stronghold area and ensure that he can keep national scrutiny …. Thus scholars are correct to emphasize the importance of national local linkages in the creation and maintenance and dissolution of subnational authoritarian rule. A local strongman cannot maintain total control without the support of (at least tacit) and silence of the core of his political party at the centre (ibid: 18).

Moreover, it is theorised that a regional party strongman is likely to emerge in areas of 'economic and strategic importance' which can be effectively used as leverage for strategic positioning in national politics (Sattar, 2008). The idea here is that these regions offer spoils that may be used to attract followers and to help establish political careers of stature. The other determinant is thought to be the level of delegation that the party accords to the local strongman, although this too may be contingent upon what Sattar (2008) calls the party's 'organizational strength', in addition to the attitude that the party leadership has towards violence.

[189] The rationale behind this idea is that only a candidate favoured by the party centre will be brazen enough to 'pull' all the stops, including the use of violence, knowing that should the party win at the national level the power baron will enjoy either a fair amount of protection or even immunity.

Having reviewed the relevant literature, the next important questions of this chapter can now be asked. *To what extent can the instance of political/electoral violence in Kenya be attributed to political parties? Is there a relationship to party institutionalization and party violence?*

7.3. The Kenyan Case

Figure 8. Map showing "traditional" conflict hotspots across Kenya *

Source: Adapted from KNCHR, 2008: 15.
* the word traditional is used here not to refer to ethnic heritage but in reference to the areas that have frequently been the "theatres of electoral violence" since the return of political pluralism in 1992

A survey undertaken by Media Focus for Africa Foundation (MFAF) found that of a sample taken from the various communities in Kenya, 91.5 percent of the Kisii, 89.6 percent of the Luhya, 86.2 percent of the Luo, and 85.3 percent of the Kikuyu communities, respectively, all believe that political parties, and more specifically party agents and supporters, were responsible for instigating acts of violence, especially ethnically motivated violence (MFAF, 2008: 23). An average of 88 percent of the people in the survey hold political parties/party agents responsible for the ethnically motivated acts of violence (ibid.). Given the apparently strong views held by members in these

communities, a large number of whom live in areas affected by violence, there is a compelling need to investigate further what the exact relationship between political parties and political/electoral violence is.

In 2002, a number of political parties were cited for being embroiled in violence. KANU was reported to have been affected by 64 cases of electoral violence, NARC, 51 incidents, FORD-People 20 incidents and Safina two incidents (Mutahi, 2002: 73).

Similarly, in the 41 party primaries that were held in mid-November 2007, there were approximately 25 known incidents of violence (KHRC, 2008b). However, within the campaign period, there were no less than 33 recorded incidents of violence against women, although UNIFEM's Gender Rapid Response Unit received about 250 reports.

Previously, the discourses on political violence following the advent of multipartyism in Kenya have often ascribed these incidents to the government and the ruling party KANU, with its attendant repressive apparatus. The role of the state in the 1992/93 clashes and the 1997/98 skirmishes have been well documented by both government-appointed commissions and human rights organizations (Kiliku, 1992; KHRC, 1998; Akiwumi Report, 1999). Further, within this discourse, the opposition has seen itself being cast as the helpless victim entrapped in the cudgels of intense state-orchestrated terror. The departure of KANU in the 2002 elections heralded what was widely perceived to be an era in which political violence would disappear. However, the 2007 elections, during which there was a haphazard and inchoate response of the state to violence, gave rise to a new discourse.

This discourse highlighted the apparent loss by the state of its monopoly of force, and spoke generally of the rise of privatized forms of violence and informal repression amidst the continued structural decay of public institutions (Mueller, 2008; Kagwanja and Southall, 2009; Kanyinga, 2009; Katumanga, 2010). The 2007 elections, as mentioned elsewhere, were the first where violence was a feature of both government and the opposition. The movement from an ostensibly disorganized, albeit confrontational opposition to a militant one with the capacity to challenge the state's hegemony was, on the face of it, seen as rather sudden. Consequently, this brought forth questions as to what was the attitude of parties to the use of violence to achieve their objectives? Was there a relationship between parties and gangs?

7.3.1. Gang affiliations

In 1994, President Moi startled the nation by announcing that there was an underground guerrilla army affiliated with one of the main opposition parties, FORD-Kenya, and a leading opposition politician, that were seeking to overthrow the government (*Daily Nation*, March 17th 1995). He did not divulge the details of the plot, except that this outfit was named the February Eighteenth Revolutionary Army or FERA, and was led by an obscure Brigadier named John Odongo operating in Western Kenya (*Daily Nation*, May 24th 1995)[190]. This information was widely received with a lot of scepticism and suspicion, with many opposition MPs not only questioning the authenticity of the President's remarks, but some openly suggesting that FERA was nothing more than an imagined enemy designed to provide KANU with the pretext to further harass the opposition (*Daily Nation*, March 16th 1995). In airing his doubts, the FORD-Kenya Leader Michael Kijana Wamalwa said:

> We are a transparent party, we want to meet with the President and we will only be too glad if he takes us into his confidence and tells us about this guerrilla movement…instead some people want to force as (sic) into demonstrating about this Odongo we do not know about (Daily Nation March 17th 1995).

Further, the President's assertions that Italians and Mozambicans were party to FERA's nefarious plot and that all FORD-K leaders had private armies based in Uganda ready to remove the government, were seen as being quite sensational, bordering on the absurd (*The Standard*, May 24th 1995). Despite an admission by Uganda's President Yoweri Museveni that there was indeed a Brigadier Odongo who was hiding in Uganda, no other evidence was produced to substantiate both the existence of FERA and Odongo and the opposition link to them[191].

The revelation of this murky organization to many appeared to signal a possible return to the dark days of the one-party state, as similar statements years earlier on the threat of

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[190] The name FERA was said to have been chosen in commemoration of the day that Mau Mau hero Dedan Kimathi was hanged in 1957.

[191] It later emerged that both FERA and Odongo did in fact exist. However, to what extent they were a threat to the Kenyan Government is subject to speculation. Patrick Wangamati, the leader of FERA's political wing, the February Eighteenth Movement (FEM), on the other hand, later revealed that FERA had 250 specially trained commandos and approximately 1000 trained recruits. Odongo and Wangamati were later ferried out of Uganda to Ghana in a pact involving the Ghanaian Head of State Jerry Rawlings and his Ugandan and Kenyan counterparts. It was also stated that a number of other prominent politicians were part of the FERA leadership, although this is difficult to verify (*The* Standard, April 20th 2004). For more information on FERA and Odongo, see http://www.unhcr.org/refworld.docid/3ae6a6b78.html [accessed 13 January 2012].

Mwakenya were swiftly followed by intense repression. The irony of this whole episode was not lost on many. The fact that a government already at pains to disprove its own involvement in violent clashes in both the run-up to and aftermath of the 1992 elections would assert that elements within the opposition were backing anti-government guerrillas was nothing short of astonishing. Were there any linkages between political parties and gangs and pseudo-political militia?

As noted by Barack Muluka, African parties were from the outset, imbued with a militaristic logic that accrued largely out of their heritage as 'resistance outfits' (Muluka, 2011)[192]. The linkages between political parties and violence in Kenya in earnest could be traced to the Kenya African Union. Some members of the party, more specifically executives of the KAU Nairobi Branch, had links to the Kenya Land Freedom Army, more commonly referred to as the *Mau Mau* (Kinyatti, 2002; Maina, 2005; Odinga, 2008). However, following the apparent defeat of the *Mau Mau*, and the subsequent onset of political independence in 1963, the instances of violence associated with the two main political parties, KANU and KADU were few and far between[193]. The instances of violence that did take place more often than not did so within the context of the nominations and electoral competition (Odinga, 2008; Kinyatti, 2002)[194]. Following the proscription of KPU in 1969, there were no serious instances of party violence that took place until the *Nyayo* era when the KANU Youth Wing assumed a more prominent role as part and parcel of the government policy of attenuating public space (Widener, 1993; Mwagiru et al, 2002).

[192] Whilst it cannot be refuted that the early political parties, namely Kenya African Union, KANU and KADU were political entities that were determined to bring to an end colonial rule, it should be noted that these parties were 'militaristic' to varying degrees.

[193] The violence between KANU and KADU can be seen in the case of Oginga Odinga who was accosted by KADU thugs for his perceived role of preventing Kenyatta from joining the party [KADU] (Odinga, 2008).

[194] Violence and harassment of KPU officials occurred during the 'Little General Election' of 1966, for more on this, see Odinga (2008:221). Most instances of inter-party violence were visible in the 1960 elections (Kyle, 1998).

7.3.2. Nyayo and the Rise of the KANU Youth Wing

Commonly known as the 'Red Shirts', the KANU Youth Wing generally came to be regarded as one of the most dreaded organizations during the Moi era (Angel, 1990)[195]. Often operating alongside the Provincial Administration, the KANU Youth Wing was virtually accorded policing and surveillance powers (Widener, 1991). Amongst its key tasks was to ensure the recruitment of new members into the party (Widener, 1992; Mwangola, 2007). Crucial to the realization of this objective was the periodic use of violence. Their targets were mainly the opposition parties. Violence perpetrated by the Youth Wing was at its highest at the advent of multi-party politics (Mwagiru, 2002; Mwangola, 2007). The involvement of KANU youth wingers in the violent reprisals against opposition activists in the 'Saba Saba' rally in July 1990 and later at another rally in late 1991 (KHRC, 1998; Mwagiru et al, 2002) were the first signs of party related violence. The brutality of its activities consequently resulted in the emergence of other 'youth wings' aligned to opposition parties, most notably FORD-Kenya and FORD-Asili (Mwagiru et al 2002)[196]. It could be argued that KANU Youth Wing's control of bus termini and transport routes paved the way for extortion and racketeering activities of successive underworld syndicates such as Mungiki (Mwangola, 2007; Kagwanja, 2009).

In the run up to the 1992 elections, the ostensible 'privatization' of violence occurred as a result of infighting within KANU, as politicians competing for lucrative branch chairmanships hired unemployed youths to beat up perceived opponents (KHRC, 1998; Mwagiru et al 2002). Throughout the 1990s and in the run up to the 2002 general elections, the Youth Wing was involved in various violent skirmishes, including the so-called 'tribal clashes' of 1997/1998 in the Rift Valley, although their involvement in these skirmishes was less prominent. It has been noted by the Kenya Human Rights Commission in their report, *Killing the Vote: State Sponsored Violence and Flawed Elections in Kenya,* that groups identified as *morans,* or traditional warrior groups such *Jeshi la Mzee* were comprised mostly of members of the infamous youth wing and armed forces ex-servicemen, amongst other unemployed youths (KHRC, 1998:34). However, it is

[195] Although KANU had been linked to political violence in the 'Little General Election' of 1966 against the Kenya People Unions (Odinga, 2008), it was generally not very prolific during much of the Kenyatta era.

[196] In an interview with the *Star Newspaper*, a former leader of the Baghdad Boys revealed that the group was established for the defence of the FORD-Kenya leaders who were routinely attacked by the authorities and KANU youth wingers. Newspaper accessible at http://www.the-star.co.ke/lifestyle/128-lifestyle/23874-former-baghdad-boys-terror-gang-boss-recalls-his-dark-past

important to note that while the KANU Youth Wing was prominently known for its more dastardly activities, it was not the only organization that was employed by the ruling party to perpetrate political violence against sections of the electorate. The most heinous form of political violence was the variety that was visited upon certain communities such as the Kikuyu, Abagusii (Kisii) and, to a lesser extent, the Luo and Luhya communities by informal militias linked to KANU elites.

7.4. Electoral Violence

Of the four elections after the reintroduction of multi-party democracy in Kenya, three were particularly characterized by significant electoral violence, i.e. the 1992, 1997 and 2007 elections. These are examined below.

7.4.1. Emergence and spread of the violence 1991-1993

The first incident of electoral violence broke out at Miteitei Farm in Tinderet Division, Nandi District, in the Rift Valley Province on the 29th of October 1991 (Akiwumi, Report, 1999). The clashes spread to a number of farms in the area before spilling over into Kipkelion Division in Kericho Districts. In 1992 the violence then spread to the districts of Trans Nzoia, Uasin Gishu. Further clashes were witnessed in Enoosupukia, Naivaisha and Narok and Trans-Mara Districts and finally in Gucha District in Nyanza Province and in Bungoma and Busia Districts of Western Province. Of Kenya's eight provinces, three were mainly affected at the height of the clashes (KHRC, 1998:14). By the time it stopped, the violence had left over 1,500 people dead and approximately 300,000 people, if not more, displaced (ibid.).

The perpetrators comprised of individuals dressed in traditional attire, although in some cases they would be dressed in green t-shirts and white shorts. These attackers killed their victims using crude weapons such as bows and arrows, *pangas* (machetes) and clubs and, in some cases, axes (see Akiwumi Report, 1999). The attackers also committed arson in order to destroy the property of their victims. While the interpretation given by the State was that these were 'tribal clashes', the violence in actual fact targeted individuals perceived to be supporters of the opposition. In Kericho and Nandi Districts, Luos were targeted by militias -apparently for being seen as FORD-Kenya supporters. Notably, clashes in these areas came to a sudden end without the intervention of traditional elders and other parties interested in peace (Akiwumi Report, 1999). The timing of the violence

(i.e. namely in the run up to the elections) and the fact that the purported animosity arose amongst communities that had lived together for years in relative peace, suggested the violence had a distinctly political purpose elections) and the fact that the purported animosity arose amongst communities that had lived together for years in relative peace, suggested the violence had a distinctly political purpose.

Table 3: Voter Registration and displacement by districts [1992]

District	Eligible Voters	Registered Voters	Displaced Population
Elgeyo-Marakwet	102, 896	87,089	22,300
Bungoma	270,732	206,549	6,725
Busia	191,121	153,465	1,800
Mt Elgon	51,027	32,607	14,375
Kisumu	324,723	245,970	8,975
Nyamira	144,449	122,658	750
Kisii	340,661	266,250	2,300
Turkana	94,519	57,397	16,625
Trans Nzoia	176,091	133,665	18,525
Uasin Gishu	215, 368	181,920	82,000
Nandi	199,387	142,960	17,850
Kericho	228,034	192,880	6,550
Narok	173, 369	128,636	900
Nakuru	410,575	386,110	40,700
Laikipia	103,203	101,772	600

Source: KHRC, 1998: 20

Table 4: December 1992 Parliamentary Election Results

Political Party	Number of Seats
KANU	100
FORD-Kenya	31
FORD-Asili	31
DPK	23
Others	3
Total	188

Source: KHRC, 1998: 18

7.4.2. Electoral Violence in 1997/1998

In the 1997/98 electoral period the first episode of electoral violence witnessed took place in Likoni, Kwale District, when the Likoni Police Station was raided and burnt down. While this attack left seven officers dead (Akiwumi Report, 1999), other attacks in

the area between residents from 'upcountry' (that comprised the Kamba, Kikuyu, Luo and Luhya) and 'coastal' residents left 40 people dead (ibid.). The violence then spread to Molo in the Rift Valley, home to a significant population of Kikuyus, in January of 1998. As violence also erupted in the South Rift, it was not long before the skirmishes spilled over into Western and Nyanza Provinces. Outbreaks of violence in these two provinces, specifically in Gucha and Migori Districts, clearly illustrated political undertones, as the residents of Migori (Luo), were thought to be NDP supporters while the Gucha residents (Kisii) were perceived to be KANU supporters[197]. However, there is evidence that indicates that the violence actually began in earnest in September 1997 (KHRC, 1998: 36). As in the 1992 clashes, the violence in 1998 was perpetrated largely by private militias allied to KANU politicians. Tactics of terror similar to those used in the 1992 clashes were employed in the 1998 clashes. Bands of small militias armed with bows and arrows and clad in traditional clothing attacked homes of individuals suspected to be opposition supporters and/or sympathizers. In the Rift Valley, in areas like Molo, the Kikuyu who were thought to be DP supporters were the target of these attacks, which were often carried out by Kalenjin militias (Akiwumi, Report, 1999).

7.4.3. The 2007/2008 post-election violence

The 2007/2008 post-election violence is generally said to have begun immediately following the announcement of election results on the 30th of December 2007, although there are some reports that there was an outbreak of violence the day before the announcement (c.f. Waki Report, 2008: 43; KNCHR, 2008; HRW, 2008; ICG, 2008). The violence claimed a total of 1,133 lives and left 3,561 people severely injured. In Uasin Gishu District, gangs of between 1000 to 2000 youths, armed with bows and poisoned arrows, *pangas*, matches and what appeared to be molotov cocktails were seen barricading roads leading to and from Eldoret Town (CIPEV, 2008; KNCHR, 2008). Similar scenes were also seen in all districts in the South Rift. Gangs would work in 'shifts' as they attacked their opponents (KNHRC, 2008). The attacks that were reported included looting of property, arson and theft of livestock, in addition to grievous assaults that resulted in the victims (mostly Kikuyu in Uasin Gishu, but also in the South Rift areas, Luo, Luhya and Kisii communities were targeted respectively) being hacked or shot to death, or in the case of women, gang-raped (CIPEV, 2008:45; KNCHR, 2008).

[197] The violence in this particular episode began when a person thought to be of Kisii origin crossed the Gucha/Migori district boundary and attacked the farm of Akello Angeto, a Luo farmer (Akiwumi Report, 1999: 226).

Some deaths were also the result of the Kenya Police's armed response to the situation. Furthermore, the attacks that took place in Naivasha Town were mostly on members of the Luo community who were viewed as ODM supporters.

The attacks in the Rift Valley Province were thought to be very systematic in that they targeted perceived supporters of PNU in ODM strongholds such as Eldoret or Burnt Forest and/or ODM supporters in PNU electoral zones, as in the case of Naivaisha Town and in some parts of Limuru. According to the Kenya National Commission for Human Rights, and as mentioned earlier, some of the attackers were said to work in shifts, as they would routinely signal to their fellow assailants to either join in or to take over as they rested (KNCHR, 2008). It was noted by witnesses that the attackers would arrive in vehicles and would begin their attacks in the afternoon. In one village, reports emerged that indicated that some residents in the affected area had foreknowledge that the attackers were coming and that they signalled to the attackers which houses not to attack using tree branches with leaves (KNCHR, 2008).

Although there were similar outbreaks of violence in Nyanza and Western Provinces immediately after the announcement of the election results, the patterns of violence differed from that of the Rift Valley. Preliminary evidence taken from the Waki Commission also revealed that the patterns of violence in other ODM strongholds, such as Western and Nyanza provinces, were generally spontaneous (CIPEV, 2008:173). The attacks were very often not systematic, and violence followed jubilant celebrations that were transformed into mob fury upon the announcement of the election results declaring President Kibaki as the winner. Further, unlike in the Rift Valley, the demonstrators used stones and not machetes, bows and arrows among other crude weapons, suggesting that implements within immediate proximity were used. There was no presence of 'traditional' warriors in these 'theatres' of violence.

7.5. Violence as a Means of Domination: State Assisted Violence in the 1990s

The violence that rocked various parts of the country between 1991 and 1998 is generally viewed as constituting acts of state sponsored violence (KHRC, 2008, Akiwumi Report, 1999; Kagwanja, 2001; Kagwanja, 2009). Further, the apparent complicity of the Provincial Administration in these acts of violence cannot be ignored. Ordinarily, agents from this institution receive and obey orders that stem all the way from the highest state authority. The fact that personnel from this institution were directly implicated lends the

violence a state character. This appendage of the executive is specifically charged with the duty of ensuring security and gathering intelligence within all provinces, right down to the village level. The *Report of the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and Other Parts of Kenya 1992* (also known as the Kiliku Report, 1992) notes that clashes that occurred were in part caused by the nonchalant and partisan disposition of members of the Provincial Administration, who were thought to be the co-ethnics of the 'warriors' (Kiliku Report).

Similarly, the *Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya* (commonly referred to as the 'Akiwumi Report, 1999') documents several instances of violence that strongly implicate low ranking personnel from the Provincial Administration[198]. The report also documents instances of District Commissioners in Kericho setting the pace of violent eviction by "warriors" through illegal evictions of 'foreign' squatters inhabiting certain farms[199]. In addition, in the Coast Province, several cases of Chiefs and Assistant Chiefs who, in collusion with their indigenous kinsfolk, were involved in planning the clashes there are also mentioned (Akiwumi Report, 1999: 31).

While the report identifies poor cohesion amongst the lower ranking personnel of the Provincial Administration, it also notes that there was an element of reluctance among senior personnel within both the police force and even the civil-service to deal with these acts of insubordination. On the basis of evidence from several internal communiqués issued by ranking officials within the Provincial Administration's chain of command, the Akiwumi Report refers to the discretionary and somewhat rogue behaviour of district commissioners, chiefs and assistant chiefs, who were invariably implicated in the violence that rocked the Rift Valley and the Coast provinces (Akiwumi Report, 1999: 30-44). Although the Provincial Administration had acted as the eyes and ears of the Executive, the Akiwumi report itself acknowledges that there were instances when the Provincial

[198] In Kenya, there is an established practice whereby a government appointed commission of investigation is informally referred to by the name of the commission chair. In this case the commission was so named after Justice (Retired) Akilano Akiwumi.

[199] During the clashes in 1993, the District Commissioner for Kericho, a Mr Timothy Sirma, is mentioned as having illegally given notice to Luo "squatters" from Thessalia farm after they had paid money to the District Treasury office (Akiwumi, Report, 1999: 30). The "squatters" had paid the money as a cooperative on the farm in question, which they were occupying. Mr Sirma was a Kalenjin from the Kipsigis sub-group. Despite being replaced, the "squatters" got no recourse to justice as the new District Commissioner, also a Kipsigis, also followed the precedent made by his predecessor and called for the eviction of the squatters by armed policemen (ibid.).

Administration were acting not upon the orders of their superior officers but on the orders of the Executive arm of government. It affirms:

> It would therefore, not be surprising that after its long role as the political agent of the Executive, that the officers of the Provincial Administration would in the early years of multi-party politics still regard it as their duty to sustain the continued ascendancy of the political party in power under which they had thrived, rather than a new political party. Such an attitude which is not entirely unexpected, led as was the case in certain instances, to provincial administration officers without even receiving any directions from the Executive, taking such actions including turning a blind eye on reprehensive acts of KANU leaders and the pursuance of such strategies as they thought would benefit KANU (Akiwumi Report, 1999: 29).

As can be seen from the foregoing and the earlier examples, there were instances whereby institutions of state were subject to other forces and pressures beyond their official duties. Although the state security apparatus was implicated in skirmishes that broke out between 1991 and 1998, they did so more in an auxiliary capacity. As such, it may be more appropriate to consider their involvement as 'state related' violence. Most acts of violence were carried out by ostensibly non-state actors, namely militias and terror gangs. This violence occurred in the context of intense democratic struggle. The new dispensation considerably raised the cost of blatant repression and rendered the use of state security apparatus, in the face of new international scrutiny, virtually untenable (Klopp, 2002). Consequently, the instruments of repression were largely delegated to non-state actors.

7.6. The Informalization of Violence: The Advent of Local Repressive Capacities

Most analyses attribute the clashes of the 1990s, following the return of multiparty democracy, to a diffusion or *informalization* of violence (Kagwanja, 2001; Mueller, 2008; Kagwanja, 2009). Perhaps nothing speaks more to this informalization of violence than the emergence of such groups as Mungiki and the Taliban that have come to dominate particular municipal zones within the greater Nairobi area. In places such as the Mathare slum, these gangs levy protection fees, control electricity, water supply and transport routes, and also intervene in domestic disputes, largely through the use of force. In such slums where the presence of the state is largely absent, groupings such as Mungiki have taken effective control, establishing enclaves arguably of subnational authoritarianism. This *informalization* of violence (i.e. the illegitimate and illegal transfer by the state of its prerogatives and capacities for violence to non-state actors) has been generally viewed not only as a mechanism of discrediting the movement towards political pluralism, but also as a means of staving off 'encroachments' by the opposition on what KANU

perceived as its political space (KHRC, 1998; Akiwumi, Report, 1999; Kagwanja, 2001; Waki Report, 2008). The fact that the violence which first broke out at Miteitei Farm occurred around September 1991, a year and three months before the 1992 elections, suggests that local KANU power barons were determined not to lose their hold on local dominance, no matter what the cost.

At the KANU Governing Council meeting in December 1991, the party's Organizing Secretary framed the arguments over political pluralism as maintaining the status quo or choosing conflict. He said 'The choice is between KANU and Violence' (*Weekly Review*, 6th December 1991, cited in Klopp, 2002: 119). Similarly, the Party Chairman and Head of State made an equally foreboding statement, 'Protect yourselves, do not expect me to protect you' (ibid.). These statements reveal not only a party in a state of panic, but they also convey the sense of a party whose captain, as it were, did not have a strategy to protect his crew from being swallowed up by the waters of political pluralism. Former KANU Secretary-General Joseph Kamotho revealed that during the 1992 elections the party was all but abandoned during the election campaigns and that the situation that prevailed was almost akin to 'each person for themselves' (Interview, on October 15th, 2010, Mayfair-Holiday Inn)[200].

Although it cannot be determined for certain that the local power barons accused of organizing the violence were themselves acting upon instructions from above, it is likely that if at all instructions were given from above, they would probably have been transmitted in a way that would allow the 'powers that be' some semblance of deniability. In short, it is likely that local patronage bosses would have been told to handle the situation the best way they saw fit. Given the ambiguity of such statements, there was a wide latitude of interpretation that would enable all parties to evade ultimate culpability in a worst case scenario.

[200] There is a view suggesting that the clashes were not organized at the President's behest. It is reported that when the clashes themselves began the Head of State was out of the country and was reportedly furious upon hearing what was happening, demanding that they 'Stop this nonsense, get people over there to stop this nonsense now' (Morton, 1998: 252). One of the powerful factions within the ruling party was led by another high ranking Kalenjin politician, a close confidante of the Head of State, who is said to have been the chief financier and organiser of the 'Kalenjin Warriors' (c.f. Klopp, 2002). However, the apparent inaction of the security forces to bring an end to the clashes and the conspicuous silence of the Government for a while tells of another story.

It is arguable, nevertheless, that the President's decision to repeal section 2A of the constitution at the end of 1991 marked a critical juncture, whereby an opening was created in which members of the regime were 'free' to decide their own fate in KANU[201]. The resignation of John Keen (Assistant Minister in the Office of the President), Mwai Kibaki (former Vice-President and Minister for Health), John Gachui (Assistant Minister for Agriculture), Geoffrey Kariithi (MP and former Secretary to the Cabinet and Head of Civil Service in the Kenyatta administration), Njenga Karume (Assistant Minister for Cooperative Development), George Muhoho (Minister for Tourism and KANU Kiambu Branch Chairman) and Eliud Mwamunga (Minister of Lands) from the ruling party at the end of 1991 seems to back up this position (*Weekly Review,* January 3rd 1992). These individuals all went and joined the newly registered opposition parties.

Following the reintroduction of multipartyism, with the exception John Keen, few politicians from the pastoralist communities of the Rift Valley moved to the opposition. This begs the question of why? Why did members of the pastoralist communities decide to remain in KANU? There is probably no shortage of reasons for this: historical ties to the ruling 'KADU' faction within KANU, a fear of domination by either the Luo and Kikuyu in either FORD or DP, and the potential of still being marginalized, or worse even if they were to form their own party in the opposition, are all plausible reasons for this[202]. What is clear is that the opposition was no guarantee for political survival for members of this community. It is also possible that these individuals, having witnessed the unceremonious fall from grace of top presidential confidante Nicholas Biwott on allegations of murder, and the expulsion of the party chairman Peter Oloo Aringo a few months earlier, thought that new displays and techniques were necessary for 'demonstrating' one's loyalty to the Head of State and of KANU (see also Grignon, 1994: 14).

[201] Grignon (1994: 14) contends that despite the rigidity of KANU, the Head of State's control of competition within the party was not absolute and that the stability of his regime was guaranteed mostly through the military, police and provincial administration.

[202] Given that the majority of ministers who defected to the opposition came from communities outside of the Rift Valley, with the exception of the Kikuyu, for members of the small pastoralist communities defection could also potentially have meant that they would be prone to state harassment as well. In Hulsterom (2006) one Kalenjin female politician describes how she was treated as a "traitor" for siding with 'foreigners'.

It is also likely that beyond the loyalty to the President, the findings of the 'Saitoti Commission' also played a crucial role in informing their decisions. It was revealed that there was a great deal of popular disenchantment with KANU and the Government in general. Among those singled out for public censure were KANU Branch chairmen and officials who were perceived to be highly autocratic (Throup and Hornsby, 1998: 128). Despite this popular disenchantment that was evident in late 1991, for many local KANU power barons, their fortunes were with KANU and nowhere else. They were fully cognisant of the potential implications of what a government run by the opposition in a new democratic dispensation meant - political obscurity at best and persecution at worst. In sticking with KANU, there was at least a chance of survival, as they would have the advantage of state resources, something that they would not have access to in the opposition. Moreover, there was also the issue that being from smaller communities, there was no wealthy elite of significance outside of the state that they could bank on to prop their political fortunes in the manner that members of the Kikuyu community could. In effect, the power of this group was still largely confined to the bureaucratic executive, as their holdings within the business arena were miniscule in comparison to the Kikuyu community. The executive bureaucratic status and the economic stronghold of the Kikuyu is also captured by the Economist Intelligence Unit:

> In recent months President Moi has centralised power further by removing the security of tenure of High Court judges and increasing the police's powers to detain suspects without trial. In doing this he is placing himself in a dangerously exposed position. His fundamental strategy appears to be to entrust commanding the heights of government to a Kalenjin-Maasai axis, while relying on economic growth among the smallholders of Central Province and the charisma of his Kikuyu vice president to hold the loyalty of the large and economically powerful Kikuyu grouping (Cited in Githongo, 1996).

Recourses to the discourse of *majimbo* (translated as ethnic federalism) could essentially be understood as a mechanism to not only try and prevent the spread of multipartyism within the respective locales and spheres of influence of different ethnic groups, but could also be understood in terms of deprivation of access to an economically important zone. Due to the fact that the Rift Valley and Coast Province are considered high potential agricultural zones, and being the location of a number of multinational conglomerates and agri-businesses and cooperatives, these entities provided ready opportunities for senior KANU elites to extract rents.

As mentioned above, the rhetoric of *majimbo* as employed by KAMATUSA bigwigs and other senior political figures from the Coast Province can plausibly be viewed as both a mechanism to avert the spread of multipartyism in Kenya, but also a strategy through which these elites could negotiate a possible accommodation in a new regime in the event KANU lost the election. Klopp (2002: 136) confirms this in saying, 'Even if they should lose control of the central government, they could bargain with new leaders on the basis of their political strength in ethnic enclaves where they had an iron grip on local politics'. In this light, the violence could be seen as a stern message by the ruling KAMUTUSA elite, signalling that they would not and should not be by-passed in any future attempts to solicit communal support for a new government. The violence was also a meant to reflect the 'resourcefulness' of local power-barons in delivering votes. The resort to violence could also be seen as a demonstration to the President that these individuals were willing to 'go the distance' for him and KANU.

The *parochialization* of the political discourse by elements within the ruling party is also a testament towards this. The designation of the Rift Valley and other KANU strongholds as 'KANU Zones' (Akiwumi Report, 1999), and the subsequent issuance of threats, could be seen as a clear attempt at ensuring the continuity of particular modes of rule within the region. A statement from a prominent Maasai leader is telling:

> …. the Kalenjin, Maasai, Samburu and West Pokot … were ready to protect the government 'using any weapon at their disposal' (Akiwumi Report, 1999: 50).

Consequently, the use of violence by KANU stalwarts against perceived 'foreign' communities within their regions and locales was carried out partially out of a fear of loss of political dominance and by real fears that their communities would lose even yet more land to the more economically organized and powerful ethnic groups such as the Kikuyu. The logic behind the violence appears to be embedded in the idea that the 'best defense is offense'. The violence was intended to let members of the targeted communities know that the perpetrators of violence would not tolerate any further encroachment in their areas, perceived or real.

7.7. Locally Directed Violence

Although the violence witnessed between 1991 and 1998 marked a significant discontinuity in the manner in which repression was instituted in Kenya, this change could probably be attributed more to changes in the broader international context than

to changes in the domestic environment. The decision by KANU patronage barons to enlist the services of 'warriors' and *morans* was as much an issue of guaranteeing local sources of loyalty for local elites as it was a tactic of shielding the regime from international scrutiny (see also Kagwanja, 2009). Disproportionate levels of influence amongst KANU power barons within the Provincial Administration also meant that they could not all count on the unquestioning services of the Provincial Administration in equal measure. In order to buttress their local influence, the establishment of local militias was seen as necessary, as these entities would be on their own payroll and not that of the state[203].

In Enoosupukia Trading Centre in Narok District, on December 29th 1992, the Kikuyu voters sought to remove the powerful incumbent MP for Narok North constituency. In the course of voting, alleged Maasai *morans* descended on the voters and in the process killed four of the Kikuyu voters who were said to have openly displayed their intention to vote for an aspirant on a FORD-Asili ticket. Although the Kikuyu were noted to be the majority in the area, they did not vote, as many ran away fearing further reprisals from the *morans* (Akiwumi, Report, 1999:166). The violence that broke out at Miteitei Farm following the *majimbo* rallies in Kapsabet and Kapkatet were also widely believed to have been orchestrated by the KANU Branch Chairman for Nandi District who also doubled as a cabinet minister[204] (c.f. Kiliku Report, 1992; Akiwumi Report, 1999; Klopp, 2006). The assailants were clad in white shorts, green t-shirts and had clay smeared faces (Akiwumi Report, 1999).

Similarly, in Transmara and Gucha District, violence erupted in the run up to the 1997 elections. The area had been known to suffer from conflicts as a result of the high levels of cattle-rustling amongst members of the Maasai, Abagusii (Kisii) and Kuria communities. Between October and November of that year, border clashes (Trans Mara and Gucha Districts respectively) occurred, whereby the Maasai were said have to been

[203] The loyalty of state security personnel attached to politicians was never totally guaranteed, as these agents ultimately were part of a chain of command and there existed the potential scenario of the agents being re-deployed elsewhere. The case of a powerful Maasai Narok power-baron and former prominent KANU minister attests to this. It is noted at one point when the power baron fell out briefly with members of the dominant coalition in KANU, the game rangers who worked in collaboration with members of the politican's militia had their weapons withdrawn (*Economic Review,* 19-16 February 1997 cited in Klopp, 2002: 164-165).

[204] This politician also went on to become a minister in the post KANU government.

victims of violence allegedly perpetrated by members of the Kisii community. The Akiwumi Commission stated that the known cases of the Kisii committing violence had occurred after five members of the Kisii community had been killed by police at a border trading centre. Despite this, evidence from the Akiwumi Commission proffers that the violence that saw close to 15 people dead (see KHRC, 1998: 46) was used mainly as an excuse to have the Kisii moved from the area by a powerful local KANU politician (Akiwumi Report, 1999:182-183). It was noted:

> The fact that official government transport was used to move some of them, away to their ancestral homes instead of the Provincial Administration officers and Police providing security to the non-Maasai victims, can only mean that the non-Maasai were not wanted to vote in the area on polling day of the 1997 General elections. (ibid.)[205]

This eviction of the Kisii from Transmara district was apparently in response to the decision by the Kisii to support the Democratic Party aspirant who, having lost in the nominations for the Kilgoris constituency, defected to the opposition. The then incumbent in the constituency, an assistant minister in the Office of the President responsible for internal security at the time, is thought to have risen rapidly up the political ladder on account of his 'ingenuity'[206]. After the election, the said politician not only became a branch chairman but also went on to assume full cabinet status in his ministerial portfolio on account of his ability to shore up KANU votes (Galaty, 2005).

In the Coast Province, just prior to the December 1997 elections, an outbreak of violence at the Coast was also blamed on a number prominent local politicians who wanted to deprive the opposition parties such as FORD-Kenya, the Democratic Party of Kenya, the Social Democratic Party and FORD-Asili, of votes in the area. In one instance after the clashes, one of the prominent individuals suspected of organizing the violence openly admitted that 'tribal violence' was part of KANU's strategy to win the elections, '[t]he recent "tribal" clashes at the Coast are part of a larger KANU scheme to

[205] After fighting broke out in Kilgoris town on 20th November 1997, an unusual occurrence, armed Maasai militiamen were said to have killed two Kisii men and wounded many others. It was noted later by the local chief for the area that after this attack the violent clashes abruptly came to an end, apparently without much intervention of the Provincial administration or the local police, because the clashes had apparently "served their purpose" (Akiwumi Report, 1999: 183).

[206] The politician in question is said to have proved himself to be quite resourceful. When as an aspiring KANU nominee attempts were made to thwart his candidacy by the established bigwigs of the region, the aspirant allegedly intimidated supporters of the regional party boss and allegedly also organized for him [bigwig] to be kidnapped for a few hours. This deprived the latter the opportunity to present his nomination papers to the party headquarters and the aspirant became the sole KANU nominee for that seat.

rig December elections'[207]. In later years, this individual went on to become not only a regional kingpin, but a prominent member of the NARC cabinet that succeeded KANU. The statement above suggests that appropriation of violence in the run up to, and aftermath of, the elections was a strategy that was agreed upon by all members within the party. However, to what extent is this true?

Although the Rift Valley and Coastal Provinces are often cited as being the theatres of violence in both electoral episodes, i.e. 1992/93 and 1997/98, there were also outbursts of violence, albeit to lower degrees, within Western, Eastern and North Eastern Provinces, other known 'KANU Zones'. Central and Nyanza were the only two provinces that were not wracked by the clashes. These two provinces were overwhelmingly opposition areas. The involvement of a number of junior and senior KANU politicians implicated by the Akiwumi report gives credence to the idea of the party as an organization having strategized to use violence.

Despite all appearances, the idea of parties as entities being contributors to violence and hence liable for violence, however, is a contested one. There are also strong indications that the violence could be viewed to an extent as 'locally' directed violence. As shown earlier by some of the testimony that was given during the hearings of the Akiwumi Commission, there were a number of instances where the chain of command was broken and officers either deliberately refused to listen to their superiors or were taking orders from a parallel chain of command. The report also stated that:

> The majimbo rallies appeared to be intended to pass a message to the Kalenjin community that the path their leaders had chosen was to stick to KANU and any other political thinking had to be resisted even by use of arms (Akiwumi Report, 1999: 10-11)

In contributing to a motion in parliament on the 1992/93 clashes in the Rift Valley, KANU legislator Kipruto arap Kirwa, a Kalenjin MP for Cheragany Constituency, argued that KANU as an organization should not be held liable for the violence, as not all members in the party were part and parcel of its conception and execution, he noted:

> It is true that there are leaders in this country who contributed to the incitement that brought about the clashes…Members in this house are not saying that KANU contributed to these clashes, not all in KANU contributed to these clashes. I know there are some people in KANU who are very innocent as far as these tribal clashes are concerned. This is why I would like to make it very clear that I can only

[207] C.f. *The Star* headline "Clashes: KANU Plot Exposed: Senior Politician Tells of pre-Poll Rig Scheme" *The Star* December 9-11 1997.

> defend any member if that person deserves to be defended (*Hansard,* March 31st 1993: 107).

Similarly, in advancing a motion in parliament on political gangs, Mukhisa Kituyi asserted that there were no direct connections between political parties and the instances of violence that take place in both electoral contests and in normal party interactions. He noted that most pseudo political gangs are either the creation of particular politicians, vigilante or criminal syndicates that are occasionally hired by bidding politicians or were cobbled up youth lumpens:

> You have factions of KANU fighting other factions..... Mr Deputy Speaker in my mind I repeat what I said last time, in the anatomy of political thuggery in this country three types of gangs have nothing to do with political parties. The first one is a gang created on behalf of a politician. If Mr Gumo leaves KANU and joins the Opposition, he will go with the *Jeshi la Mzee*. That is not a KANU army but Mr. Gumo's army. If Mr. Mwenje joins KANU he will go with *Jeshi la Embakassi*. That is not a DP army. I said that second group is the gangs for hire, They are available to the highest bidder. I gave an example of Baghdad Boys. One week they are hired by Mr Raila to harass Mr Orengo's boys. The next week they are hired by Mr Orengo to harass Mr Raila's boys (Kenya National Assembly official Record (*Hansard* July 31st 2002).

The above discussion has focused mainly on KANU, the ruling party during the whole period under discussion, i.e. 1991 and 1998. However, as has been noted by Mueller (2008), Kanyinga (2010), Kagwanja (2009), Southall (2009) and Katumanga (2010), the appropriation of violence by agents outside the party apparatus broadly signified the diffusion of violence from the apparent stranglehold of the state. The emergence of other entities such as *Jeshi la Mzee, Kamjesh, Chinkoro, Mungiki, Baghadad Boys, Sungu Sungu, Ruyenjes Football Club, Taliban Jeshi la Mama*, among others, is clearly a manifestation of this proliferation of the instruments of violence to agents outside of the legal state framework.

7.8. The 2007 Post-election Violence: Locally or Nationally Directed?

On 27 December 2007, Kenyans went to the polls. In what was widely viewed as a close election on account of the opinion polls of the two main presidential contestants, the anxiety was fairly high, as it was clear early on that a loss for either side would elicit an extremely negative reaction from the losing side, to say the least, and that an outbreak of violence was likely (CIPEV, 2008)[208]. In the aftermath of the violence that followed the

[208] According to a leaked cable said to have been authored by the American Ambassador to Kenya, a few months prior to the 2007 elections, the outbreak of violence was predicted on account of what it

disputed poll, patterns of violence that were seen in the Rift Valley Province clearly pointed to premeditation, on account of the high levels of organization. Preliminary investigations conducted by the Kenya National Commission of Human Rights and the subsequent Government's Commission of Inquiry into Post Election Violence (CIPEV or the Waki Commission) confirmed that there were three categories of violence. The Commission established that in addition to spontaneous violence and the overzealous reaction of the Kenya Police to the angry citizens across the country, the violence in the Rift Valley was planned by members belonging to a particular political party. In light of these facts, a question comes to mind. Was the violence part of a nationally directed campaign or was it essentially a 'local' phenomenon?

An observation of the violence, *prima facie,* seems to indicate that the violence in the Rift Valley, where the most intense forms of violence occurred, was locally directed. However, following the naming of certain individuals, there has emerged a strong campaign by their allies to establish a corporate linkage to the violence. A concerted effort to link the party centre to the violence has been led largely by MPs from the Rift Valley Province. The attempt to link ODM as a whole to the internecine violence that engulfed the Rift Valley comes against the backdrop of the party's 2007 electoral campaign of '41 tribes against 1'.[209] However, MPs from the opposing side contest this view. At a press conference, Chepalungu MP Isaac Ruto made an impassioned statement in an attempt to link the Pentagon to the post-election violence. He did so by emphasizing that the mass action called for by the Pentagon leaders was a clarion call to violence:

> What was mass action?! Mass action meant Kenyans coming out to kill themselves in the fields, in the streets….. I also hope he has delivered the minutes of the meetings that were organizing mass action to Ocampo[210].

In a rebuttal to these statements, ODM Pentagon member Najib Balala dismissed them as being 'diversionary' and merely 'tactics' by the MPs to re-direct the ultimate responsibility for the violence. He went further to say:

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stated was the 'increasing tribalisation of politics' http://allafrica.com/stories/201103240021.html. [accessed 7/03/2012].

[209] The '41 against 1' campaign strategy, that was said to have been adopted by ODM, speaks to the idea that the party's aim was to mobilize other communities behind it and project the idea that Kikuyu hegemony was a threat to the well-being of all other ethnic communities.

[210] ODM PEV Violence http://www.youtube.com/watch?v=l5ld2UsSB0E [accessed 8/03/2012].

> There has not been any meeting calling for killings and also our main objective was to win elections and not to win elections with a country that is divided and a country that is bleeding[211].

The ODM party leader, Raila Odinga, in articulating his call for "mass action" had stated that the party would call for 'civil disobedience' to protest against the election results:

> There are for example boycotts which are going to be considered, there are issues of strikes which are also on the way we are going to use all methods of civil disobedience to bring pressure on this government[212].

Although it is possible that there may have been some confusion with respect to the nature of 'mass action', as the term itself has a contested meaning, it seems highly unlikely that mass action was a veiled call for brutal attacks on people and property[213]. From the statements made by the ODM party leader during the post-poll chaos, it is clear that the mass action that was envisaged, at least publicly, was not a call for internecine violence, but public protest (*Daily Nation*, January 11th 2008)[214].

The attempts to connect the central party leadership of ODM to the violence did not end there. A 'leaked' document, allegedly said to be the 'Pentagon Crisis Meeting Minutes', also did the rounds via email. Isaac Ruto (MP for Chepalungu in Rift Valley) also openly challenged the ODM party leader to produce the minutes of a meeting allegedly held by the Pentagon, the party's highest organ at the time of the elections[215]. The 'minutes' allegedly reveal that the top party leaders expressed satisfaction with the arson attack that saw 50 people burnt to death in a church in Kiambaa in the Rift Valley. The act is

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[211] See ODM Politics: http://www.youtube.com/watch?v=Jcou2sw58oo [accessed 8/03/2012]. Phineas Mugalo, ODM Regional Coordinator, also stated that no meetings at the party centre took place to organize the violence. Interviewed November 19th 2010, Orange House, Hurlingham, Nairobi.

[212] Raila Odinga calls for Civil Disobedience: http://www.youtube.com/watch?v=1nxRaTGBIJs&feature=related. See also (*Daily Nation* Friday January 11th 2008).

[213] Within the Kenyan context mass action has been somewhat of a contested term, as the term has been bandied around to either refer to peaceful street protest or a call to violent confrontation. Whilst asserting the positive and legal nature of mass action in Kenya, Kiai and Mutunga (2003:100) concede that there are circumstances where the term has acquired a different meaning altogether. They opine: 'For some strange reason mass action is equated with confrontation, violence, rejection of dialogue and intolerance'.

[214] More recently statements made by some of the ICC suspects linked to the PNU have sought to implicate the ODM party leadership in the violence (See *The Standard,* September 24th 2011; *The Nairobi Star,* September 30th 2011).

[215] The Pentagon was the party's informal grouping of top party leaders during the electoral period. However, it has since been replaced by the National Executive Committee.

referred to as 'collateral damage'[216]. Further, a statement allegedly released by former assistant minister Charles Keter on a local blogsite also 'confirms' that the top party leadership was aware of the violence and were involved. The statement reads:

> [i]t is necessary that the Kenyan people know the truth of events at the meetings that took place at Orange House in Kilimani and also at Karen, XX's residence, in January and February 2008. Many people will shout, deny and oppose these facts. I do not claim that the Pentagon are murderers, or are guiltier than PNU. But the fact remains that we raised funds to be sent to RV, and everything that happened was done with the knowledge and approval of the Chairman, XX If anyone says this is not true, let YY submit the exact laptop computer he had at the time to ICC for forensic testing. He and XX together with ZZ, should voluntarily take polygraph tests. Then Kenyans will know who is lying and what really happened. Also check the attached clip of BBC interview in which he defends the events at Kiambaa as recommended in the preceding meeting.[217] .

In similar fashion, the Keiyo South MP Jackson Kiptanui was also of the opinion that the meetings did take place and that minutes of the meeting do exist:

> The minutes should be availed in its (sic) original form without much fuss, as [the] Pentagon met before issuing directives to its followers. Once members emerged from a meeting and called for a ceasefire, meaning a commander gave orders to proceed with chaos or hold out a truce (*The Standard*, October 12th 2010).

Joshua Kutuny stated, '…we know that the party is just realizing they have a lot to answer. In fact how can they not when its chairman and deputy party leader are said to have been involved' (*Nairobi Star* March 28th 2011).The writer had the opportunity to see copies of the alleged Pentagon crisis meeting minutes, but their authenticity has not as yet been verified[218].The documents themselves emerged at a time when serious tensions had arisen between top leaders of ODM, namely between the Party Leader and one of his deputies[219].

However, on the flip side, the fact that ICC Chief Prosecutor Louis Moreno-Ocampo has not publicly called upon the other Pentagon members to appear before the Court, presumably after having been provided with the 'minutes' by one of the chief suspects on

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[216] The 'leaked' minutes can be viewed at http://www.kenyalist.com/kls-listing-show.php?id=48441 [accessed 8/03/2012]

[217] The statement was taken from a website, but it is as of now not yet clear if the statement is authentic and can be attributed to him. However, there has been a recent trend where politicians have taken to social media as a means of communicating both personal views and policy positions. The MP in question did however issue comments similar to that in a televised press conference - see ODM PEV Violence http://www.youtube.com/watch?v=l5ld2UsSB0E [accessed 8/03/2012].

[218] The 'leaked' minutes can be viewed at the following website http://www.kenyalist.com/kls-listing-show.php?id=48441 [accessed 8/03/2012].

[219] Differences have emerged between the Party Leader and Rift Valley MPs over the reclamation of the Mau Forest and over the new constitution (East African Standard August 17th 2008).

a previous trip to the Hague in November 2010, deepens the mystery further as to whether the said meeting actually took place[220].

Similarly, on the PNU side, the party has been linked to some of the retaliatory attacks that took place in Naivasha, Kisumu and Kibera informal settlement in Nairobi[221]. The ICC prosecution team, led by Louis Moreno-Ocampo, presented a case against the three PNU suspects[222] largely in connection with these alleged revenge attacks. The prosecution argued the suspects in question held a meeting in State House with individuals believed to have been Mungiki representatives on the 26th of November 2007. The prosecution went on to allege that two of the individuals held several more meetings under which post-election revenge attacks were planned under the guise of fundraising for the victims of violence (*The Star,* September 23rd, 2011). Fatou Bensouda, Ocampo's successor, noted that present in some of these meetings were PNU officials and Mungiki members. It was also noted that a PNU MP had on one occasion transported Mungiki members and Pro-PNU youth to State House, after which they proceeded to begin the attacks (ibid.).

The International Crisis Group report, 'Kenya in Crisis', mentions some unsuccessful PNU parliamentary aspirants who were working with Mungiki. Whilst some of the senior-most politicians and the Government have been implicated in the "retaliatory" attacks in Naivasha, Nakuru, Kibera and other residential areas in Nairobi, it may be difficult to unequivocally assert that PNU as a whole was responsible. PNU is a coalition of parties, in addition to being a party in its own right. As such, given the ethnic character of Mungiki, it does not seem likely that its use for purposes of revenge attacks would have resonated with all political leaders within the broader PNU coalition. As a

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[220] Another twist to the ICC hearings emerged in March 2012 when statements were made by some legislators in Kenya that the British Government contrived to have the crimes against certain suspects committed to a trial. The allegations appeared to get a bit of credence when Irish politician Ian Paisely penned an article suggesting that the trial against the ICC accused paved the way for the leader of the ODM to assume power without stiff competition. For more on this see http://www.nation.co.ke/news/politics/-/1064/1368462/-/8vb3wo/-/index.html [accessed 12/04/2012]. Perhaps a far more startling statement comes from former Assistant Secretary of State for African Affairs in the Bush Administration, Jendayi Frazer, who recently termed the accusations against one of the PNU suspects as 'hearsay' http://standardmedia.co.ke/m/story.php?articleID=2000077922 [accessed 12/04/2012].

[221] Although the Human Rights Watch report 'Ballots to Bullets' mentions local businessmen and PNU civic councillors, it does state that circumstantial evidence available indicates at the very least an awareness of what was going on by senior PNU officials if not involvement (HRW, 2008).

[222] See the Prosecution team's arguments at www.icc.int-cpi.int/NR/exeres/BA2041D8-3F304531-8850-41B5B2F4416.htm [accessed 12/04/2012].

matter of fact, the Waki Report notes that not all PNU politicians were in support of the idea of 'responding' to the violence the Mungiki way (CIPEV, 2008).

7.9. What the Violence Shows

As mentioned previously, the task of establishing whether the patterns of violence in the Rift Valley were orchestrated by the parties' national leadership is not a mean feat. It must be born in mind that in places like Kisumu and Nairobi, the violence broke out after the announcement of the results and after the ODM leadership called for protests and a rally at Uhuru Park. In the pre-electoral period, several instances of violence and incitement to violence were recorded. The Kenya Human Rights Commission documents incitement to violence as having taken place in all provinces except Coast Province (KHRC, 2008: 16). Unlike the post-election violence, the pre-election violence manifested itself in a number of ways. Among these were gender-based violence, disruption of rallies, theft, destruction of property, and attacks on campaign and party agents, amongst other forms (ibid.). While this violence was pre-laced with hate speech in addition to other vulgar and offensive forms of expression, the acts of violence themselves do not qualify as locally directed violence as conceptualized in the Sattar model. These incidents of violence did not meet the criteria of monopolization of national-local linkages and nationalization of influence, although an element of *parochialization* of the electoral discourse was evident. As the majority of cases of pre-election violence that were documented typically involved parliamentary aspirants and incumbents, few of these cases directly involved "big men" of prominence. In looking at certain events there are indicators of a nexus, using the Sattar framework, it becomes easier to determine the extent to which political parties as entities can be linked to violence.

According to the CIPEV report the most intense violence occurred in the North Rift, more particularly in the Uasin Gishu District. The North Rift, as mentioned previously, was considered the home of the Kalenjin and more particularly the Nandi, Tugen, Keiyo and Marakwet communities. These communities had traditionally voted for KANU, with varying levels of enthusiasm, on account of the fact that the national President was from among them (Lynch, 2008). The violence in the North Rift can be attributed to a complex array of factors characterizing the constituencies within the District of Uasin Gishu (Eldoret North, East and South). The district is heterogeneous and includes Kikuyus and Luhyas, who have traditionally gone against the grain by voting for the

opposition in a KANU stronghold (*Daily Nation*, April 22, 2001). The district is also part of a region with high agricultural potential, as maize, wheat and dairy farming have thrived as the main economic activities of the District. It was reported that large 'marauding' gangs numbering between 1000-2000 Kalenjin youth were responsible for much of the violence. These militia groups, who sealed off almost all routes into Eldoret Town, are said to have begun mobilising on the 29th of December 2007, just prior to the announcement of the election results. The violence finally erupted on the evening of 30th December 2007 (CIPEV, 2008; KHRC, 2008; KNHRC, 2008). The violence targeted mostly Kikuyu residents in the Kiambaa, Kipkaren, Manyaka and Silas areas of Eldoret town, who were largely perceived to be PNU supporters (KNCHR, 2008). Reports from the Catholic Justice and Peace Commission in Eldoret noted that in the period immediately after the violence began, numerous individuals were heard chanting *'Kwa nini walipiga Kura nje?'* (why did they vote for outsiders?) (c.f. KNCHR, 2008: 71). In the aftermath of the violence, several people were reported to have died in the district and approximately 3000 homes burnt and 80 business premises destroyed (KNCHR, 2008: 63). According to the findings of the CIPEV, the violence in North Rift could be attributed partially to a 'general spontaneous anger' among the ODM Kalenjin leadership caused by a combination of '…land hunger and a desire to evict so-called outsiders whatever the outcome of the election; and the desire by Kalenjin candidates to overturn the presidential election[s]' results (CIPEV, 2008:78).

Violence also engulfed the Central Rift region (comprising Nakuru, Molo and Naivasha Districts). Central Rift is more cosmopolitan, with a sizeable Kikuyu population, Kalenjins, and Luos. South Rift is traditionally seen as the home of the Kipsigis (largest Kalenjin sub-group) and the Abagusii (Kisii). A total of 150 people perished, 170 were injured, 66,000 were displaced and a total of 1,564 properties were burnt/destroyed (CIPEV, 2008:91). Although deaths were recorded on both sides of the divide, evidence suggests that in the majority of cases in which violence was reported and recorded, it was pre-planned by members of the Kalenjin community (see KNCHR report: 132). Whilst there was lot of rhetoric on the campaign trail, particularly on the issue of *majimbo*, a considerable amount of planning and forethought went into preparations for the violence. The question that should be asked at this juncture is, what other evidence exists that points to local origins as opposed to the violence having a national character?

7.8.2. Parochialization of Power and Hate Speech

Whilst hate speech was frighteningly in abundance in the campaigns leading up to the elections across the country, it is the hate speech calling for the eviction of *madoadoa* that most likely contributed more than any other forms of hate speech to the violence that was witnessed in the Rift Valley Province. It was also noted that during the course of the campaigns two political parties, namely the ODM and ODM-Kenya (now Wiper Democratic Movement) both introduced the concept of *majimbo* into the electoral discourse[223]. Although *majimbo* is often translated and construed to mean federalism, in reality the term has come to imply a political dispensation more akin to ethnic confederalism, whereby ethnically partitioned regions not only retain powers over local decision-making but would be more powerful relative to the central government[224].

Anderson (2005) notes that the term itself is laden with such a negative appeal that its proponents came to be labelled as 'tribalists', who were impediments to nationalism. Suggestions have been made that the introduction of *majimbo* into election campaigns has usually preceded violent clashes in the run up to elections. The Akiwumi Report revealed that, two months prior to the first clashes that broke out in 1991, a series of rallies was held by local politicians from the then ruling party KANU crusading for the introduction of *majimbo* (1999:48-49). Although attempts were made by party leaders to strip the notion of its negative connotations by reframing it as devolution of power and a system of resource distribution, the interchangeable use of both terms [i.e federalism and *majimbo*] in the final analysis appears not to have changed people's perceptions much on the issue of what it possibly portended (see *Daily Nation* October 7th 2007; ICG, 2008). Fears abounded that it could be understood to mean the forcible expulsion of 'foreign' ethnic communities from particular regions. The danger of misinterpretation of this policy can be observed in the comments below:

> There is nothing wrong with majimbo or federal system (sic) of government as long as it is democratically viable. It is good and there is no debate about it. But the problem is the meaning of the majimbo in the Kenyan context…In other areas of the Rift Valley Province the meaning of *majimbo* to the locals is to flush out outsiders who have bought land in the area to allow them to manage their own

[223] In launching his presidential campaign, ODM-Kenya's Kalonzo Musyoka introduced the concept of economic federalism (see also *Daily Nation,* October 22nd 2007). ODM-Kenya later changed its name to Wiper Democratic Movement to reflect Musyoka's 2007 slogan of 'wiper', by which he signalled his intention to wipe away Kenya's troubled past and start afresh.

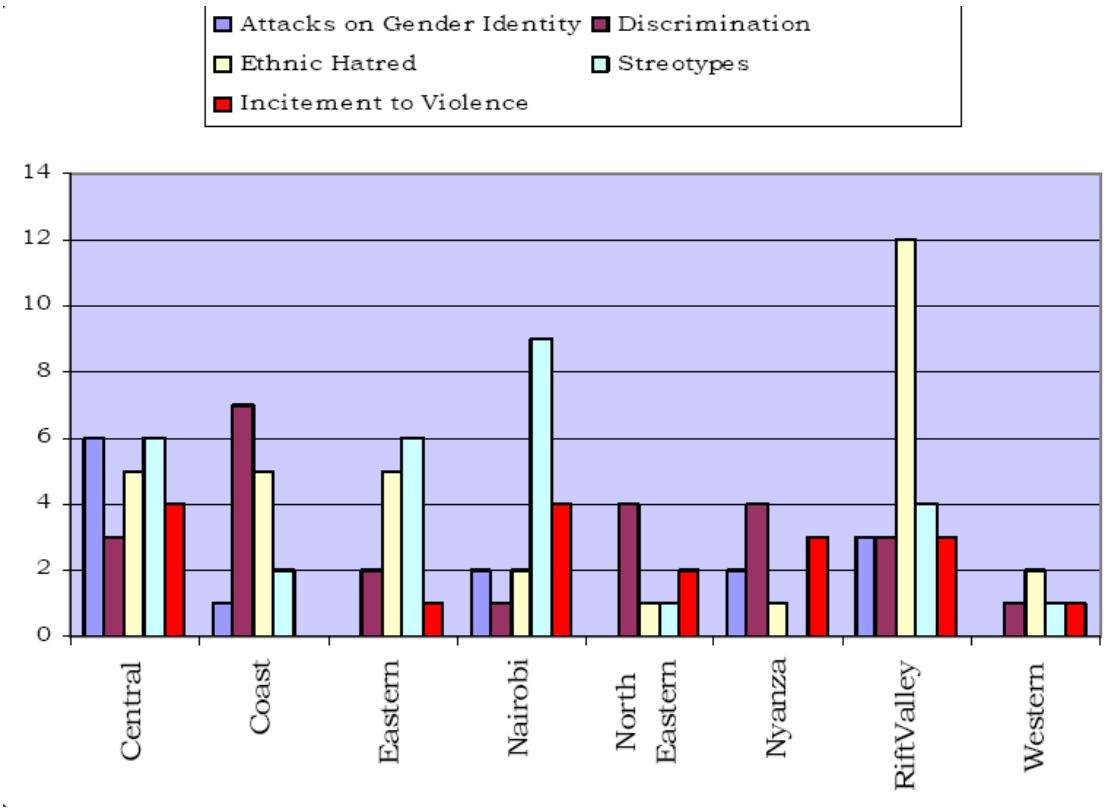
[224] Although *majimbo* was a party platform, it could be argued that its invocation inadvertently led to the *parochialization of the political discour*se.

> resources (Raphael Tuju, former Minister of Foreign Affairs and MP for Rarieda constituency in Nyanza Province, quoted in *Daily Nation,* October 17th 2007).

The term *majimbo* was originally conceptualized by members of KADU, the New Kenya Party to mean a *balkanization* of the political space along ethno-racial lines. Amidst the cacophony of inflammatory language that went back and forth and that followed the polemic debate on *majimbo* between its proponents (namely ODM and ODM-K) and its opponents (PNU) two months before the 2007 elections, perhaps nothing spoke more to the *parochialization* of discourses than the dehumanization of 'others' within particular locales[225]. The description of particular peoples of specific communities as '*madoadoa*' (literally translated to mean stains), was seen as a particularly ominous sign that the onset of violence was not too far off. The frequent use of particular phrases such as '*kuondoa madodoa*', which means removing the stains, signified that violence would be meted out on particular communities who were perceived to always vote against the 'indigenous' leaders (KNCHR, 2008:52). Figure 9 shows the recorded level of hate speech in the run up to the 2007 general elections. Whilst the *parochialization* of discourse is noted by Sattar (2008) as indicative of locally orchestrated violence, the fact that the campaign platform of *majimbo* and the so-called '41 tribes against one' slogan was not exclusive to Rift Valley leaders but to the party as a whole, makes it a bit difficult to conclude that the violence was completely locally-directed.

[225] Unlike in previous electoral periods, the 2007 electoral period was particularly characterised by the scourge of hate speech, not only propelled by politicians, but also by otherwise 'non-political' actors. Insults, ethnically chauvinistic comments and stereotypes and blatant hate speech were also circulated via emails, text messages, social network sites, everyday routine interactions in addition to some radio presenters on particular radio stations.

Figure 9: Recorded levels of hate speech



Source: Kenya Human Rights Commission Report, 2008.

Although at certain party gatherings national level leaders were present when highly inflammatory statements were made calling on the local community members to evict non-locals from the area, there is a chance that the national officials present did not pick up on these statements. Very often the rhetorical device of 'double-speaking' would be employed, as leaders would literally say one thing whilst speaking the common *lingua franca Kiswahili* in front of 'guests', then say something completely different when reverting to their mother tongue. An example of this code-switching can be seen in an incident at a peace meeting that was called by ODM party members. Whilst exhorting members of the Kipsigis community in Sotik District to refrain from violence, one of the speakers whilst speaking in the vernacular urged them to continue with the violence (See CIPEV, 2008: 94, 145).

7.8.2. Monopolization of National-subnational Linkages and Nationalization of Influence

Given that Kenyan politics is broadly conceived along ethnic lines, the support for any regime is contingent upon the level of representation that the disparate ethnic communities have in government (Kanyinga, 1998; Oloo, 2007; Kagwanja, 2008). As such, the representatives in government act not only as community liaisons, but are also considered leaders of their communities[226]. Given this dynamic, there has developed a tendency to not view the state and its agents as an impartial arbitrator, but as an entity that primarily serves the interests of those in whose possession the state apparatus happens to be. Consequently, the head of state is not always viewed as a transcendental figure but, rather, as an ethnic power baron who, by virtue of the state structure, is elevated above others of similar distinction in the system described as 'tribal federalism' (*East African Standard*, 28th January 2012).

By virtue of the fact that under KANU, the former head of state came from the Kalenjin community, he was automatically the 'leader' and the unassailable spokesperson-in-chief of the community. Whilst there were other Kalenjin leaders, these leaders were 'clients' of the head of state.

It must be remembered that one of the leaders alleged by the ICC to have been a chief instigator and organizer of the violence that transpired in the Rift Valley, William Ruto, was generally considered the *de facto* leader of the Kalenjin after President Moi's retirement. Having risen from being one of the organizers of the Youth for KANU 92 (YK92) campaign in 1992, to his eventual position of being (the) Kalenjin leader cum chief spokesperson can be described as nothing short of meteoric[227]. He quickly went from being a KANU MP to an assistant minister in the Office of the President, to becoming full minister briefly prior to KANU's removal from power. His star also correspondingly rose within the party as he went on to become the Secretary-General of the new-look KANU just prior to the 2002 elections. Due to this meteoric rise, speculation was rife that he would most likely become the heir apparent of the Kalenjin

[226] This can often be seen through the tradition of politicians being installed as 'elders' within their communities and sometimes in other ethnic communities (see Lynch, 2008).

[227] It is important to note that the YK92 had been cited and accused of 'instilling a culture of violence' by DP Chairman Mwai Kibaki in the run up to the 1992 general elections (see Throup and Hornsby, 1998: 157).

community. He was said to be the person 'designated to take care of Kalenjin interests in the post-Moi era' (*Daily Nation,* April 22nd 2002). However, his rise to the helm was not met without resistance. He soon faced a challenge over his growing influence within the Rift Valley Province through non-other than the personage of his former mentor, the retired president. The retired president, who still commanded quite a lot of respect and influence within the province, was opposed to Ruto's leadership. He lamented, 'Don't be swayed by political waves. Remain steadfast in KANU until I tell you who you will support for the presidency' (*Daily Nation,* August 27th 2007).[228]

Upon becoming the 'anointed' of the Kalenjin Rift Valley, the former KANU Secretary-General was in a strong strategic position. It was noted in the 2007 general elections that 3,381,891 votes were up for grabs in the Rift Valley, the highest number of votes among all regions (*Daily Nation*, August 18th 2007)[229]. The youthful politician had for all intents and purposes succeeded in not only becoming the undisputed leader of the Kalenjin community, but had also cemented his image within the political space as a potential presidential contender.

In much of the North Rift region, it was noted that the violence was instigated by local actors affiliated with the ODM party. Some of these actors were described as being very influential and wealthy and were key organizers of party campaigns in the area.[230]

It is noted that two prominent Kipsigis politicians addressed 100 members of their community and instructed them to coexist with Abagusii community members who had voted for ODM, but that they should remain steadfast and continue applying pressure so that there could be a retallying/recount of the votes and the PNU incumbent removed from the office of President. Other pointers towards a local effort can be observed in the statements provided some residents of Koibatek District:

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[228] Following the heir apparent's formal installation as a 'Kalenjin elder' (widely viewed as a prelude to leadership of the community) the former president (the only other person from the community to have been anointed so) was said to have been opposed to Ruto's ambitions on ethnic grounds. Ruto and some of his counterparts in KANU had cozied up to the Orange Democratic Movement, associated with Raila Odinga. The former president for his part eventually voiced his support for President Mwai Kibaki and his PNU and campaigned assiduously for it in the Rift Valley region (*Daily Nation*, August 28th 2007; See also *Africa Confidential* www.africa-confidential.com/who-who-profile/3056).

[229] For more on the issue of Kalenjin leadership, see Lynch (2008: 547).

[230] The interview may be listened to at: http://www.youtube.com/watch?v=eG4rDSXr3us

> the DO is just two kilometres from the farm but anything can be said, anything can be done with or without him there. We have very powerful people in this District. The politicians here in [Uasin Gishu District] decide what is to be done. It doesn't matter what you say (Kikuyu farmer from Lemurok giving testimony to the Waki Commission, CIPEV, 2008: 66-67)

Other incidents that strongly point to local planning of the violence are to do with meetings that are said to have taken place at Chepikonoiyo and Keringet prior to December 2007 (KNCHR, 2008: 89). It is reported that resolutions for the eviction of the Kikuyu from Chepikonoiyo were taken by a number of local politicians, among them a former MP who had previously been cited as a culprit in previous violent clashes in the province (Ibid).

Further statements issued by the Human Rights Watch's Africa Director also appeared to confirm this belief that the violence was locally engineered. It was noted that local officials '…arranged frequent meetings following the election to organise, direct and facilitate the violence unleashed by gangs of local youth'.[231] Further evidence of local organization of violence comes from the assertions by a Kalenjin elder that if the leaders in the province called for a cessation of hostilities and violence there would be one. He opined, 'If the leaders say stop, it will stop immediately' (ibid.). The perception that the violence in the Rift Valley was not nationally directed is asserted by a Human Rights Watch report: "Human Rights Watch found no evidence directly implicating ODM's national leadership" (HRW, 2008: 39). Suffice it say, there does remain one question that poses as the proverbial 'elephant in the room'. Given the extensive and elaborate effort that went into organizing the violence in the Rift Valley, how possible is it that the national party leaders were unaware of the activities of their colleagues, presumably with whom they worked so closely in the run up to the election?

[231] http://news.bbc.co.uk/1/hi/world/africa/7206658.stm

7.12 What does the Kenyan Experience of Political Violence Say About Institutionalization of Political Parties?

As can be seen in the above the violence itself and the predisposing factors manifest in the *monopolization* of national linkage and *parochialization* of the discourse all speak to local origins of the violence. Presumably well institutionalized parties are able to manage and stave off any proclivities or tendencies towards violence by their members. Whilst it may not necessarily follow that they may be able to completely prevent their supporters from engaging in violence, they at least could condemn acts of violence. Similarly, in their role as agents of political socialization and education, they could also be called upon to try and instil in their supporters democratic principles and the respect for the rule of law. The requirement that party members adhere to party rules and to the basic tenets of democracy or face stiff disciplinary action could deter them from pursuing violent avenues in order to realize their electoral goals. This latter aspect is only possible in situations where the *routinization* of party rules and regulations has led to the development of a culture of democracy and respect for pluralism. It is noted by the IDCR that in "Countries where there is low levels of legitimacy parties also struggle to promote democratic practices" (IDCR, 2011: 7).

While the degree to which the Kenyan political parties as a whole were involved in the planning and orchestration of violence cannot be determined for sure at this stage, the patterns of violence, which as seen above point strongly towards local organization means one of two things: (1) that in certain situations and at certain times party members are afforded a high degree of autonomy; (2) that there is a low degree of internal cohesion and that party discipline is low such that the party could not effectively control the actions of its members. Looking very carefully at the experience of the post-election violence in Kenya, it seems likely the second scenario was at play. In the case of ODM, it seems that the ability of the top party executive to control the events or actions of key lieutenants in their traditional spheres of influence was questionable. Consequently, it seems more likely that top party level executives, doubtful of their ability to actually control the actions of key party members in their traditional spheres of influence, would prefer to put up a façade of seeming to be able to control the actions of local party bosses by 'giving' them autonomy to do what they need to do in their local arenas. In other words, party leaders would prefer to 'show' that they can exercise control over members within their party, when in fact they may not be able to, and so by *not* stopping these local party bosses from doing what they want the danger of being

exposed as weak is hidden. In talking about nationally directed violence, Sattar (2008:13) says:

> It is aimed to generate popular support and sympathy for the opposition party's cause. It is, however, not aimed to actual, forcible takeover of the voting process or expulsion of opponents from an area to establish influence because such aims are linked to local dynamics. In general, violent tasks even when nationally directed are delegated to local political operatives who are patronized and rewarded by the national leadership of the party for implementing national programs by whatever means. Thus, central leadership of the party (provided it is not an anti-systemic party) will try to avoid direct implication in violence although it may patronize and reward violent actors at the local level to carry out its national programs.

While it may never be known if the ODM and PNU party centres respectively were in any way complicit in the organization of the post-election violence that engulfed the Rift Valley in December 2007 and early 2008, it may be possible to gauge the broader attitude of the national-level party executive by their subsequent actions. Immediately following the signing of the National Peace Accords in April 2008, the fully constituted cabinet of the PNU/ODM included individuals on both sides of the political divide who were later to stand accused of having orchestrated the violence. While their inclusion within the cabinet can ostensibly be reviewed as a 'reward' for their efforts in delivering their respective constituencies to their respective parties, at another level it sends out the message that how the parties went about trying to win was not important but what was important was that they did win in the final analysis.

7.13. Conclusion

While political violence is not new to Kenya's political landscape, the return of political pluralism has seen it reach unprecedented levels within Kenya's post-colonial history. As has been shown, virtually all elections, with the exception of the 2002 elections, have been characterised by violence. Although, as we have seen, violence can at a broader level be linked to a myriad of factors such as historical injustices related to land ownership and socio-economic inequities across communities, amongst other factors, in a more immediate sense the instances of violence have been associated with electoral competition between and/or among political parties. The political and electoral violence that defined much of the 1990s was predominantly perpetrated as a means of domination. The KANU Youth Wing, which was accorded policing and surveillance powers systematically used violence to clamp down on dissent. In a desperate bid to retain its hold on power, the ruling party KANU resorted to the use of extra-state

violence as a means of containing the opposition and as a means of maintaining its foothold within its traditional spheres of support.

While prior to the advent of political pluralism the ruling party had relied almost exclusively on the state security apparatus to effect its control of the political territorial space, the changed international environment saw the ruling party resort to the use of extra-state violence in dealing with perceived opposition supporters in KANU 'zones'. This signified the diffusion of violence, as senior KANU ethnic power barons mobilised informal militias and gangs to perpetrate violence in various settlements in the Rift Valley, Coast and Western provinces. This diffusion of violence broadly signified the emergence of subnational authoritarianism as local repressive capacities increasingly became a feature of the control exercised by ethnic power barons. The characterization of the violence in 1992 and 1997 as being state-sponsored is generally accurate, given the involvement of the Provincial Administration. However, given the involvement of KANU district party bosses, the violence could also be characterized as locally organized violence, as appropriation of repressive capacities not only to demonstrate dominance in the local arena, but also as a way of showing the district bosses' ability to deliver the votes.

This diffusion of violence did not escape the opposition parties, as various political militia groups such as the Baghdad Boys, and even the mysterious guerrilla organization FERA, were eventually linked to some opposition parties. However, while it is difficult to directly establish the role of the top national KANU Executive in the 1992 clashes, the fact that those accused of having instigated and actively organized the violence were never prosecuted but were retained in government suggests that, at the very least, there was some approval by the top party executives if not some level of complicity.

The organized violence in the Rift Valley province in 2007/2008 bore all the hallmarks of local organization, as prior to its enactment there were processes of *parochialization of discourses* that accompanied the *monopolization of national-subnational linkages*. However, despite these apparent linkages, no definitive connections can be made between parties as corporate entities to instances of political violence. This is not to say that there is no element of complicity at all. Rather that the degree of complicity may vary depending upon the level of influence that national leaders have over the ethnic power barons who

have monopolized the national- subnational linkages of the party. As seen earlier, the amount of control that national party leaders in Kenya exert in the bailiwicks of ethnic power barons within their parties is limited on account of the monopolization of national and subnational linkages, mentioned earlier, that the latter group have effected. Suffice it say, it is likely that national leaders fearful of having this 'weak underbelly' exposed, would instead put up a façade of being in control by 'giving' ethnic power-barons the 'go ahead', precisely by not trying stop them or condemning them for their actions. As such, silence and passivity are perceived as acquiescence and tacit approval at the very least. This approval may be visible in the act of 'rewarding' the local actors implicated the violence, through key appointments to cabinet or other lucrative positions – an outward indicator of the party centre' attitude towards the violence. As in the case of the 1992 and 1997 electoral violence, individuals suspected to have orchestrated this violence were rewarded with positions in the new Government of National Unity.

Despite the growing trend of gangs, militias and other vigilante groups being hired by politicians for the purposes of electoral victory and/or to settle political scores, the attitude that political parties themselves have towards violence is still somewhat ambiguous. To begin with, more often than not, when parties come out to condemn violence in press statements and press conferences, usually those individuals assumed to be responsible are never apprehended or held to account by the relevant party organs. Further, years of violent repression by the state, against a backdrop of rising crime, institutional decay and high levels of impunity have frighteningly lent themselves as convenient excuses for violence as the 'norm' to parties and politicians searching for opportunities to achieve stated political goals. Even if the will to condemn violence exists, the fact that most of the parties suffer from poor discipline and are weakly institutionalized makes it highly unlikely that these parties would be capable of reigning in the perpetrators of political violence. With long histories of internal wrangling and power-struggles, there are generally few areas where these parties as a whole have acted in unison in pursuit of particular agendas. In part, this stems from the fact that most Kenyan political parties in the past have been 'congresses of convenience', with political leaders and party members of diverse political backgrounds, temperaments and motivations all finding shelter within political parties that virtually have no internal common interests except maximization of political advantage. That being said, the patterns of violence themselves, however, can provide useful insights that allow

researchers to draw reasonable conclusions as to the likely scenarios in which parties either endorse or oppose the use of violence for political advantage.

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CHAPTER 8. SUMMARY OF CONCLUSIONS AND SUGGESTIONS FOR FUTURE RESEARCH

8.1. Introduction

In embarking on this research project, the researcher sought to establish what the barriers to party institutionalization in Kenya were and what impact they had upon democratic consolidation in that country. The thesis sought to do this by first of all trying to establish what factors contributed to the development of lowly institutionalized political parties. As such, particular attention was paid to the themes of party organization, party discipline, ethnicity and party induced violence as a means of assessing Kenyan political parties along the four dimensions of institutionalization, i.e. organizational 'systemness', value infusion, reification, and decisional autonomy .

Recapping what was said earlier in this study, organizational systemness refers to that aspect of party institutionalization that deals with internal cohesion in both its formal and informal aspects. Similarly, the dimension of value-infusion refers to the extent to which both party members and party supporters identify with a political party in a way that " transcends more instrumental considerations of their short term interests" (Randall, 2006: 5). Another dimension is reification, which is defined as the "extent to which a political party is established in the public imagination but also a fairly identifiable and stable core of supporters in society" (ibid.). Lastly, decisional autonomy, as stated previously, speaks to the ability of a party to formulate its decisions without the undue influence of any affiliate organizations, civic or otherwise. The first two dimensions relate to the internal attributes of political parties, while the last two are external in orientation.

In gauging the levels of '**organizational systemness'** that Kenyan political parties enjoy, this study paid particular attention to the themes of party organization, party discipline, and political parties and violence. By looking at party organization, it was possible to evaluate the levels of organizational complexity attained by party organizations in Kenya in terms of their territorial scope as well as the relationship between the various organizational sub-units (e.g. party executive to party congress, secretariat to the branches etc). Similarly, by exploring the theme of party discipline, it was possible to gauge the degree of organizational systemness. This was done principally by analyzing levels of internal cohesion and routinization of processes and procedures within Kenyan

parties. Finally, in looking at the relationship that political parties in Kenya had to violence, it was also possible to gauge the levels of 'systemness' that parties that have been associated with violence enjoy. This was possible because the different types of violence (i.e. national vs. local) allow for insights into the degree of decisional autonomy that party sub-units at the local level have and also correspondingly the degrees of control that the party centre has over its sub-units in situations that have been associated with the party. This in turn was also able to shed light on the levels of cohesion that exist in parties that have otherwise been associated with violence.

In gauging the extent to which political parties are endowed with the quality of '**value infusion'**, this study chose to focus on party discipline and ethnicity. The extent to which party rules and regulations were followed, and the number of defections, were seen as indicators of the levels of value-infusion, as well as of internal cohesion. To a lesser extent, the support that the parties received from ordinary citizens was also an indicator of the degree of value infusion, although this aspect tended to reflect more on the side of reification. With respect to ethnicity, the idea of solidarity brought about by shared kinship afforded the researcher an understanding of the degree of value-infusion, as this solidarity has been known to persist even in times of crisis – although 'value' in this case refers more to ethnic values than to ideological or policy values.

In look looking at the extent to which Kenyan political parties are **'reified'** in the public consciousness, the study chose to focus on ethnicity. The support that political parties received from ordinary citizens across ethnic groups was a reliable indicator of the degree of '**reification**'. Due to the fact that party politics in Kenya is frequently seen as highly ethnicized, it was important to determine which political parties receive core support from which ethnic communities in the country. Moreover, by looking at opinion polls carried out at various periods between and during electoral periods it was possible to gauge the extent to which political parties received support on the basis of policy and ideology, as opposed to ethnicity.

Finally, in evaluating the degree of '**decisional autonomy'** that existed within Kenyan political parties, the study looked once again at party organization and, to a lesser extent, the theme of party discipline. It was necessary to assess the degree to which Kenyan parties were embedded in Kenyan society. By establishing what linkages political parties had with civic organizations and other non-political entities, and also by assessing their

sources of funding, it was possible to get a sense of the degree of autonomy that Kenyan political parties have *vis a vis* decision-making.

8.2. Summary of Findings

In Chapter 4, on Party Organization, it was shown that political parties have faced many challenges in their development. Periodic harassment from the state has had a huge impact on political parties in terms of both organizational complexity and systemness. This harassment of party organizations contributed, to a fair extent, to their restriction to "regional" strongholds and, consequently, helped to transform them into ethnically oriented parties. However, despite the expansion of political space since the 2002 elections and the enactment of the Political Parties Act 2011, political parties have not succeeded in escaping this ethno-regional bent. Further, the high levels of poverty and inequality have also posed a major challenge to the development of Kenyan political parties. The struggles over party funding amongst parties within the various coalition entities such as PNU and its affiliate parties such as NARC-Kenya and the Wiper Democratic Party (formerly ODM-Kenya) and LPK, amongst others, indicate that financial resources are a key determinant shaping the fortunes of political parties, but also literally the way they are organized. While party organizations do suffer from the scarcity of resources, this study also found that this situation was compounded by inadequate accounting practices. It was further revealed that parties are very often reluctant to send their staff to receive training in financial management and accounting offered through various workshops sponsored by the Registrar of Political Parties. Consequently, parties are forced to look to their leaders and other 'well wishers', or big men, to finance them. This has seen political parties transformed into business ventures whereby party leaders/owners choose not to invest in party building between electoral periods but only in the run up to the elections themselves. Due to the influence of big men who bankroll these parties, they are treated very much like personal property, as the concept of 'party ownership' shows, be it 'sole proprietory' or 'share-holding'. In the case of the former, political parties are highly personalized and appear to be hybrid entities that combine some of the traits of independent candidate platforms with those of political parties proper. In essence, they appear to be independent candidate platforms that allow aspirants defecting from other political parties to contest under them, in primaries and other electoral competitions. Despite all outward appearances, such parties may not have much value beyond being a gateway to parliament. The fact that presidential candidates

have frequently changed political parties from one election to another, and also the fact that not a single presidential candidate has opted to run on an independent platform, suggest that parties are of value only because they provide more advantages in comparison to independent platforms.

In Chapter 5, which is on Party Discipline, it was revealed that the initial reluctance of political parties to enforce discipline within their parties in the period immediately after 1992 was attributable to two things: first, a tendency to confuse legitimate party discipline with authoritarianism, on the one hand, and legitimate dissent with indiscipline on the other. Further, it was shown that this confusion was mostly attributed to a particular historical experience whereby the inability to forge party cohesion through the rubric of ideology, and general disinterest exhibited by party leaders in achieving the same via consensual procedures, saw the use of soft and hard strategies by the party leaders to secure compliance for preferred policies and political positions. The disinterest in trying to forge consensus in the party was manifest in the employment of particular forms of speech and phraseology that sought to characterise individuals who questioned the party and government line as 'trouble-makers' or 'malcontents'. These particular responses to dissent were essentially institutionalized as they were adopted lock stock and barrel from the colonial state. Consequently, silence, obedience towards and positive affirmation of the party, government and their respective leaders were viewed as signs of loyalty and discipline. Conversely, opposition to and vocal criticism of authority were perceived as acts of indiscipline and disloyalty. It was also shown that the subsequent establishment of the KANU Disciplinary Committee, that virtually revoked the right to parliamentary privilege and formally introduced suspensions and expulsions for transgressions that were not clear, only added to the confusion. The chapter also established that the enforcement of discipline within political parties was significantly further hampered by the phenomenon of ethnicity. This was particularly apparent in cases where party leaders and party members had different ethnic backgrounds. Party leaders from one ethnic community in certain circumstances would shy away from disciplining perceived errant party members of a different ethnic group out of fear that this action could be perceived as an act of ethnic domination or persecution.

In Chapter 6, on Ethnicity, it was shown that the propensity for parties to mobilize around ethnic lines was mainly due to its instrumentalization by political elites. This instrumentalization itself was a product of colonial enterprise through its modus

operandi of divide and rule. It was also established that whilst the initial mobilization around ethnicity was primarily pursued by individuals who perceived it to be the best means through which they could ascend within the political arena, as opposed to the use of their personal merits as leaders. This instrumentalization of ethnicity became so common place such that by the 1970s caucusing and canvassing for political support was routinely pursued within the confines of the various ethnic welfare associations that had emerged, such as GEMA, the Luo Union, and the New Akamba Association, amongst others. Despite the introduction of a single party state and the concomitant dissolution of the various ethnic welfare associations in the 1980s, the promotion of Kalenjin and Maasai interests hollowed out the concept of national unity in KANU. Consequently, the return of political pluralism also reopened the fissures of ethnic politics. The politics of reform was forced to contend with ethnic politics. The pressures of belonging to the 'right party' precipitated a series of defections, as the electorate also revealed its capacity to shape the orientation of party politics by either rejecting or endorsing candidates depending upon their association with particular parties or political leaders. However, the return of ethnic politics proved to be more malevolent in comparison to the kind that existed prior to 1982, as the 'tribal clashes' of 1991/92 and 1997/98, and the post-election violence of 2007/2008 attested. Despite the promulgation of a new constitution and the enactment of the Political Parties Act 2011, parties have not been able to escape the firm clutches of ethnic politics for the reasons mentioned above. While the act bans the formation of ethnic parties, it has so far been unable to avert the transformation of parties that are otherwise registered with a national presence or character into entities that cater for the interest of particular ethnic communities.

Chapter 7, which is on Party Violence, established that political parties such as FORD-Kenya and FORD-Asili were embroiled in periodic confrontations in the run up to the 1992 general elections. However, in Kenya it is not particularly easy to directly link political parties to episodes of political and electoral violence. This is on account of their poor organizational structures; poor party discipline and what may be described as 'opaque' decision-making processes. However, this is not to say that parties are not responsible for violence, as there were only a few occasions when senior party officials condemned acts of violence associated with their own parties. Further, viewing the violence through Noreen Sattar's (2008) framework of subnational authoritarian zones, it was observed that whilst violence may have been locally organized by area elites, this violence at the very least could not have been organized without the knowledge and

possibly tacit support of the party centre. Further, while sub-national authoritarianism may not exist formally in political and administrative form, the diffusion of violence strongly suggests that there is a clear potential for its emergence, given the Kenyan state's apparent diminished monopoly of violence and the newly devolved political dispensation. This is quite likely, especially if the use of violence as a political tool is not forcefully discouraged and circumscribed, in addition to the existing bans on the use of hate speech in instances of both inter and intra-party competition.

The Political Parties Act 2011 was welcomed by many as an effective way of dealing with some of the above problems. However, the impact of the Political Parties Act at this particular time appears to have been minimal. Despite the effective ban on the formation of ethnic parties, the act has not been able to prevent the development or transformation of political parties into ethnic organizations post-registration. Section 36 of the Bill of Rights of the Constitution of Kenya 2010 asserts that:

> Every Person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any kind (Constitution of Kenya, 2010: 28).

As such, given the dynamics of Kenyan party politics where politicians and aspiring politicians alike are essentially forced to join the 'right' party if they intend to attain electoral success, the exigencies of being a successful aspirant usually sees many politicians defecting to or joining parties that are led by or associated with their kinsfolk. As such, to prevent politicians from trooping *en masse* to parties of their kinsfolk would be tantamount to violating their freedom of expression.

Further, despite the disciplinary action taken by certain political parties, namely Safina in the case of Ephraim Maina, NARC-Kenya in the case of Gideon " Mike Sonko" Mbuvi, and ODM in the cases of Aden Duale and William Ruto, there has been little to no outcome of these cases, in addition to the paucity of such cases. Section 17, Subsection 4, of the Political Parties Act states that individuals of one party who form, join in the formation of or advocate for the formation of another party will be deemed to have resigned from their political parties. Whilst several of the individuals cited for such behaviour have eventually gone on to join other political parties, they have done so without ever losing their seats or being subjected to the rigours of a by-election, as mandated by the law.

Moreover, the actual administration of disputes within and between political parties by the Registrar of Political Parties, the Independent Electoral and Boundaries Commission, the Political Parties Dispute Tribunal and the Constitution Implementation Commission has left a lot to be desired. As mentioned previously, despite complaints having been lodged to the Registrar of Political Parties in regards to breaches of both the party constitutions and the Political Parties Act, the Registrar has not always been able to resolve some of these issues on behalf of parties in a timely manner. Although the cases against Ephraim Maina and Mike Sonko by Safina and NARC-Kenya, respectively, were lodged in August 2011, the Registrar is, at the time of writing, yet to issue a final pronouncement on both cases. However, it must be said that despite these apparent setbacks, the Political Parties Act 2011 was only enacted in late November of that year. To write off the Act at this stage would be premature, given that party institutionalization is essentially a long term goal. The Act cannot be expected to 'build Rome in one day', so to speak. Only time will tell whether the Act is able to whip the parties fully into shape, as originally envisaged.

What do these findings say about how Kenyan parties score in relation to the key dimensions of party institutionalization, i.e. organizational systemness, value-infusion, reification and decisional-autonomy?

8.3. Kenyan Scores in Dimensions of Institutionalization

Whilst the levels of organizational complexity vary from party to party, in terms of resources that each party has at its disposal, and territorial scope, most parties exhibit low levels of **organizational systemness,** i.e. with respect to internal cohesion and levels of routinization. As shown in Chapters 4 and 5, incidents of politicians switching parties for no ostensible reasons other than political survival are numerous. Moreover, the political squabbles among party leaders and between the leaders and ordinary members that have come to define the majority of political parties are a testament to the lack of cohesion within political parties. This is also well evidenced by the existence of 'mobile parties' (briefcase parties) that often provide safe landings for party members that leave or are ejected from their original parties. In addition, the tendency to ignore party constitutions and other rules and regulations, as shown in Chapter 5, is clearly indicative of a failure in the routinization aspect of systemness. In light of the above, it may be concluded that Kenyan political parties generally exhibit low levels of organizational systemness.

On **value-infusion**, it can generally be concluded that most political parties are lacking in value-infusion at the levels of ideological and programmatic content, as is evidenced by frequent bouts of defections by party members. Chapter 5, on party discipline, has shown how the absence of ideological and programmatic content in most political parties following the return of multipartyism has seen Kenyan parties being subjected to processes of fusion and fission. Further, lamentations of various backbenchers in KANU during the Kenyatta era in regard to the marginal role the party was playing in Kenya's public affairs is also clearly indicative of the waning value with which legislators were beginning to regard the party. Further, as can be seen from the comments of some legislators on ethnicity and party politics in Chapter 6, ideological differences do not matter *per se* in Kenyan politics and, as such, they do not join political parties because they believe in the ideology of some more than of others. Although some parties are known to enjoy what may be described as die-hard support, this support is not attributable to the parties as entities within themselves, but is reducible to particular individuals within them and the ethnic communities that they are perceived to represent.

In as far as the degree to which Kenyan political parties are established in the public imagination of Kenyans, it may be concluded that of Kenya's 51 officially registered political parties, at most only seven parties could be said to be **'reified'** in any meaningful way. Although 61 percent of the population identified with one of the many political parties in 2011, this figure is actually indicative of a decline. In 2008 the figure was 70 percent, whilst only 30 percent did not identify with a political party. In 2011, the percentage of those in the latter group had gone up to 39 percent. Further, the Afrobarometer Round 5 for Kenya (2011) showed five parties as receiving the highest percentages in terms of party support in the country (Afrobarometer, 2011:18-19). This is primarily because these seven parties constituted the biggest parties in Kenya, were associated with prominent political figures, and enjoyed greater media coverage than the other 44 parties. The smaller political parties, of which there are very many, struggle to get much media coverage. This may be attributable to an absence of 'recognisable' personalities and perhaps a lack of resources, and when such small parties host events and activities, the coverage is minimal to none. Party support along ethnic lines is steadfast for most of the big political parties, while support across communities other than their 'home bases' tends to be fleeting at best or generally not assured. This low levels of reification in Kenyan political parties could, in essence, be attributed to the lack

or endurance, the frequent reinvention or change of names of political parties, and the phenomenon of newly created parties and coalitions going on to compete in elections only a few months after their creation.

On **decisional autonomy**, it may be concluded that this dimension of institutionalization of political parties is generally fairly high, mostly on account of the high degree of personalism that many of the political parties exhibit, but also on account of the general lack of affiliation that parties have had with civic organizations. However, as shown in Chapter 4 on party organization, political parties have often been closely identified with their party leaders who also double as the main party financiers. Although in some instances there are some scenarios whereby party leaders may not be immune to outside influence/interference in making their decisions, as is evidenced by the case of KANU's initial attempt to partner with ODM in late 1996. Suffice it to say on the whole most have managed to retain decisional autonomy. This has remained the case despite the introduction of state funding for Kenyan political parties.

8.4. How Does This All Relate to Theory?

Randall and Svasand (2002), Suttner (2003), Guthner and Diamond (2003), Randall (2006) and Carey and Reynolds (2007) all contend that while the challenge of party institutionalization in developing countries is attributable to a number of factors, party origins may have a particular bearing on the characteristics of parties. In particular, they cite colonial experience and the subsequent postcolonial experience with authoritarian government as having great influence over the formation of parties in Asia and Sub-Saharan Africa. The emergence of one-party regimes and military juntas in both Latin America (from about the 1950s) and Africa (from the 1960s) was seen to have interrupted the experience of party politics in these regions in a way that would have serious consequences later. The return of multiparty competition with the onset of the 'Third Wave' of democratization saw many political parties coming into existence or being reactivated after having gone out of existence, often doing so at very short notice, and sometimes barely a few months before the elections (Randall, 2006). Further, Suttner (2003) and Randall (2006) argue that long experience of authoritarian rule has meant that to some extent opposition parties formed after the return of plural politics have tended to copy some of the traits of the ruling parties that they replaced or seek to replace. The lack of an internal democratic culture is one of them.

In addition, Randall (2006) also cites the socio-economic context in developing countries, more specifically the high levels of poverty, as also having a strong impact, given that most political parties cannot rely on the meagre and infrequent financial contributions made by ordinary citizens. This has led in some cases to parties actually being given contributions by the very authoritarian regimes that they seek to replace.

A final factor identified by Randall (2006) that may perversely affect the prospects of party institutionalization in developing countries is globalization and, most significantly, economic globalization. The demise of the Cold War also signified the demise of the ideological polarization that had existed, as socialism and other leftist ideologies were more or less discredited. As such, the only international actors in a position to assist political parties were international financial institutions, such as the World Bank, the IMF and Western European and American donor countries. Further, given the fact that many countries in the developing world were in debt in the late 1980s and early 1990s, the exigencies of debt repayment amidst the structural adjustment policies advocated by international donors essentially meant a recourse to pragmatism, as many political parties, both old and new, were forced to abandon leftist ideologies. In summation, Randall (2006) argues that the prospects of party institutionalization cannot be realized through direct external interventions. To do so actually undermines the chances of success. How does this relate to the Kenyan experience?

As far as the Kenyan case study is concerned, we find the notion of the origins of the parties having a lasting impact on the nature of the party organizations to be true. Colonial rule had impact not just on the form and character of the post-colonial state, but on party development as well. The role of colonialism in shaping political parties is clearly evident in the failure of a truly national and nationalistic party to emerge in Kenya. The enduring legacy of district-oriented consciousness in party structure has continued for more than five decades, even beyond the promulgation of the new constitution in 2010 which altered the internal politico-administrative boundaries of the state. Further, in looking at contemporary attitudes towards dissent and the enforcement of discipline in Kenyan parties, it is clear that they are legacies of the experience of colonialism and the single-party state, respectively. In addition, the general reluctance of party leaders to relinquish control over the parties they control is also symptomatic of Kenya's long experience of the personalization of power in both the Kenyatta and Moi regimes.

Also in regard to the issue of party origins, it was shown in the chapter on party organization that many parties were formed between late 1991 and mid-1992, which means that most parties had no more than a year to prepare themselves for the 1992 polls. We saw that the shortage of time meant that parties such as FORD-Kenya, FORD-Asili and DP were not able to engage in meaningful national outreach programmes, partly due to state harassment and also lack of sufficient time and, as such, political leaders were forced to rely on ethnic sentiments as a means of mobilizing votes. The continuation of state harassment occasioned by the return of KANU to power in 1992 greatly affected the territorial scope of most parties, as they were systematically prevented from accessing 'KANU Zones'.

Further, the socio-economic context, more specifically the high level of poverty, has also had a strong impact on political parties in Kenya, along the lines of Randall's thesis. The scarcity of resources, as was shown earlier, led Kenyan political parties to rely on their wealthy leaders for party finance. This reliance on party leaders generated a form of clientelism that undermined the prospects of internal democracy in many political parties. In addition, the phenomenon of 'briefcase parties' could partially be attributed to the socio-economic context, as such parties have been viewed as a lifeline to individuals who may see the formation of these 'parties for sale' as an alternative means to earning an income, given the environment of high unemployment (*The Saturday Nation*, January 13th 2013) .

Globalization, particularly in its economic form, has also meant that ideological differences are less salient in Kenyan politics. Even where ideological differences do exist, the reality is that any party in the developing world with a distinct ideological view will be forced to 'adapt', particularly if they take power, as international obligations to institutions such as the IMF and the World Bank will force them to do so. Whilst the Bretton Woods institutions withheld financial assistance in November 1991 in Paris, ostensibly in response to the deteriorating governance situation in Kenya, there appears to have been little room for any real ideological salience to develop. As seen by the responses of some Kenyan politicians to the adoption of the World Bank's Poverty Reduction Strategy, there is also a sense that there is very little room for manoeuvre in the way of policy formulation.

8.5. Barriers to Institutionalization of Kenyan Political Parties

Whilst it was found in the course of this study that there were a number challenges that adversely affected the prospects of political party institutionalization in Kenya, the main barriers to party institutionalization can be attributed to the historical institutionalist legacy of colonialism and authoritarianism, the socio-economic context of poverty and resource scarcity and to a lesser extent the impact of globalization.

Colonial authoritarianism and post-independent authoritarianism posed a significant barrier to institutional dimensions of coherence, value infusion and organizational systemness as the nascent stages of party development. The suppression of nation-wide party organizations and the diametric promotion of ethnic candidate-centred district party organizations in 1955, posed a severe challenge in the formation of nationalist parties in 1960. Due to the presence of disparate district party organization prior to 1960 the formation of national parties was through a process of convergence as opposed to the process of penetration, which Panebianco (1988) cites as better suited for party institutionalization. This convergence of different party organizations essentially deprived these parties of *organizational coherence,* as the many challenges of discipline in KANU attested to. Further, the circumstances in which political order was given primacy over political participation resulted in popular demobilization through the strict regulation of the civic public realm, combined with state corporatism, deprived KANU and subsequent parties of socially rooted platforms through which to entrench party support. Moreover, the early preoccupation with governance and development whereby key KANU personnel were seconded to the government severely affected the *organizational systemness* of parties, as no clear role was lineated for the party in government. In addition, the colonial tendency to obfuscate programmatic concerns and to deliberately equate legitimate dissent and debate with subversion all conspired to empty out the value-infusion quality in the early political parties. This, coupled with the practice of ethnic clientelism in which party unity was cemented through the distribution of resources all conspired to strip KANU and subsequent parties of the *value-infusion dimension* of party development.

The second barrier towards party institutionalization as shown in the study was the scarcity of resources and the poor socio-economic environment, which undermined organizational systemness of the party. The absence of state funding, coupled with the

poor socio-economic environment, greatly undermined the territorial reach and scope of many political parties in the multi-party era. Consequently, these parties were forced to rely on the patronage of their respective leaders for their daily survival. This scarcity of resources for daily operations had a direct impact upon the *visibility* of many parties, particularly those that did not have the benefit of wealthy party leaders or benefactors. It is to this lack of visibility between electoral periods that greatly dimmed the *reification* chances of several parties, particularly the smaller political parties. However, in the case of political parties with wealthy leaders the personalization of the parties has meant that there have been fewer opportunities for external undue influence and, as a result, these parties enjoy a high level of decisional autonomy, as opposed to 'embedded' decisional autonomy, as parties in Kenya have had few linkages with civic groups and social movements in society. Having said this, it is this personalization or 'ownership' of parties that has severely undermined the party routines, procedures and practices as the parties are increasing hostage to their leaders, thereby impeding upon the overall organizational systemness of Kenyan political parties.

The third barrier to institutionalization in Kenya has been the impact of globalization on party politics. With the end of the Cold War in 1989/90, the ideological spectrum was greatly attenuated, as more countries adopted free-market economies and became more or less subservient to the Bretton Woods Institutions, namely the World Bank and the IMF. This attenuated ideological space presented unique challenges for political parties in Kenya as they struggled to differentiate themselves from one another beyond the identity of their party leaders and their bedrocks of ethno-regional support. As such, globalization exacerbated the lack of *value-infusion* among Kenyan political parties.

8.6. Consequences of Weak Institutionalization of Political Parties in Kenya

The above-mentioned barriers to party institutionalization Kenya have had an enduring impact upon party development and there are no indications that they will change any time soon. What does all this portend for democratic consolidation for the country? Following the advent of multipartyism, several parties mushroomed to challenge what was then KANU's 30- year grip on power. For the first time in nearly 22 years KANU was faced with an opposition that kept it on its toes. However, due to a variety of problems that these political parties faced both internally and from their immediate political, legal, economic and social environment, and despite the popular clamour for

change, it took these parties 10 years to dislodge KANU. KANU's exit from power, however, can only be partially attributed to the efforts of opposition parties, as several coalesced together in a coalition. To a fairly large degree, KANU's exit from power could also be attributed to the apparent internal crisis that befell KANU in the months prior to the December 2002 national elections and the disillusionment of the public to years of KANU misrule. Suffice it to say that this popular disillusionment with KANU can in part be attributed to the various attempts by the major political parties to raise the awareness of the public about their civic and political rights. However, between 1997, in the aftermath of the IPPG deal, and 2002, civil society organizations and the media took up a much more prolific role in pushing for democratic reforms and constitutional change. Despite the important role of civil society in pushing for vertical accountability of the Kenyan Government, it is no alternative to the Government. If ordinary citizens are to continue to have faith in the democratic system, then political parties must, as matter of necessity, become institutionalized if they hope to capture the reins of government and be able to maintain their popular support long enough to be able to achieve positive change. If, however, a perception develops that political parties are not robust enough to act as alternatives to those parties already in government, then this could in the long run diminish or erode the prospects of democratic consolidation, as citizens may opt for popular uprising and other more violent forms of regime change, as seen in Egypt and Libya during the last few years.

8.7. Concluding Remarks and Suggestions for Further Research

While political parties in Kenya vary in terms of the degree of their organizational development and public support, one thing is clear, i.e., that the process of institutionalization across all political parties is a complex and disjointed one. The different dimensions of party institutionalization, namely organizational systemness, value infusion, reification and decisional autonomy, have not been developing simultaneously or to the same extent. It is clear that in the case of most parties, the **external** dimension of party institutionalization, along the axes of decisional autonomy and reification, tends be higher than the **internal** dimension of the concept, which are reflected in organizational systemness and value-infusion. Having said this, party institutionalization in Kenya still has a long way to go in contributing meaningfully towards democratic consolidation.

While this study has touched upon the various aspects of party institutionalization in Kenya, there are a number of important questions that emerged that could not be addressed because they were not in the purview of this study. Addressing these questions is important for a fuller understanding of the institutionalization of political parties in Kenya.

The first suggestion for future research would be to investigate what factors informed the decisions of most aspirants to forgo the route of independent candidature in the run up to Kenyan elections. An exploration of the counties and constituencies in which independents contested and won, and, especially, of why voters made that particular choice of voting for an independent candidate, would also be fruitful.

Another suggestion for further research could be an exploration into clientelism - how within political parties this actually operates, and what impact it has in the recruitment of party members, if at all.

In light of the recent political party nominations held between January 17th and 18th 2013, where several wealthy politicians lost out to newcomers with arguably less financial and other resources, it would be interesting to find out whether this signals the beginning of a decline of the influence of money in Kenyan politics. It would also be useful to determine why there has been a high turn-over of members of parliament in the last few elections. Is this a result of voters' disenchantment with the performance of individual politicians, or a result of the fortunes of the political parties to which they belong?

The final suggestion touches upon the impact that ethnicity has upon party discipline. While it is clear from the study that the enforcement of discipline within multi-ethnic parties has been challenging, it is not clear what the experience of party discipline within mono-ethnic parties is or has been. As such, there is a need to look into this, as this will shed more light upon important aspects of the internal dimension of political parties, i.e. organizational systemness and value infusion.

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Appendix 1.

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Appendix 2

List of Registered Political Parties in Kenya as of August 7th 2012 *

Political Party	Date Registered	Address
KANU	June 1960	KANU Headquarters Chania Road (Yaya Centre) Nairobi Kenya
Social Democratic Party	February 1992	Summit House RM 404, Moi Avenue/Monrovia Lane, , Nairobi, Kenya.
FORD-People	1997	Jampark Plaza, Ngong Road Dagoretti, Nairobi, Kenya
FORD-Asili	August 1992	Unknown
FORD-Kenya	August 1992	Gatundu Crescent Kileleshwa off Gatundu

		Road, Nairobi
Democratic Party of Kenya	January 1992	Democratic Party of Kenya, Gitanga Road, Nairobi, Kenya
Orange Democratic Movement	November 2005	Orange House, Menelik Road, Nairobi, Kenya
NARC	October 2002	Othaya Road, Hse No. 18 Lavington Nairobi
NARC-Kenya	February 2006	NARC-Kenya House, Woodlands Road off Lenana Road, Nairobi, Kenya.
Forum for Non-parliamentary Parties	2002	Coffee Plaza 6th Floor, Nairobi, Kenya
Wipder Democratic Movement (ODM-Kenya)	August 2007	Orange House, 408 Othaya Road, off Gitanga Road, Nairobi, Kenya
Party of National Unity	September 2007	Musa Gitau Lane off Waiyaki Way
SAFINA	March 1995	Jamhuri Crescent, off Kabarnet Road, Nairobi, Kenya
Shirikisho	1997	Githere Plaza, Haile Selassie, Avenue
Kenya National Democratic Alliance (KENDA)	1992	Internationa Casino Complex Museum Hill Westlands, Nairobi Kenya
Kenya National Congress	February 1992	Mbabane Road Lavington, Plot No. 3731/55, Nairobi
New FORD-Kenya	December 2006	Suite 403, 4th Floor, Enk Ei Centre Ngara Road, Nairobi
New Revival Generation Party	2007?	
Party of Independent Candidates (PICK)	March 1992	Kenyatta Avenue, 2nd Floor Door No 20,Uganda House Nairobi, Kenyatta Avenue
People;s Party of Kenya	Jan 2007	Gatakaini Building
Sisi Kwa Sisi	June 2000	Mok Oy Et East Road, Karen, Nairobi
The Independent Party	2007	Mlongolongo, Nairobi Karesh Complex, Plot No 25 Ngwata Phase 1 First on Top of Post Bank
United Democratic Movement	1999	Sunbeam Place Along Tigoni Road Hurlingham,

		Nairobi
Grand National Union	November 2008	Lavington, Convert Drive off James Gichuru, Nairobi
The Alliance Party of Kenya	March 2012	El Molo Drive , Lavington, Nairobi, LR No. 206/1/843
United Republican Party of Kenya	May 2012	Lavington LR. No. 658901/1
Agano Party	November 2006	Beaver House Rm 41D 4th Floor, Nairobi
Chama Cha Uzalendo	2002	Jamhuri Crescent of Kabarnett Road Suite 11, Nairobi
The National Vision Party of Kenya	December 2008	Khodek Drive, Argwings Khodek, Hurlingham, Nairobi
Mwangaza Party		Thika Rd, Day Motors Next to Safari Park Hotel
Restore and Build Kenya	April 2012	Juma Hai House, Makasembo Street, Eldoret
United Democratic Forum Party	March 2012 ?	House No. 53 Muthagari Lavington
Mazingira Greens Party of Kenya	September 1997	Akiba Estate, Plot 42 South C
National Democratic Movement		Kenyatta Avenue, Buifilah House
Party of Action	February 2012	Muthangari Gardens,Lavington Nairobi
Kenya Social Congress	October 1992	Congress House Plot 17506 Kingdom Hall Rd Ongata Rongai, Nairobi
Progressive Party of Kenya	June 2007	Utumishi Co-operative House Mamlaka Road, Nairobi
Maendeleo Democratic Party		Kakamega-Mwalimu Centre Along Mur Il Road, Kakamega
Mkenya Solidarity Movement	February 2009	Rupran House, 4th Floor, Moktar Daddah Street Nairobi
New Democrats	May 2007	Tudor Estate, Tom Mboya Avenue Plot No. 83/SEC11, Mombasa
Unity Party of Kenya		Nyaku House, Mezzanine Floor, Hurlingham Shopping Centre, Argwings Khodhek
National Labour Party of Kenya	December 2000	LR No 209/3797 Hse, 4 South B, Mk Omara, Nairobi

Federal Party of Kenya	2006	Kimathi House 6th Floor c/o Kirima, Kenyatta, Kimathi Street, Nairobi
Saba Saba Asili	1996	Malborough House, Lower Kabete Road Westlands
Muungano Development Movement Party of Kenya	November 2007	Nyahururu Hse Plot No 209/136/10, Ground Floor, off Jainsala, Nairobi
National Party of Kenya	December 2001	Ole Shaparo Road- South C off Muhoho Avenue No 47.
Farmer Party	April 2007	Moktah Daddah Street, Ruprani House 1st Floor, 108, Nairobi

* NB. this list shows the dates that these parties were first registered and not the dates of registration following compliance of criteria under he Political Parties Act of 2011.

Appendix 3

List of Interviewees

Interviewees	**Party/Organization and Position**	**Date**	**Location**
Shem Ogolla Oketch	SDP (Executive Director)	9/11/2010	Summit House, Cnr Monorovia Lane and Moi Avenue
Benjamin Gitoi	Forum for Non-Parliamentary Parties	27/01/2012 (telephonic)	Coffee Plaza, 6th Floor
Dishon Nyaga	KANU Life Member	7/10/ 2010 21/11/2012 (telephonic)	KANU Headquarters
Justin Muturi	KANU Organizing Secretary	11/10/2010 27/01/2012 (telephonic)	Chester House
Joseph Kamotho	Former KANU and LDP (Secretary-General)	15/10/2010 (31/01/2012) (telephonic)	Holiday Inn (Mayfair), Nairobi
Simeon Nyachae	FORD-People	4/11/2010	Private Offices Riverside Drive
Laban Gitau	DP (Executive Director)	27/10/2010	DP Headquarters, Gitanga Road, Lavington
Amos Mugambi	Forum for Non-Parliamentary		Coffee Plaza, 6th Floor, Haile Selassie

	Parties/ National Coordinator Peoples' Party Kenya		Avenue, Nairobi
Carey Francis Onyango	Centre for Multipary Democracy	2/11/2010	International House
Kennedy Masime	Center for Governance and Democracy	30/01/2012)	(telephonic interview)
Lucy Ndungu	Registrar of Political Parties (Registrar)	4/11/2010	Anniversary Towers
Rebecca Wahu	Registar of Political Parties (Legal Officer)	4/11/2010	Anniversary Towers,
Phineas Mugalo	ODM (Regional Coordinator)	19/11/2010	Orange House, Menelik Road,
Geraldine Mukhele	Registrar of Political Parties (Legal Officer)	4/11/2010	Anniversary Towers
Taabu Daniel	NARC-Kenya (Executive Director)	26/10/2010	Narc-Kenya Headquarters
Mwandawiro Mgangha	SDP	21/11/2011 (telephonic)	N/A
James Wafugwa	New Ford Kenya	21/11/2011 (telephonic)	N/A
Frank Nkala	Executive Director NARC	21/11/2012 (telephonic)	N/A
James Wanjohi	SAFINA Executive Director	21/11/2012 (telephonic)	N/A

Appendix 4

Research Permit

REPUBLIC OF KENYA

NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Telegrams: "SCIENCETECH", Nairobi
Telephone: 254-020-241349, 2213102
254-020-310571, 2213123.
Fax: 254-020-2213215, 318245, 318249
When replying please quote

P.O. Box 30623-00100
NAIROBI-KENYA
Website: www.ncst.go.ke

Our Ref: NCST/RR1/12/1/SS/808/3

Date: 9th September 2010

Mr. Shingai Price Mutizwa-Mangiza
Department of Political & International Studies
Rhodes University
P. O. Box 94 Grahamstown, 6140,
SOUTH AFRICA

RECEIVED
25 OCT 2010

Dear Sir,

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on ***"Political Parties, Democratization and Governance: A case study of Kenya"*** I am pleased to inform you that you have been authorized to undertake research in **Nairobi Province** for a period ending ***30th April 2012.***

You are advised to report to **the Speaker, Kenya National Assembly, the Provincial Commissioner, the Provincial Director of Education, Nairobi Province, the Secretary General, COTU, the Church Leaders, the Political Party Leaders & Administrators, the Members of Parliament** before embarking on the research project.

On completion of the research, you are expected to submit **two** copies of the research report/thesis to our office.

P. N. NYAKUNDI
FOR: SECRETARY/CEO

OFFICE OF THE PROVINCIAL COMMISSIONER
RECEIVED
25 OCT 2010
NAIROBI AREA

Copy to:
The Provincial Commissioner
Nairobi Province
The Provincial Director of Education
Nairobi Province

CONDITIONS

1. You must report to the District Commissioner and the District Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit
2. Government Officers will not be interviewed with-out prior appointment.
3. No questionnaire will be used unless it has been approved.
4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.
5. You are required to submit at least two(2)/four (4) bound copies of your final report for Kenyans and non-Kenyans respectively.
6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice.

GPK6055t3mt10/2010

REPUBLIC OF KENYA

RESEARCH CLEARANCE PERMIT

(CONDITIONS—see back page)

Appendix 5

Interview Schedule

Name:

Party membership:

Date and Time

Location:

1. Mweshimiwa, what in your opinion should be the role of political parties in Kenya?

2. How would you describe the management and performance of political parties in Kenya from the colonial period upto the present day?

3. Mweshimiwa, how would you describe your experience a as a member of (…..)?

4. What motivated your decision to leave (……) and to Join (……)

5. What were the challenges of running the party?