

Chapter 2

The Social Foundations of State Fragility in Kenya: Challenges of a Growing Democracy

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2.1 Introduction

Many of the discussions on state legitimacy (Jackson and Rosberg 1984; Englebert 2000; Gilley 2006) view the state as endorsed by citizens at a moral or normative level. Legitimacy gives rise to the perspective that state power has been acquired in the right way that is approved by the citizens. It is a popular recognition expressed democratically. In turn, the citizens support its rules, performance, and values. Likewise, public consent is critical to legitimacy and the acceptance of the state's right to wield political authority. Such acts of consent have been aggregated around expressions of citizen's recognition of the state, compliance with its rules and regulations and in fact even conformity to its development ideas.

Looking at Kenya's political situation, an increasing congruence is seen between ethnicity and state legitimacy. In part, this is spurred by the political class that is exercising influence over their ethnic communities' bargains with sectional endorsements of the state to optimize their economic advantage. This is disturbing as it is creating ethnic rivalries moderated by the same cliques in the political circles. With a population of about 40 million people comprising of about 42 distinct ethnic communities, the country is experiencing difficulties in building its democracy, in part as a problem of the weakening political legitimacy. In its recent multi-party political history ethnic violence followed most of the general elections held in 1992, 1997, 2002 and 2007, albeit, with differing intensity and consequences. The clashes associated with the elections have been seen as symptoms of underlying social tensions and prejudices that undermine the legitimacy of the state and the political process. Although the state in itself may not become entirely illegitimate, it becomes limited

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by the legitimacy gaps created when a section of its citizens that considers it to have arbitrary control over them takes away its political recognition of it.

The post-election violence of 2007/8, however, was in many ways the main herald of the 'legitimacy crisis argument' for Kenya. Similar to the previous electoral campaigns, the elections that year crystallized into the characteristic traditional political rivalries between the main ethnic groups in the country with steep distrusts leading to allegations of poll rigging. In previous elections, political divisions along ethnic lines had been palpable, but had not led to open violence. However, this time unprecedented ethnic-based chaos and violence broke out in many parts of the country. According to the Report of the Commission of Inquiry into Post-Election Violence (CIPEV), also known as the Waki Report, the violence that shook Kenya after the 2007 general elections was unprecedented. It was by far the most deadly and the most destructive violence ever experienced in Kenya.¹ About 1,133 people were killed and some 350,000 people became internally displaced.²

The elections fall out is not the subject of this chapter. Nevertheless, suffice to say, it brought to the fore the salient crevices that ravage the foundations of the country's stability. It laid bare the reality that Kenya, like many of its neighbors, is not immune to political instability and social apocalypse. The main social reflections and explanatory factors of Kenya's fluid statehood and fragile politics are the subject of this analysis.

It is the objective of this study to identify and analyze the social factors which undermine Kenya's state legitimacy. The chapter examines how three social constructs: cultural symbols, history of community grievances and competition over state resources are manipulated to break down community trust and recognition of the state. By doing this, the dynamics of Kenya's state legitimacy problems is established and extensively discussed.

The chapter is based on a review of secondary information gathered from diverse writings and publications pertinent to the subject. Some of the required data came from newspapers and media reports as well as official government literature. Fortunately, there is a growing volume of writings on Kenya's political fragility following its 2007/8 post-election conflict. Some of these writings have noted the particular constraints of political illegitimacy in the sections of the country, including belligerent rejection of the state jurisdiction of Kenya in some regions.³ As well, documents produced by some of the resulting commissions and taskforces of the National Reconciliation (NARA) investigated factors behind the fragile political control seen in Kenya at the time. In addition, 25 in-depth interviews were carried

¹ This commission was appointed by the President and the Panel of Eminent African Personalities in line with the mediation agreement, which ended the violence. The Commission was led by Justice Phillip Waki, a Court of Appeal Judge.

² See the Report of the Commission for Investigation into the Post Election Violence (CIPEV), October 2008, pp. 346–353. According to the AU Panel of African Personalities that assisted in the mediation exercise, 600,000 people were displaced; see <http://www.dialoguekenya.org/default.aspx>

³ Cases of Mombasa Republican Council (MRC) and the Saboat Land Defence Forces (SLDF) around Mt. Elgon.

out with respondents drawn from some of the opinion leaders in the country. The respondents were selected from leaders within the civil society and the academia, making due consideration as to the diversity of the country's political process, gender and ethnicity.

In the next section, the theoretical framework most suited for analyzing the identified issues behind Kenya's state legitimacy crises is discussed. Viewed as the main basis of state legitimacy constraints in Kenya, social constructs around negative ethnicity in the country are discussed within this context and the theories of primordialism and constructionism deployed in the applicable interpretations. The conclusion is a discussion of these findings as well as recommendations to confront them, if the Kenyan state is to escape from the noted legitimacy deficits.

2.2 Conceptual Notes on Approaches to Ethnicity

In order to understand the delicate nuances of ethnicity and how it is related to state legitimacy, there is need to have a theory that knit together the motivation of the political actors in the governance outcomes of the state as well as preserving the historical innocence of the ethnic formations. This is what is achieved by the primordialism and the instrumentalist theories. Using the two theories, the study has delved into the situation of state legitimacy and ethnicity in Kenya, giving an analysis of the dynamics of ethnic engineering and its contribution in undercutting state illegitimacy. This is likely to have long term impact on the country if left unchecked.

The two approaches of primordialism and the instrumentalism were lucidly used by Quatram (1997) to analyze the political situation leading to the Liberian civil strife in the 1990s. They provide a comprehensive theoretical framework to understanding these issues. The approaches actually show how within a dynamic application, ethnicity can be operated to undermine state legitimacy, control and effectiveness as a process that takes time. This makes the theories quite applicable to the Kenyan simmering political legitimacy crises.

In primordialism, ethnic bands tied together by consanguinity and family ties are seen to be emotively attached. They speak the same language, practice related customs and traditions, and understand their needs in certain unique cultural ways. Nevertheless, there is very little value addition to the collective group interest rather than the mutual socio-cultural bonding. Using this view to analyze the situation, ethnic heritage, and identity values are all seen as a common phenomenon and wholly innocent.

However, members of a particular ethnic group are often prepared to take part in solidarity with those of their own against those who do not share common ethnicity with them. This happens without any substantive benefit to the individual members of the ethnic group. It is a situation that is blamed for the creation of blind ethnic voting blocs and other group behavior which keeps different communities divided and rarely seeing eye to eye with each other.

The second approach referred to as the instrumentalist approach looks at ethnicity as the tool of the elite. The ethnic elite in pursuit of selfish political interests propel ethnic manipulation and mobilization to meet these goals. The instrumentalists see the ethnic collective as a tool for self-advancement by the elite. Throughout the ensuing discussions, the theory is used to illustrate how the powerful political elite in Kenya exercises control over its own people and defines the ethnic markers, which determine the legitimacy of the state in the view of their communities. This is a highly selfish but beneficial model as it goes deep into comprehending how the ruling elite engages in its struggle for control and power.

Ethnic identities became politicized during colonial administration and were manipulated to shape political control at the time. The post-colonial political administration in Kenya assumed similar model of administration giving the leaders a free rein to determine policy directions of the country as well as resource allocations. Political authority remained centralized. The excessive centralization of power meant that the leaders of the ethnic group that captured the state had control over the enormous amount of resources Murunga & Nasong'o (2007). Such acts by state power holders results in aggravated ethnic dissatisfaction and undermine the legitimacy of state authority.

Horowitz (1985) and Varshney (2012) have used elements of the two approaches above to interrogate ethnic identity, and describe how it can engineer ethnic conflicts. As a body of theory, primordialism is on the decline, seen largely today as a strategic tool. As the debate evolves, ethnic rationality essentially remains subjective, but it is what dominantly still draws the line between the rights of an ethnic group and those of 'others'. This can be used to build a strong dissatisfaction against the state from the perceived sense of skewed benefits handed down by the state. In other writings, especially fronted by Chandra (2006), it is suggested that the theory is dependent on the assumption that ethnic identity is fixed and not fluid, a phenomenon that she has questioned, given what she has termed as 'constrained change', describing the continuous identity transitions in modern societies. For her, ethnic mobilization is a low cost and irrational agency for political entrepreneurship.

Both of these theories have their shortcomings. Whereas primordialism is interested in common ancestry attachments, and therefore, the notion of 'ancient hatred' as a forerunner of interest based conflicts (Esteban et al. 2012; Varshney 2012), it does not explain differences in the patterns of reaction by a single ethnic community during a conflict situation. In Rwanda for example, not all the Hutus were engaged in the tragic acrimony against the Tutsis. That is to say, not all members of a single ethnic group react uniformly against others during conflicts or even cases of ethnic defections. On the other hand, instrumentalists focus too much on 'greed and grievance' failing to look at externalities in conflict motivation among other factors.⁴

⁴For more comprehensive theoretical foundations see Tong (2009) and Varshney (2012). In their discussions, the writers show that instrumentalism approach cannot explain inter-ethnic peace as well as co-operation. Instead another approach, the Constructivist theory, which underscores institutional dimensions of political and economic systems, is canvassed.

Under both these approaches, in ethnically divided societies, democratic agreements are hard to reach and once reached, are fragile (Esteban et al. 2012). It is still intriguing why the masses come along, even assuming that they are mobilized by their grievance building leaders. It is why in this study, both of the approaches have been used in a combined framework to understand ethnic attributes as drivers of crevices in Kenya's state legitimacy.

One needs to bear in mind that identity politics can be very nebulous and fluid, particularly among multi-racial communities with mixed demographic typologies, since social attributes responsible for identity classifications in such areas can be quite contested, multiple and complex (Chandra 2006; Appiah 2005, 2006). It is therefore not easy to make a neat and clear framework of analysis even where it is agreed that ethnic identity is a basis of grievance building. As such, Ghanaian writer, Kwame Appiah has cautioned that even though politicians can mobilize along identities (say label X or feel like an X), when they do so, emphasis is often on interest, not identity recognition (Appiah 2005, 2006). For the writer, identity recognition is, in fact, oppressive. This is close to the position taken by Chandra (2006) and even Donald Horowitz (1985) who, in commenting about conflicts between ethnic groups, noted that even in deeply divided societies the degree to which ethnicity is pervasive is variable. Nonetheless, even with such exemplary celebration of individual freedom within diversity, the ethnic recognition project cannot be wished away.

The review of state legitimacy in Kenya in this chapter lends itself to the fundamentals of both ethnic interests and group esteem or recognition as driving the agenda, hence the suitability of both approaches. Moreover, politics in Kenya is seen to be strongly polarized along ethnic lines,⁵ further affirming the logic of interrogating how ethnic cleavages in the country's political system entrench the crisis of state legitimacy. As long as ethnicity is 'wholly inherited and inescapable'⁶ its implications for legitimating the state will always be pertinent. Globalization, as it makes possible losers and winners based on new economic impulses, further intensifies the competition among ethnic groups. On the other hand, as in the case of Kenya, it has challenged some of the consequences of that intensification by prosecuting the leaders of the ethnic groups at the international court at The Hague, in this case the incumbent President of the country is involved. In the next chapter, the economic dimensions of the competition are discussed in greater detail through a study of another country, Zimbabwe.

⁵For more discussions on the influence of ethnicity on Kenya's Politics, see Kioko et al. 2002; Wolf 2006; Chweya 2002; Wanyande et al. 2007.

⁶Horowitz (1985) has described ethnicity as a distinct, compelling and rigid identity different from other forms of social class differentiation because of these very aspects. His psychological explanation of subsequent conflict between ethnic groups is that arising from different claims of legitimacy and entitlement, their competition for worth is fueled by an anxious fear of extinction.

2.3 The Politics of Cultural Symbols

Since the entry of the modern nation state into Africa through colonial history, countries like Kenya are yet to harmonize the separate cultural practices and traditions found within them. This has given rise to a scenario where the diverse cultural symbols and practices tend to play out their significance against each other. This process gets politicized, and the different cultural heritages are picked up for different reasons, depending on the circumstances. They can be relevant for political mobilization, national celebrations, tourism, or even in formulation of national identities. In whichever situation these are played out, cultural symbols account for some of the elements in the consolidation or disruption of state legitimacy and democratic capacity.

There are various types of cultural symbols. These include common rites of passage like circumcision, songs and material artifacts, which have interlocked with politics to extract ethnic mobilization and exclusionist political influence. In certain ethnic communities, artifacts such as flywhisks, monkey skins and traditional stools have also been cultural symbols. Their use at the national stage nevertheless shifts attention from local non prejudicial perspective to egocentric political melodrama. The cultural symbols in Kenya have been exchanged in the process of making the political alliances and to grant unequal access to power for the group concerned.

A cursory look of Kenya's ethno-cultural mosaic shows that the country is primarily comprised of about 42 distinct ethnic communities. These are groups that speak different languages and have diverse cultural norms, practices, and traditions. The numerically dominant ethnic group is the Kikuyu whose pre-colonial domicile was limited to central region of Kenya. The Kikuyu are hereditary Bantu speaking group who together with the Kamba and the Luhya form three of the majority ethnic blocs in Kenya. Almost all the Bantu cultural groups, and certainly the Kikuyu practice the ritual of male circumcision as a rite of passage (Kenyatta 1961). Juvenile members of these communities are initiated into adulthood through this practice, which is widely celebrated. In pre-colonial history, some of the communities that practice male circumcision also practiced girl circumcision.

The other large section of the country's population comprises of Nilotic ethnic groups of which the Kalenjins and Luos are the majority. Other Kenyan ethnic communities are the Maasai, the Kisii, the Mjikenda, the Coastal Arabs and the Kenyan Somalis. Nevertheless, the Nilotic Kalenjin and the Maasai also circumcise their youths as a rite of passage into adulthood. The Luos on the other hand, although Nilotic, do not practice the rite of passage.

In the architecture of political power, Kenya's national politics is dominated by these Bantu and Nilotic groups. However, the role of cultural elements of these communities, replete with all the traditional regalia essential for ethnic identity, is weaved into common nets of group solidarity against different political camps and ethnicities. Many of the Bantu groups have in the past normally coalesced around the Kikuyu-led political coalitions. During the 1992 multiparty elections, apart from the incumbent ruling party KANU, the Bantu sub-tribes coalesced around the

Ford Asili and the Democratic Party (DP) while Ford Kenya largely held its Nilotic Luo support. Subsequent elections indicated close similarities.

Cultural affinities can bolster chances of politicians to acquire power but they undermine the political participation of some ethnic groups. The formation of the Gikuyu-Embu and Meru Association (GEMA) in the 1970s for example achieved exactly this result for the three populous Bantu ethnic groups inhabitants of the Mt. Kenya region, but the strategy has haunted the political fortunes of the ethnic communities ever after. Not only has the GEMA elite consistently faced censure from other communities for perceptions of nepotism, actions of the state since 2002 (the year KANU was defeated in the general elections by a coalition of parties led by President Mwai Kibaki, a Kikuyu and also after 2013 general elections won by Uhuru Kenyatta who also is from the same ethnicity) have come under distressful suspicion because of this history.

Cultural practices and traditions can also drive deep wedges between the political leadership and obfuscates real challenges to be addressed by the state. Such can be observed about the so called 'circumcision divide' in Kenya's political campaigns. Although much older than his band of multi-party agitators in 1992, Odinga, a Luo, supposedly remained an uncircumcised child in the cultural eyes of many of the Bantu groups. This meant that since Odinga was 'uncircumcised', in his old age he remained a child and puerile for the role of a national leader. On this ground, some political leaders even campaigned against him (NEMU 1993; Jonyo 2002). Circumcision was also at issue during the post-election violence in Kenya in 2007 (CIPEV Report 2008).

In short, cultural expressions and symbols can be used to create hostilities between individual politicians and their supporters on both sides. Cultural practices can also be turned around and used as an exclusionary mobilization tool in politics.

2.4 Isolationism and Ethnic Grievances Behind Fragility

Collective ethnic memories of perceived grievances in the history of Kenya have been used by the political elite as a basis of political mobilization and action. The highlight below of Kenya's independence history is significant because each time the country has tethered into political instability, testing its legitimacy, the story has featured in many different ways.

The struggle for independence in Kenya was fronted by various liberation heroes from the different ethnic groups in the country. However, the epitome of the campaign was the violent Kikuyu led *mau-mau* resistance mounted by the rag tag Kikuyu peasants after the Second World War (Rosberg and Nottingham 1966; Kyle 1999; Elkins 2005). During colonial suppression of the resistance, over 100,000 of people lost their lives.⁷ Kikuyus were shepherded into concentration camps and

⁷According to Elkins (2005), by the end of the state of emergency declared to deal with the Mau Mau, somewhere between 130,000–300,000 Kikuyus were unaccounted for.

monitored for dissent and radicalism. Individual households not only lost land but also innumerable economic opportunities including life chances like education and employment. Torturous special detention camps, screening and rehabilitation centers were established in many places around Central Kenya inhabited by the Kikuyus for psychological cleaning and with the aim to rehabilitate them back into 'normal' society (Rosberg and Nottingham 1966; Kyle 1999).

By the time Kenya gained independence in 1963, a debate had ensued on the relative strong influence of the *mau mau* resistance in accelerating the freedom calendar. This debate is well-documented. Unfortunately, it also came with perceptions of entitlements and justifications for political rewards in independent Kenya from a section of the Kikuyu politicians who believe that the community suffered most for the country's liberation. Other ethnic groups have as well knitted out separate collective ethnic narratives to advance similar ambitions. This has created the problem of unending tensions, easily entrenched by the political elite spinning the narratives.

The Kikuyu colonial suffering has been a recurring narrative in lending a sense of entitlement to their perceived dominance in Kenya's political leadership and economic control. It is viewed that 'because of their contribution to the struggle for independence; they are entitled to govern and rule'.⁸ During the Kenyatta era (1963–1978), it was only too voluble. After independence, this became an organizing ideology of the community politics. Perceived favoritism and domination of the Kikuyu in public positions during the time would be justified by the suffering adage.

The Kikuyu's narratives of sufferings may have encouraged counter-narratives in other communities. Many other Kenyan communities have delved into their 'collective political sacrifices' as a justification for their campaigns for political recognition and ascendancy into state power. For example, the Kalenjins would later say that they suffered invasion of their land in the Rift Valley; their heroes were desecrated by the independent regimes, which did not recognize them; and that they suffered marginalization by the central government which kept them behind in development.⁹ In the Moi era – a Kalenjin, was president after Kenyatta from 1978 to 2002 – the Kikuyu farming elite blamed his administration for 'destroying' the coffee industry in which they had high interests. Later in the Kibaki administration (2002–2013), a Kikuyu, the Moi's Kalenjin group would accuse the government of throwing out 'their prominent sons from government positions'.¹⁰

During Moi's term, his Kalenjin tribesmen under the ethnic conglomerate of KAMATUSA elite, comprising of the Kalenjin, Maasai, Turkana and the Samburu expanded their political influence tremendously. Moi himself had banned the Gikuyu, Embu and Meru Association (GEMA), founded under Kenyatta, in part for

⁸ Interview with Ngunjiri Wambugu, National Coordinator, Kikuyu for Change and campaigner for ethnic tolerance in Kenya.

⁹ Interview with Caroline Ruto, National coordinator, Smart Citizens.

¹⁰ The Nandi Council of Elders Memorandum to the TJRC, February 2012. In the same year, the Elders called for a boycott of the Olympics by Kenyan athletes of Kalenjin extraction if the International Criminal Court (ICC) does not drop charges against a prominent Kenyan politician from the community facing charges over the post election violence.

its powerful economic position from years of its political power. However, he also needed to consolidate his hold on power (Peter and Kopsieker 2006; Murunga and Nasong'o 2007). Later, he would himself exploit ethnic networks to escape public accountability over some of his leadership failings (Chweya 2002; Wolf 2006; Wanyande et al. 2007).

In the 1950s, 1960s, and early 1970s, members of the Luo community were doing extremely well and held influential positions in government. After the early 1970s, their fortunes declined (Morrison 2007; Chweya 2002). The narratives blame the decline on the political fallout between Kenya's first president, Jomo Kenyatta, a Kikuyu and his former ally and deputy, Oginga Odinga, a Luo who later founded the oppositionist Kenya Peoples' Union (KPU) that was banned in 1969. In the same year another leading Luo politician, Tom Mboya, was assassinated. According to Oloo (2007), 'the death of Mboya, a Luo, was blamed on Kenyatta's ethnic group, who it was claimed, wanted to stop the young Mboya from ascending to power'. And even then the Kikuyu inaugurated a 'mass oathing' program –in which whole tribes take an oath of secrecy or non-disclosure– among the Kikuyu, Embu and Meru (GEMA) communities to keep political power within their hands (Leys 1975).

The Luos also grouse that successive regimes have assassinated others of their prominent political leaders, like Dr. Robert Ouko and have kept them out of government and influential public appointments. In this way, the central government has kept the region backward and undeveloped. This lore establishes the group as 'once elite and now in abject poverty, victim of a powerful and jealous Kikuyu enemy' (Morrison 2007). Such narratives only help to affirm myths of elite status, and the way certain group members have responded to particular political events in the country.

In reaction to long held rejection of the post-independence regimes, the Luos have consistently led oppositionist campaigns in Kenya, fronting the Ford-Kenya political party in the multi- party elections in 1992. In 1997, they overwhelmingly stayed in the opposition, this time under the National Democratic Party. On other hand, the Kikuyus moved out of the Moi-led KANU regime in 1992, taking a separate political path under other political parties, denying the last decade of the KANU regime any effective legitimacy (Oloka-Onyango et al. 1996; Chweya 2002; Wanyande et al. 2007; Wolf 2007).

The Luhya community, another of the populous Kenya's ethnic groups, also blames the different governments in power for unresolved murders and grievances. Some of the transgressions go far back to the pre-independence suppression of community leaders such as detention of the eccentric Bukusu leader of indigenous sect *Dini ya Musambwa* (church of the ancestral spirits), who escaped from detention in 1948. His political rhetoric, however, continues to be subject of Kenya's political campaigns to date.¹¹ Such sects and spiritual movements, with definite ethnic

¹¹ The Bukusu are a sub-set of the Luhya ethnic community who live in Western Kenya. Although the *Dini ya Msambwa* was declared unlawful by the colonial administration, it still exists. Elijah Masinde's who was the sect founder, has numerable followers (post humus) in Trans Nzoia and parts of western Kenya and his political philosophy is occasionally a subject of public campaigns by politicians seeking from the area.

loyalties such as the Tent of the Living God, the *Akorino* and the *legio maria* have in the past been seen to wield political influence in Kenya (Wanyande et al. 2007).

Kenya is still struggling to manage the politics of heterogeneity. After the National Accord and Reconciliation Agreement reached in settlement of the post election violence in 2007, the Truth Justice and Reconciliation Commission (TJRC) was set up in March 2009 with the mandate to investigate, collate and recommend ways of addressing some of the festering grievances. The Commission finalized its work in 2013. Among others, the commission listened to groups representing victims of political assassinations, historical injustices (including land grabs and other state violations) and past inter-ethnic clashes, but its recommendations have not been implemented. In recent years, aware of the criticism against open ethnic mobilization by the political parties, many of the politicians across the political parties in Kenya have shifted strategy, consolidating the ethnic groups around amorphous formations known as Councils of Elders. The burden of articulating community grievances is shifting to these kind of amorphous groups, probably because they come under less national scrutiny than the political leaders.¹² These organizations include the Kikuyu Council of Elders, Luo Council of Elders, Kalenjin Council of Elders, Meru Council of Elders, the Kaya Elders and the Luhya Council of Elders, among others. Nevertheless, the new strategy neither adds legitimacy to the national leaders who frown at state authority because their grievances remain unaddressed, nor give relief to the state to escape from addressing genuine community concerns, because of the way these concerns are conveyed.

2.5 Citizens in Competition, Resource Rivalry and the Politics of Fragility

In many ethnic heterogeneous countries, perception of development imbalances, inequalities in regional development, as well as unbalanced distribution of public sector employment and public services can be portrayed as deliberate actions for exclusions and marginalization of certain ethnic groups by the central government that is controlled by another ethnic group(s). This is in line with the instrumentalist argument, and it serves to mobilize members of the ethnic group who are excluded from state power and resources against ethnic groups that control state power. As will be discussed below, public sector employment and state appointments, as well as public service delivery are the main areas of ethnic contestation in Kenya.

After the independence Kenya's Public Service Commission has been thoroughly embedded with tribal interests, with job allocations and promotions within civil service being determined by ethnic affiliations (Hyden 1979; Kioko et al. 2002;

¹² Observations of Jeremiah Owiti, Researcher and Policy analyst, Director, Center for Independent Research, Nairobi.

Wanyande et al. 2007). This is germane to the issue of political legitimacy of the Kenyan state. Hyden has noted:

... the attempts by local capitalists to use the state for their own development tends to intensify tribal rivalry; thus in order to succeed, the various factions have to dig their positions much deeper. In this situation ... Kenyan civil servants ... are frequently called upon to assist in extracting public resources for the benefit of these (tribal) associations. (Hyden 1979)

Political pressure and even constitutional constraints are cited as factors that have led to imbalanced growth and resource distribution in the different regions of the country (IEA 2010). During the Kenyatta administration, central province, the home to the founding president was the leading region in primary school enrolments but this declined steadily after he was succeeded in 1978 by former president Daniel Arap Moi, whose Rift Valley province consequently realized considerable growth in school enrolments (see Table 2.1 below). Enrolments in other areas generally remained constant and marginalization is even visible in certain parts like the North Eastern province. Underlying the imbalances, the political class uses the public offices to wage unofficial contests over use of public resources to benefit their home regions. The relative low enrolment in Nairobi, an urbane province that also hosts the capital city, may be explained in two ways; one reason is the sheer stress on public education facilities caused by the constantly growing city population and secondly, there is serious under-reporting of primary enrolment rates, particularly in the slum areas, as concluded from surveys (Epari et al. 2008).

In 2002, the Institute of Economic Affairs (Kenya) published ground breaking data on Kenya's Socio-Economic inequalities in a booklet *The Little Fact Book – The Socio-Economic and Political Profile of Kenya's Districts*. The book showed, for example that 40 years after independence, poverty incidence in the country's least developed regions, rural Nyanza and rural Coast province was over 60 %, double that of rural central province, the least poor. Huge disparities between different regions were also recorded in terms of household incomes, education, health, and other indicators.

Table 2.1 Percentage (%) primary school enrolment by province 1970–2001

	Province							
Year	Central	Coast	Eastern	Nairobi	Nyanza	Rift valley	Western	North Eastern
1970	24.5	5.5	20.2	4.3	16.4	14.2	14.6	0.3
1975	19.4	5.4	18.9	2.9	20.9	17.3	15.0	0.2
1980	17.7	5.9	19.4	2.5	20.3	19.4	14.5	0.3
1985	17.6	6.4	18.1	2.6	19.3	21.7	13.9	0.4
1990	16.3	6.7	18.9	2.7	18.1	22.9	13.8	0.6
1995	17.2	6.4	18.4	2.8	17.8	22.8	14.1	0.5
2000	15.0	6.5	19.1	2.8	17.1	25.6	13.1	0.8
2001	13.2	6.9	18.5	2.8	18.5	26.1	13.2	0.7

Adapted from Kanyinga (2006)

The view that Kikuyus landed plush public service appointments, controlled public sector investments and state security has been widely discussed. There are reports showing that Kenyatta's Kikuyu elite dominated Kenya's economic fortunes (Barkan 1992; Chweya 2002; Wanyande et al. 2007). During Kenyatta's presidency, the nation state was criticized for being the property of the Kikuyu who consequently enjoyed priority and favorable allocation of public resources (Chweya et al. 2007).

Karuti Kanyinga (2006) has observed that cabinet positions, as an avenue through which state resources reach communities, provide another good measure of integration of communities in state democratic processes. In Kenya, however, such positions have often been dominated by people from the ethnic community of the president. By 1966, there were 6 Kikuyu cabinet ministers in the Kenyatta administration, constituting about 29 % of the entire cabinet. This rose to 8 (32 %) by 1968, dropping slightly again to 6 (29 %) by the time Kenyatta died in 1978. This is also true of the position of permanent secretaries who essentially are in charge of the ministries' resources.

Below is a comparative illustration of the trends in permanent secretary appointments in the two regimes.

As Table 2.2 shows, state nepotism and economic inequalities blossomed early in the Kenyan political society, giving rise to the salient play of competition between the ethnic groups (Ochieng and Kirimi 1980; Barkan 1992). The successive regime did not score any better.

With relatively high unemployment rate of 24 %, ¹³ Kenya is facing a job crisis particularly for its big youth population. The civil service remains the largest employer of most of the job seekers, making the composition for the public employment sector a very important discussion in terms of balancing public opportunities. However it is still plagued with problems. An official audit of the civil service has recently indicated that ethnic patronage, a manifestation of resource rivalry in the context of this study, invariably persists (see Table 2.3 below). From a public perspective, state legitimacy suffers if the distribution of national resources such as opportunities in the public employment sector is seen to be skewed to the disadvantage of some sections of the population.

The report entitled 'Ethnic Diversity and Audit of the Civil Service' by the National Commission for Cohesion and Integration (2010), showed that there is a glaring dominance of the country's majority ethnic groups in civil service appointments. Only about 50 % of the country's ethnic groups are statistically visible. Some 23 of the 40 ethnic communities had less than 1 % presence in the civil service while only 7 of the ethnic communities in the country occupied over 70 % of the employment in the civil service. The report noted for example that 'the Kikuyu and the Kalenjin have a disproportionate share of civil service posts

¹³ Official figures on Kenya's unemployment rate are hard to get. However according to a study commissioned by UNDP and the Danish Embassy in Nairobi and conducted by Kenya Institute of Public Policy Research and Analysis (KIPPRA), this figure is quoted as the Kenya National Bureau of Statistics' estimate on open unemployment of the youth in ages 15–24 in the year 2006/6.

Table 2.2 Distribution of permanent secretaries during Kenyatta (1963–1978) and Moi regimes (1978–2002) by ethnicity

Ethnic Group	Kenyatta regime (Kikuyu)			Moi regime (Kalenjin)						
	1966	1970	1978	1979	1982	1985	1988	1994	1998	2001
Kikuyu	30 %	38 %	24 %	30 %	30 %	28 %	22 %	25 %	11 %	9 %
Luhya	13 %	8 %	5 %	11 %	13 %	12 %	6 %	14 %	11 %	13 %
Luo	13 %	13 %	10 %	4 %	7 %	8 %	13 %	4 %	7 %	9 %
Kalenjin	4 %	8 %	5 %	11 %	10 %	20 %	22 %	25 %	29 %	35 %
Kamba	17 %	8 %	14 %	7 %	10 %	12 %	13 %	21 %	4 %	4 %
Kisii	4 %	8 %	0 %	7 %	3 %	4 %	3 %	4 %	7 %	4 %
Meru	4 %	8 %	14 %	11 %	10 %	8 %	3 %	4 %	7 %	9 %
Mijikenda	9 %	4 %	10 %	4 %	7 %	4 %	6 %	11 %	14 %	13 %
Other	4 %	4 %	19 %	15 %	10 %	4 %	13 %	7 %	11 %	4 %
Total	23	24	21	27	30	25	32	28	28	23

Adapted from Kanyinga (2006)

Table 2.3 Table showing the distribution of Kenya's main ethnic community groups in civil service jobs

Group	Population (Census 2009)	Population %	Number in the civil service	Percentage in the civil service
Kikuyu	6,622,576	17 %	47,146	22.3 %
Kalenjin	4,967,328	13.3 %	35,282	16.7 %
Luhya	5,338,666	14.2 %	23,863	11.3 %
Kamba	3,893,157	10.4 %	20,490	9.7 %
Luo	4,044,440	10.8 %	19,025	9.0 %
Kisii	2,205,669	5.9 %	14,287	6.8 %
Meru	1,658,108	4.4 %	12,517	5.9 %
Mijikenda	1,960,574	5.2 %	7,924	3.8 %
Kenya Somali	2,385,572	6.4 %	5,619	2.7 %
Embu	324,092	0.9 %	4,118	2.0 %
Masai	841,622	2.2 %	3,090	1.5 %
Taita	273,519	0.7 %	3,074	1.5 %
Boran	161,399	0.4 %	2,587	1.2 %
Turkana	—	2.6 %	2,112	1.0

Adapted from the report on 'Ethnic Diversity and Audit of the Civil Service' by the National Commission for Cohesion and Integration (2010), Vol. 1, 6

compared to their population. Their proportion in the Civil Service exceeds the size of their share in the national population (p. 6)'. Lack of access to education, social exclusion, and patronage in hiring were identified in the study as some of the factors explaining the ethnic imbalances in the country's civil service.

Inequalities in access to opportunities of this kind tend to increase vulnerabilities and opportunities to political violence (KIPPRA 2009). Weak entitlement to livelihood

opportunities amongst the poor, especially the youth, was determined as a big factor in the 2007/8 crises. The poor have little stake for peace when the reverse outcome is promising possibilities of immediate prosperity. As the elite political class makes its way to power by exploiting these inequalities and divisions, the country's political legitimacy is weakened substantially.

In Kenya, the fear of exclusion from political power and therefore contestation for economic resources has been associated with the rise of regional political militia groups that openly make themselves available to their leaders to drive the agenda of political ascendance. It is a peculiar development that entertains the rag tag militia gangs especially in the urban areas. Depending on political temperatures, the groups can neatly convert into political machinery for violent assignments to safeguard the political interests of the community. In certain situations, they have simply been seen as filling in the void created by the lack of the state services particularly security.

Such groups include *Mungiki*, *Baghdad boys*, *Jeshi la Mzee*, *Angola Musumbiji*, *Chi Kororo*¹⁴ etc. Usually illegitimate gangs with powerful political networks, these are alternative channels through which the large unemployed youth take the opportunity to build political power and seek recognition. They can venture to defend the political turf of their ethnic patron leaders but in the process break the loyalty lines to the central state authority. In any event, this tends to weaken state legitimacy in the areas where the militia groups are most influential. The existence of these groups is sometimes fluid and shadowy, but their dubious centrality to politics in Kenya is now a reality.

These informal bands of militia survive because they are seen as protecting ethnic interests. They can be relied upon by politicians to forcefully drive a message home, keep in check other ethnic communities, or simply exist as a reserve for any political eventuality. No doubt, such groups undermine legitimate state authority and should be discouraged.

In the capital city of Nairobi and parts of central Kenya, the *mungiki* for instance, have in the past been known to control the transport industry network making it hazardous for non-cooperative investors to do business in the sector. They have used violence, kidnappings, and blackmail to extort money from the transport businesses as well as levy unofficial charges to provide private security in residential areas. Police clamp down on the *Mungiki*, as with other illegitimate militia in the country, but have not completely obliterated their activities but instead only driven them to hibernation and clandestine operations.

According to Gecaga (2007), however, the *mungiki* are not merely a rebellious materialist arm of Kenya's tribalized politics but a cultural and religious movement playing certain roles in democratization in Kenya (Gecaga 2007). They repulsed ethnic attacks targeting the Kikuyus during the 1997 ethnic clashes. It has been a vehicle for political mobilization as well as cultural emancipation and in the capital city of Nairobi the group even instituted private initiatives to guarantee security to

¹⁴ Violent political militia groups are a growing trend in Kenya. The examples of militia groups cited here represent formations within some five main ethnic groups in the country. Interview with Olang Sana, NGO founder and Director, Citizens Against Violence (CAVi).

low-income dwellers. Against Kagwanja's (2003) assertion that *mungiki* had become susceptible to state manipulation under the ruling party, KANU, and was reflective of the growing political tribalism, the writer explained that the backdrop of state inability to provide basic security needs was the reason for the growth of the movement. This however does not capture the loud sectarian and ethnocentric existence of this group until now.

In the Kenya's coastal region, the secessionist group, Mombasa Republican Council¹⁵ (MRC) was cobbled up this way: Initially appearing only like a horde of discontents – poor, disorganized, and harmless protesters – it has grown into a serious test ground for political stability in the Kenyan coast. The organization, which advocates for the entire administrative coastal sections of Kenya to secede away from central Kenyan government, because of economic marginalization,¹⁶ has been rallying its members, mostly the youth, to support its secession plans.

The group has adopted a radical slogan 'Pwani si Kenya' – 'the Coast is not part of Kenya' to propagate its secessionist agenda and its manifesto calls for a separate political status of the coastal region. It is developing plans to disrupt future national elections as the Kenyan government 'has no right to hold the exercise in Coast which is not part of Kenya'.¹⁷ The group, although not openly violent, causes difficulties in establishing legitimate popular control over the areas where the group has grown in influence. How this issue will be resolved by the government is still unclear.

In Western Kenya, the worst snippet into ethnic insurrection ever experienced was when some members of the Sabaot ethnic group rallied militant support against the local administration for poor land adjudication. The group formed the Sabaot Land Defense Forces (SLDF) that took control of the Mt. Elgon areas adjacent to Kenya's border with Uganda in the 2006/07 period. The government responded with military operations in the area causing untold sufferings, death and forced disappearances.¹⁸ This is yet another illustration of how effective governance can be impaired by resource conflicts. State response to these sorts of groupings is usually to criminalize and crack them down. This does not address the root cause of the problem. In their several manifestations, the discontent groups have shown that their

¹⁵ In a newspaper commentary, *Hold talks over MRC problems*, an analyst compared the MRC to the Bloc Quebecois federalists of Canada seeking a separate state of Quebec, and argued that the agitation for secession of the coast is 'not noise from a lunatic asylum'. See *The Star*, 26/4/2012, p. 25. Meanwhile the state maintained that the group is outlawed under sec. 22 of the Prevention of Organized Crimes Act because it is a threat to national security, p. 12. In July 2012, the High court in Mombasa lifted the ban on the group adding to the controversy surrounding it.

¹⁶ A former legislator and shadow minister for Finance, Hon. Billow Kerrow, publicly supported these claims, noted that the MRC is demanding economic and social rights after years of exclusion. Kerrow does not come from the Coastal region. See *Standard on Sunday*, 29/4/2012, p. 14.

¹⁷ MRC members forcefully disrupted a civic education exercise in Kilifi County, near the Coastal town of Mombasa organized by the Independent Electoral and Boundaries Commission (IEBC), the country's electoral body: *Sunday Review*, pp. 15–16 – *The Sunday Nation*, 22/4/2012.

¹⁸ The Kenya National Commission on Human Rights (KNCHR), the country's statutory body on the subject detailed these accounts in the report *Mountain of Terror*.

dissidence is informed by popular grievances. However, as proscribed associations, they escape state surveillance since they can easily hibernate into other clandestine forms and continue with their activities. This is dangerous to the country's stability.

Moral ills of imbalances in development and constrained economic opportunities for the youth in the affected regions easily exhort conditions for the militias to operate. However, beyond complaints about imbalances in development patterns and distribution of resources like land and employment, the same groups have normally ended up perpetuating similar ills against other Kenyans because of political convenience.

2.6 Conclusion

This chapter shows that Kenya is faced with a crisis of state illegitimacy, primarily attributable to unmanaged ethnic based politics and manipulations of the community cultural substrata. In this discussion, three broad aspects of social factors have been analyzed in relation to state legitimacy. These are community cultural symbols, historical grievances against the state and other communities as well and finally the active citizen contestations over public resources. In all these areas, the partisan deployment of state authority takes away from it the moral authority and character of democratic representation that are strong elements of a legitimate state.

Various differences in social and cultural behavior of citizens are conditioned to determine feasible patterns of political choices by the various political movements in the country and their leaders. In this way, culture interacts with other determinants of social perception but can tend towards negative political actions as already shown. Political mobilization based on ethnic notions can blight peoples' cultural values and peripheralise some political actors based on identity issues and nothing else. This can generally inhibit a peaceful co-existence even in light of the contemporary reality of multiculturalism and modernization.

With such an abuse of cultural and ethnic diversity, individual political liberties have been down played because of the capture of ethnic political bargain enjoyed by the elite. As a consequence, many political actions, whether bad or good, are not scrutinized by the citizens if such actions are committed by members of their own ethnic groups. This is a threat to public accountability and cripples forward movement because the hostile and divisive politics of ethnicity mean that a collective ethnic group can withdraw their political support to the state because their political elite deem that they suffer exclusion. It is the reason why considerations of identity affiliations can become blind 'loyalty filters'.

The tradition of public discussion, germane to democratic development is also hampered where the principle of ethnic affiliations is the determinant of political choices. Notions that ethnic identity substantially influences economic position of the citizens can negatively pollute the social context in the country and affect political stability of a country. To put it in context, it is plausible that many of the chal-

lenges of legitimacy facing the Kenya's political authority are as a result of ethnicity and poor management of local ethnic expectations.

Even on the matter of cultural constructs alone, Kenya is still lacking a homogeneous political culture that is germane to building state legitimacy. This should be developed overtime without internal political strain and reactionary ethnic chauvinism. The importance of non sectarian ideological political realignment and equitable national policy planning also remains pertinent.

In conclusion, ethnic pluralism in Kenya is still a blessing and not a curse. What is necessary is to harness the multiplicity of cultures and respect diversity so that it can enrich the country's democratic life. This is not possible in a situation where identity manipulations are the way of life. A good start is made with the new constitution that has introduced a devolved system of governance but that must be followed with open cooperation with authorities to make fair and equitable policies that would address the past development deficits and inequalities in the country.

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