

Going Federalism! A Reality or an Option? : Redefining Kenya

Thomas Otieno Juma¹, Ian Kiplagat²

¹PhD Political Science Candidate; Lecturer – Department of History, Political Science, and Public Administration, SASS, Moi University.

²MA- IR Candidate; Department of History, Political Science, and Public Administration, SASS, Moi University.

Abstract: Countries exist to meet the expectations of its constituents in both economic and political terms. For multinational states such as Kenya, attaining this is a very big challenge knowing the history since independence to date. Though constitutions and systems of governance within it in ‘democratic dispensation’ require individuals competing to be in charge of resource distribution and charting the development agenda, this does not seem to be quite the case. Devolution, a ‘semi-federal’ system anchored on resource distribution was a cheered milestone but lacked a historical politico dynamic reality for multinational states as Kenya. In the wake of silent desires since independence by many Kenyans; first for federalism, secondly to have their nationalities occupy the state leadership, and thirdly, the existence of continuous mono-ethnic dominance perpetuated by ethnic demographic strengths, there is a marked pointer to inherent problems with the Kenya-state. While strongly believing that Kenya like any African state needs to be redefined to weigh workability of unitary state and federalism, going federalism is more of a reality than an option. This paper thinks to propose that it is time Kenya thought of going federated states way while maintaining devolution, creating a ceremonial national leadership position, and having thriving semi-autonomous states with presidents at federal units. Using narrative design and thematic presentation, the paper looks at similar and relevant literature and cases on this subject. This study justifies its findings by the following objectives; examining the desire for federalism and its history in Kenya, finding the origins of the challenges of the Kenya-state, and finally assessing the ethnic politics and governance patterns in Kenya.

Keywords: Federalism/ Majimboism/ Majimbo/ Federated States/ Redefining Kenya/ Kenya’s Governance/ Multinational States/ Governance System/ Kenya

I. Introduction and Background

More and more political encounters in Kenya since independence are an exposition of real issues to deal with unity or disunity of the country, whether some are achievable or a mirage. The statements below point to the real ‘Kenya-state’;

“...the staff here represents the face of Kenya.”

“We need regional balance...”

“...Punda amechoka (donkey is tired)”

The challenges of Kenya seem to emanate from the ‘form’ – state. Whereas a close look at Kenya like many Westphalia order would show that the idea and concept state is well functional, yet the ‘form’ – state lacks which then has a misbalance on the ‘form’ – state. The ‘form’ – state takes the conscious scholars to what Kenya was before independence. In the subsequent years, the iron hand of the colonialists tightened its grips on the Africans with a view to making them more submissive to colonial rule. Political struggles first took the form of peaceful negotiations by political organizations such as the *Kikuyu Central Association*, the *Young Kavirondo Association*, the *Taita Welfare Society* and the *Kenya African Union* among others (Waweru, 1988). The forms adopted initially for political struggles way back at independence have continued to be the best forms of organizations in Kenya’s politics to date (ethno-nationalism as a political mobilization), thus redefining Kenya ought to appreciate this fact as it is a way of contemporary nationalism. The factors however, are quite different from the colonial periods.

Sporadic voices have spoken of the subject majimboism (federalism) in Kenya but they have quieted and resurfaced time and again. On 26 July 1998, a regular commentator on Kenyan politics stated that a majimbo system was the panacea for Kenya’s problems. According to the commentator, majimbo is “the only answer to Kenya’s ethnic-sick system . . . only cure to Kenya’s decaying periphery . . . cure [for] Kenya’s rotting local government system . . . [saviour] from our tribalist/ethnic headaches” (Ndi, 1998). Probably as it were, Ndi was very emphatic with the phrase ‘being the only answer’ at the time of his assertion whereas it didn’t make much meaning then as now.

Ndi (2016) further subjects his long time belief which is becoming a reality to many by stating that, a decade ago, Prof Bethuel Ogot, one of the country’s towering intellectuals, pronounced the “Kenya project”

dead. Kenya has never been a more distant idea than it is now at the beginning of the 21st Century. Nationalism is dead, replaced by sub-nationalism. The tribe has eaten the nation. Few years ago, the country exploded into an orgy of political violence. Although the notion of a nation as an idea is an old one, it is Benedict Anderson's 1983 book *Imagined Communities: Reflections on the Origins and Spread of Nationalism* that offered the most cogent articulation of the concept, and in so doing shaped the contemporary study of nationalism. Anderson defined nations as social constructs, political communities that live in the imagination of the people who ascribe to them. A concrete community is one whose members interact in one way or the other on a sustained basis. Nations are not concrete because "members of even the smallest nation will never know most of their-fellow members, meet them, or even hear of them, yet in the minds of each lives the image of their communion."

An evaluation of Ogot in Ndiir is paramount to date, is the "Kenya project" dead?, has the tribe eaten the nation? And are we a nation or political community? In our thinking, Ogot was right yesterday as today about the Kenya project, a very early realization we have lived at stigma with. On the question whether the tribe has eaten the nation, it is a statement of two synonyms that can be better asked differently as, has nationalism eaten the country (so called state – Kenya)? To this the answer is again not today but yesterday. Nations and political communities may all be social constructs though Anderson views it differently. A point to note is that Kenya as a multinational state has continued to thrive in nationalism and it does not seem to end until a real political solution is reached.

From Ndiir (2016), the meaning of Prof Ogot's pronouncement should now be clear. It is a failure of the imagination. The failure to develop and propagate a national narrative alluring enough to nurture a "deep, horizontal comradeship" beyond the tribe. The reasons for the failure of Kenyan nationalism are a subject for historians to ponder. From this, when the history is written, four squandered opportunities will stand out.

We summarize these as; *The first* was Jomo Kenyatta's KANU's administration after independence of entrenching rule by the rich (plutocracy). Metamorphosing into a parochial acquisitive tribalist regime. *The second* was the 1992 clamour and transition to multiparty politics when the country set itself to a higher political trajectory of ethnicity. *The third* came a decade later in 2003 when inclusivity politics evaded Kenya under Kibaki administration who preferred an ethnicized government above all else. *The fourth* is after the new Constitution (2010 – to date) failure to embrace the political values espoused in the Constitution — democracy, rule of law, transparency and ethical leadership on the one hand, and ethnicity and corruption triumphing. One reason why corruption has persistently triumphed is because Kenya does not belong to anybody so the loots are nobody's resources, hence nobody's business.

Like states and though synonym to it, countries are political structures where political agenda overrides social and economic objectives. The latter are thus predicated on the proper functioning of the former and its equitable use defines the life of such political structures. On the other hand, how this is attained requires political agenda which sometimes gets confused on how economic objectives spread across the social circumference. Manley (1990) observe that if a man is denied both responsibility and power long enough, he will lose the ability to respond to challenges of the first and to grasp the opportunity of the second. This he further illustrates as we paraphrase that the youth in a ghetto who fails to get means of survival with time fails to cohere to the complex framework of discipline. A sense of ownership of elements within the countries enhances a state in form. Juma, Sitienei, and Serem (2016) are of the view that "a state is a state when all within the borders to a greater extent feel ownership to it." It therefore implies that lack of a good experience of ownership by majority; in demographic terms, among ethnic orientations, and regions only opens desires for a more decentralized system of governance (federalism).

While thinking of federalism in the Kenyan context, hard questions need reasking; have pervasive effects of ethnicity, call for colossus single-partism, herald of multi-partism, the constitutional change with the celebrated positive move to economic federalism (devolution) made the desired 'Kenya state' happen? However, an eye view into Kenya's history has made it possible to elevate and account for economic and social consequences of colonialism much (old history) without evaluating eco-social consequences of the regimes that have ruled to the Kenyan communities. Thus, in considering the magnitude of eco-social consequences and the silent Kenyan debate over time, politics of conservatism and tinkering seems to be misplaced in redefining Kenya since tinkering can only breed minor adjustments with no reasonable destiny of a people.

One of the understandings of federalism which this paper is keen to project is a political concept in which groups within a country are bound together by a covenant and an overall governing representative head. This governing representative head should have prescribed powers only to the international system without curtailing the stronger feeder federal states from direct relations with the outside world. The dictates of how much power resides in the federal government and the regional or local governments is often a constitution or the statutory law of the states and central government in question.

There are many federal states (Sailus, 2016) across the world, and the amount of power in each federal government and its regional authorities varies. For example, the United States Constitution claims that any powers not explicitly given to the federal government in the Constitution are considered the power of each state.

Within Europe, there are several nations that practice federalism. The largest of these, Germany, is made up of 16 semi-autonomous states. These 16 states each have their own constitution; in theory, they are subservient to the 1949 Basic Law document, which lays out the framework for how Germany is to be governed. Federalism here must be distinguished with what is taking place in Europe where a suprastate is being enforced for economic and security reasons. The federalism being visibly seen in some of these examples have sprung out of identity crisis leading to socio-eco-political prejudice among populations who opt to relate distinctly but interdependently.

'The classic account of European integration derives from Federalism' (Hill and Smith, 2005: 20). Federalism is an often misunderstood theoretical perspective and is often thought of as an ideology or political philosophy rather than a theory. Its meaning is understood in terms of the situation in which it is being used. In the case of the European Union, it is unusual as it transcends state and state structure (Wiener and Diez, 2004:25). Preston King, in 1982, introduced the idea of federalism into literature where he argues that federalism is the original and persistent driving force of federation (Weiner and Diez 2005:29); he identifies three trends in the ideology of federalism (centralist, de-centralist and balanced) showing the broad range of federalist thought (Rosamond 2000:24). In what we consider ripening for the redefinition of Kenya is the de-centralist model.

II. Examining the desire for federalism and its history in Kenya

Yearning for majimboism in Kenya is symmetrical in several ways to processes of attainment of independence in the 1960s. It dominated the political themes then and afterwards it has been played over and over. It was much liked by the minority wing in KADU spearheaded by Ronald Ngala and supported by others such as Moi, Muliro, and others who were very sympathetic to it though in KANU. In later years, the desire for majimboism can be attributed to the politics behind shifts in the constitutional process that led to the adoption of devolution and generally the 2010 constitution.

According to Kagwanja and Mutunga (2001), the majimbo debate in the late years of KANU finally came home to roost. It occurred against the backdrop of passage of the Constitution of Kenya Review (Amendment) Bill that legalized part of the merger agreements between the Ufungamano initiative and the [Yash] Ghai Commission on May 8, 2001. What has never become succinctly clear is whether Majimboism-a Swahili word which means "administrative units" or "regions"-is the same as federalism. A close study of Kenya's history reveals that all constitutional negotiations have been accompanied by clamour for majimboism. It was the central theme of the Lancaster House Constitutional Conference in 1962, ahead of Kenya's independence, and has jinxed the constitutional reform process in the multi-party era. While its proponents are convinced that majimboism is federalism, its critics contend that the system is as far from the known theory and practice of federalism.

Other scholars such as Peter Kagwanja and Willy Mutunga attempted distinguishing federalism and majimboism and concluded its meaning to an understanding of administrative units. This in essence gave it a structural-end connotation while ignoring the operative-end connotation which probably was the spirit behind politics of majimbo by the agitators. At the back of the mind of early independent elites taking positions in readiness to take over from colonialists, some wisdom prevailed in a few others to ponder over the systems that were about to be inherited and later impacts to the ethnonationalism in this multinational state of Kenya. For this reason, they believed a federal system would work for the good of our nation. These scholars' (Kagwanja and Mutunga) titling of the article must have succeeded in trivializing this political issue to the many Kenyans who wait for authoritative voices to guide their thinking and reasoning.

Kagwanja and Mutunga further capture the insistent nature of this desire by capturing some insiders in Moi government on majimbo; "The Majimbo debate has been kicked off by two senior cabinet ministers: The Ministers in the office of the President, Shariff Nassir and William Ole Ntimama. In a KTN call-in session, Third Opinion (10/05/01), Nassir, called for the return to majimbo "to ensure equitable distribution of resources" after Moi's exit from power. In a paper "The Place of Local Government in a Unitary or Federal Government, Minister Ole Ntimama Minister invoked majimboism to hold back what he evocatively dubbed "majoritarian avalanche"." At this time, in our view, the proponents though in government had fears that; *one*, once there regime will be out of power then resources will not be equitably distributed; and *two*, the permanent majoritarian domiciled rule in a country with multi-ethnic interests.

The term federalism according to Polten and Glezl (2014) characterizes an organizational structure that consists of two elements, a federal state and the individual member states, where the federal state is formed as an association of the member states. In contrast to unitary systems, where all governmental power is vested in one national authority, the governmental power of federal states is distributed between the central (or federal) authority and several member-state (or provincial or regional) authorities. In this political system, responsibility for specific areas is defined in the constitution and neither of these levels of government is subordinate to the other.

The German federal state is *the result of an historical process*, which proved the federation's instruments and form *to be the right tool to achieve political unity* anchored in the constitution which is their basic Law otherwise known as Grundgesetz or (GG) of May 23, 1949. Germany from their system functioning has bundestag and bundesrat. In the German context, bundestag is a national council of representation whereas the bundesrat is a federal council whose formation is anchored on another house within the member-state levels (that is at the federal level). Of the two (bundestag and bundesrat), the main constitutional and legislative body in Germany is the Bundestag. The Bundesrat is a legislative body that represents the 16 member states. According to its population, each member state is allocated between three and six votes. The Bundesrat is involved in making legislation that directly affects state competences or changes the constitution. The members of the Bundesrat are not elected, but delegated by the individual state governments (Polten and Glezl, 2014). The Federal Republic of Germany consists of partially sovereign member states that are united in a federation (s. 20(1) GG).

In Polten and Glezl (2014), the German federalism highlights issues on jurisdictional powers, representation, judiciary, and national votings by the parliaments (regional and national). They suggest that the powers are split between the federal and the member-state level, so that each has its own specific responsibilities. As one of the consequences, each member state has its own constitution, parliament, government and a constitutional court. The member-state parliament is called the Landtag and the individual member-state governments are led by a premier. The core of federalism is the constitutional division of legislative powers, since legislation is the primary tool of political leadership. The Constitution can only be amended by a constitutional law which requires a two-thirds majority of the members of the Bundestag and two thirds of the votes of the Bundesrat.

By viewing the Canadian experience, the reasons behind federalism stemmed from fear by residents of Lower Canada (Quebec) and those of Maritime province that their culture, institutions, laws and religion could be at stake to the majority English-speaking Protestants. In Canadian experience (Polten and Glezl, 2014), the compromise was a federation that provided unity for *economic and military purposes* yet *preserved diversity* by equipping the provincial parliaments with extensive legislative powers which allowed the them to have their own civil law (e.g. law of obligations) and police law or their own court system, municipal institutions and an independent healthcare and education system. *Certain provisions of the Constitution apply only to some of the provinces* thus reflecting the unique terms upon which they were admitted to join the federal state.

In comparison between Germany and Canada, an analysis shows that; federalism is a central political life in Canadian as it is a true association of the member-states called provinces, whereas in Germany federalism is rather only an administrative structure, and again the German guiding principle of "cooperative federalism" plays a role of relationship building between the federal and the member-state level as well as between the member-states.

Globalization has produced paradoxical results in India's federalism Kumar (2014) it has allowed more autonomy of action in favour of the state to reap the benefits of globalization and crisis at the same time. *First*, the political autonomy of the liberal democratic states has been compromised in favour of the market. *Second*, the states have been engaged in fierce competition among themselves for foreign direct investment. *Third*, the weakening of the welfare state, thus widening inequalities remain unmitigated. *Fourth*, with the political autonomy of the liberal democratic state compromised, local governance is more exposed to direct penetration by global and corporate power structures. *Finally*, allowing condition for mass protest against globalization through grass-roots political activism which cuts the very democratic basis of legitimacy of the party (ies) in power in the states.

Amidst other theories that underlie formation of federalism is the one that is assumed to have guided Nigeria's cause. In Babalola's words, central to the Rikerian theory is that federations are formed through a political bargain between two sets of rational politicians, and the motive for the federal bargain is principally military (Babalola, 2013). We analyze Babalola and argue that the formations of federations are situational and must be guided by the desires of a people in their own context. To others military motive while to others again the negotiated model suffices and especially where the federation is arising from historical animosities which have bound people for a time. Not to say that people can be denied their wishes, not at all. Desires to federate indicate loose relationships and associations that can be healed by giving in to the historical demands or accepting to interdepend at different federal levels. In other instances, motive may not be military per-se but cruelty among components in a territory which necessitates Riker's theory applicability.

One significant factor in the birth of the Nigerian Federation, is the desire to form a federal union. According to Wheare, the main driving force behind the formation of a federation is the willingness or desire of communities "to be united, but not to be unitary" (Wheare, 1963:36).

Historically, from Nigeria's past, (Burgess, 1999: 1), Nigerian regional leaders were very active in their collaboration with the British authorities in advocating the federal idea. Southern elites, notably Nnamdi Azikiwe and Obafemi Awolowo, favoured a federal system of government, believing that federalism would

promote unity in diversity. For example, Azikiwe had in his book, *Political Blueprint of Nigeria*, published in 1943, envisaged a federal commonwealth of Nigeria, made up of eight “protectorates” based on ethnic affiliation, while Awolowo also used his book, *Path to Nigerian Freedom*, published in 1947, to argue that only a federal system would suit Nigeria’s political conditions.

The drive and inevitability in Kenya for federalism lies in the need for a system of government that will reduce misuse of ethnicity into rivalries, address deep historical inequities, and demystify issues of leaderships especially the presidency politics and its effects on the ‘Kenyan-state’.

Finding the origins of the challenges of the Kenya-state

Summarily, the origins of the challenges of the Kenyan-state has many pointer landmarks against it; colonialism (corporate balkanization of nationalities with no proper national realignments), systems adopted at infantry and the motive of existing elites, leadership agenda setting to replace foreign governors with local ones, land issue, and management of the state resources. Ethnicization of leadership and land stands at the core heart of other challenges.

The state is mostly known to be an important variable “to understanding politics” and the constitution (Oyugi, 1994). The question of state neutrality is yet to be answered. It is known that since the definition of the state defined by the Westphalia treaty each ought to act in the best interest of society. It may not be summed up as the case in that it has been turned into an instrument in the service of the political elite.

The state in Africa has been portrayed by the western world scholars negatively. This has been ascribed by the African scholars who underwent schooling in the western world states and their minds manipulated. The writings from such scholars have been dominated by labels like “patrimonial state” (Weber, 1978), the “neo-patrimonial state” (Clapham, 1985), the “developmental state” (Migdal, 1988) and the “personal” state (Jackson and Rosberg, 1982) that is suspended like a ‘balloon’ in mid-air (Hyden, 1983).

The African states have been described with all manner of words ranging from weak, soft, fragile, illegitimate, exploitative, and preponderating and without roots in the community (Bratton, 1989; Bayart, 1993). This has further led to the assumption that its citizens are said to have looked for other means including de-linking themselves from it or used it as an object of extraction for their own benefits which describes the divisions likely to occur. The governance structure of most of the African states have been sidelined and described as less developed. It is also pointed out that they have lacked good functional political institutions (Huntington, 1968). The resulting state is political instability where governments only exercise tenuous control. The point here is that states that are said to have good governance exercise power legitimately. This has further led to people trying as much as possible to amass wealth because they are associated with leadership.

However, this is where the problem started in Kenya and other African states in that the African state is viewed as an instrument of the “dominant classes”, advancing exploitation. This should not be the case as the state need to advocate impartial arbiter whose role is to promote national interest, efficiency, and social welfare (Sandbrook, 1980). The central government has taken the key role including overseeing on other arms of government. It further implies that the arms of government like the executive, judiciary and legislature have no or little differences.

The African state is rich in minerals and other resources. There is sufficient room for extraction and redistribution but very few of these resources are redistributed in accordance with generally recognized principles of bureaucratic rationality or accountability (Chweya, 2010). It is the underlying reason for the privatization, patronage, and personalized ownership that has widened the gap between the rich and poor hence the cause of governance problems guided by greed and self aggrandizement. These have always resonated around the ethnic-nationality fulcrum.

The problem of the Kenyan state is traced to the independence period. There was seemingly a good start with the quasi federal system then called *majimboism* that gave powers to leaders on ethno-nationalism that led to regionalism. Regionalism was to allow leaders head various regions that would ensure resources reach the citizens equitably. However, colonial administration had grounded itself to the regions through administrative agencies that led to the set up and adoption of the Provincial Administration (Wallis, 1994). The earlier models of systems which had dual executive seemed workable in developmental angles and in regional growth but the leadership that assumed office saw the system as un-African and therefore refuted it as unsuitable to Kenya. This was supported by other heads of states like Tanzania through its head that saw it as a means and way that would perpetuate philosophies of ‘class conflicts’ (Nyerere 1974). The logic was that the African traditions were devoid of classes as all citizens were equal, driven by the desire of consensus.

It may be true to argue that divided executive can accentuate divisions in ethnically inclined societies like Kenya and Tanzania. However, it may be far much better than one dominant system where the core being the central government is guided by few individuals that make decisions that incline towards the ethnic diversity. The amendments of the Kenyan constitution led to concentration of power in the executive but specifically on the presidency at the expense of other arms of government. This led to the institution of

“imperial presidency” leading to imbalanced governments. It therefore implies that the amendments were regarded constitutional and thus leading to governance that lacked proper checks and balances. The executive powers were vested in the president with all the power and authority rather than the cabinet or parliament (Tamarkin, 1978). Differently from Kenya, Tanzania through its leadership tried to quell the future agitations of internal ethnonationalism by Nyerere’s unifying journey across Tanzania in 1962, Kenya and other states in Africa opted for elitism to suppress ‘non-official’ expectations.

Kenya as a state still continued to be mounted with governance and structural challenges. The regime in power during independence would have what can be termed as ‘cyclic influencers’ that consisted of certain cabinet persons and close allies even from the family level. These people would make influential decisions without consultation or incorporation of the cabinet or legislature. This meant that African presidents and Kenyan in particular after independence would not built structures or good governance institutions as they feared that it would work against them and for political dominations (Odhiambo-Mbai, 2003). From Mbai, one understands though not stated, the cabinets have always followed the pattern of the majority being from the President’s turf. This also reflects where resources ultimately must head to. With political see-saw since independence balancing between two regions, the question of ‘Kenya’ becomes paramount. Prof Ogot was right to point a dead Kenya Project.

The establishment of single party rule led to the consolidation of power on few individuals. It gave room to the incumbent presidents to commit atrocities and other forms of illegalities and misuse of office that was no longer accountable to the citizens. Worse of is the situation that ethnicity, nepotism and unfair distribution of resources thrived. The colonial agendas of divide and rule were used by the same African leaders which showed a scenario of neo-colonialism in the post independent state. The question of distributive and redistributive policies took ethnic dimension determined by whoever is in power as the close associates were to come from the ethnic community of the presidency and if not then they must have supported fully the president into power (Murunga, 2004).

The parliament has been recognized by the constitution of Kenya as a supreme entity prior to the 2010 promulgated constitution. However, one would question the basis of the comparison to reach such a conclusion as the legislature hardly functioned as a check and balance to the executive (Ghai and McAuslan, 1970). Time would only tell that the parliamentarians would support the president to avoid undue consequences like murder or losing elections. Coercion was the tool of the day that manipulated the minds of Members of Parliament. History has seen Kenya wade in wars of skewed representation till the dawn of boundary reviews by the Independent Electoral and Boundaries Commission (IEBC) which recently reviewed these units through acceptable yardsticks. The past practice ensured the majority of these units favouring the CEO in power to keep majority to outdo the other Kenyans (Kenyan democratic model) even if majority means minority overally.

The governance issues continued to deteriorate immensely due to the continued repealing of the constitution. For instance the disciplinary committee that was later formed in the in the second regime to power in Kenya would summon members of parliament as they wished due to their talks in public that were against the ruling elite (Throup and Hornsby 1998). The willingness of the NARC government to improve on governance structures and ensure there was new constitution before the end of the first term to come 2007 was futile because of resistance. This shows how difficult it is to constitute change yet without consolidating influence from the ethnic level making governance to be imbalanced.

The Kenyan problems may not be fully addressed if ethnic lines and stances are maintained. There is need to borrow a leeway from advanced democracies like the United States of America where its doctrine is replicated in the constitutions. In the United States of America (U.S.A.) for example, the separation of powers is well maintained through the continued existence of a balance of power espoused through the president and Congress which are functionally independent and competent (*Montesquieu, 1949*). Political pundits hearing such a statement will quickly equate our issues to senate and parliament while diffusing the gist of this papers argument. More to say on the origins of the challenges of the Kenyan-state emanates from the question why many industries collapsed in certain regions with little attention from the government while some regions experienced new thriving sectors despite structural adjustment programmes. All hinge to the answer to the question; do we have Kenya in ‘form’ or just as an ‘idea and a concept’?

Recent political encounters in Kenya portray a continuation of deeper challenges we (Kenyan elites) are at a loss to hear and neither want other Kenyans to fathom. Gaitho (2016) while commenting on IEBC’s protracted replacement tussle using a football matches analogy clarifies thus; there are serious encounters of rivalries rooted in primordial ethnic, clan, religious, regional conflicts, and or historical struggles for local dominance.

The federal system has proved to work in Europe, Asia, Canada, and United States with different models thus can work in Africa too. The newly promulgated constitution of Kenya was seen to be a solution to governance problems. However, devolution and the sharing of powers between the national government and the regional governments, has not achieved even much desired economic federalism because of pull from status quo

personalities. There is need therefore to redesign the devolved system if possible to function as a unit of governance under regional states (the federal states).

Ethnonationalism identities in the Kenyan-state provide a need for alleviating future worse scenarios like secession to lesser demands as of federalism being realized much earlier. Though federalism as in Russia since its formation in the fall of communism has had challenges just like even Canada. But, a close analysis show nations within have a need to push on because of shared identities. Studlar (2006) pinpoints that Nigeria secession after independence in 1960 through the Biafra uprising of 1967-70 was suppressed, partly by subdividing the hitherto three federal states into 36 states plus one territory to empower the demands of smaller ethnic groups and later on easing oil sharing formula to the states.

When states fail because of their inability to harness use of resources available across board and due to petty differentiations, as opposed to major known constraints of state failure, the populace must rethink their destiny within and outside the borders. One tenet of national strength in international politics is nature of internal dynamics; hence sovereignty in a divided sovereign has no purpose or power to the skeleton (territoriality). Challenges to the Kenyan-state seem to share a bit of semblance to its colonial mother where England, Scotland, Wales, and Northern Ireland are under the Queen's regime with England dominating others in politico-economic front and demographic terms. In Kenya, as in UK, the marked disparities are minimal in among some of the populace are minimal comparatively.

III. Assessing the ethnic politics and governance patterns

The African politics and governance has been thought to suit the African political system characterized by one party system borrowed from the first independent heads of states. This has resulted in continuous conflicts emanating from the first generation of independent African leaders. These leaders have argued that Africa was best suited for single party systems of governance compared to multiparty politics thought to result in increased tribalism. Ethnicity cannot be ruled out in the political system and processes in Kenyan politics because it has been rooted into the people. It has become a part and parcel of citizenry in their electioneering process. This has played a central role in Kenyan politics as it does not need much reflection clearly manifested by patterns of political mobilization, resource allocation, and public service appointments (Kimenyi 1997).

The year 1991 witnessed multiparty politics that resulted in ethnically inclined politics taking the fore as opposition parties quickly splintered according to ethnic groupings (Muigai 1995). It led to the first multiparty election held in 1992 which took ethnic alignments which continued to manifest itself in subsequent elections (Oyugi 1997). This may not be the case to generalize Kenyan election processes as seen in the 2002 general elections when a broad coalition of ethnic groups supported Mwai Kibaki for presidency.

Elections need to act as avenues for political leaders being brought into power in order to foster developments. Other writers like Lichbach and Zuckerman 1997 points out to mass electoral behavior that is common in most democracies as being of relative importance to social identities or economic interests of the people. Advanced democracies have however preferred elections taking place in the form of a referendum on the economy whereby voters can reward or punish incumbent political parties at the ballot box based on their past policy performance (Geys 2006).

The interest-based economic voting has not been common in Kenya because of the ethnicization that has taken root course. However, it is commonly found in Latin America and other parts of the developing world (Remmer 1991). Voters in new democracies and deeply divided societies are held to rely on cultural attachments when deciding how to vote. Kenyan system of voting has however taken an angle of 'ethnic census' as coined by Horowitz which is used to describe elections in which racial, linguistic or tribal solidarities are used to predict voting behaviour that elections are little more than a head count of identity groups (Nugent 2001).

There is large fluidity of ethnic and regional cohesion that need to be addressed in Kenya. The various ethnic communities have assumed the power through associating the leader with their community. This is a question of history rather than a new alignment of politics. It has continued to widen the gap of ethno-regional lines. The centre of this however is the belief that political power provides the ethnic group of the President with exclusive advantages. This extends to the disparity witnessed in the access to political and socio-economic resources. The historical analysis indicates that the region that controls political power in Kenya does control the direction and magnitude of economic and political resources of the state. The intra-regional variations that result from the kind of governance that emerge have sustained deep seated grievances and the results are not friendly as was the case in 2007-2008 crisis. The results therefore are socio-economic and political differentiations based on socio-cultural identities such as ethnicity, religion or race also known as horizontal inequalities (Stewart, 2000; 2002).

Horizontal inequalities have generally been taken to mean the socio-economic and political differentiations which are based on socio-cultural identities like ethnicity, religion or race (Stewart 2000). The vertical inequalities are viewed as variations affecting individuals that measure individual differentiations in income. Group affiliations in most cases determine socio-political and economic benefits from the state.

Lasswell (1934) pointed out that politics is concerned with *who gets what, when and how*. This can imply that politics and governance hardly work in isolation. Sometimes Politics is also understood to be concerned about authoritative allocation of values in any social system. Kenyan citizens appreciate the existence of multi-ethnic groups. However, there is hysteria of fearing other communities or they do not hail co-nationals from different ethnic groups that is not their own. The Kenyan politics and governance has taken root in the ethnic angles much attested to the belief that the citizens are likely to organize themselves in political alignments characterized by exclusive ethnicity and governance that takes discriminatory perspective.

The interpersonal trust has diminished greatly due to social distance that has become a common feature among Kenyans to prove Prof. Ogot's assertion about the "Kenya project". The various ethnic groups in Kenya have different view of the wider world. Resources are not equitably distributed and disadvantage regions which define particular nationalities when governance issues take ethnic lines. The public participation as known requires people being at the centre of decision-making processes. This would mean that democracy is at practice by allowing the 'rule by the people' which is one core principle of democracy.

Several countries have tried to enhance their democratic processes through open markets and numerous reforms deemed necessary in the realm of governance. Reformers have worked hard to transform the governance institutions. However, it has become difficult because of the influence from the ruling regime. The ethnically inclined politics impact negatively on the efforts to reconfiguring the public institutions and strive to build systems that are responsive as well as accountable to citizens, and that effectively support economic investment and growth. However, the reform efforts have concentrated on formal institutions, rules and procedures. The failure to have good and transparent governance institutions have created loophole as compared to well-constructed institutions that channel people towards equitable and above-board behaviour. This explains why the laws in most cases especially in developing countries are in conflict with the citizens which explain continuous conflicts.

O'Donnell (1996) points out to the "formal rules about how political and administrative institutions are supposed to work." The informal systems of clientelism and patrimonialism on the lines of ruling ethnic lines have become key contributors to stifling popular participation, subverting the rule of law, fostering corruption, distorting the delivery of public services, discouraging investment, and undermining economic progress. Ethnicity in Kenya is deeply entrenched taking different forms depending on their context making clientelistic networks to thrive and further the spoils.

The political system embraced in Kenya has taken a dimension driven by self satisfaction followed by ethno-national bonding. Kettering observes;

This has led to a more complex chain of personal bonds manifested through political patrons or bosses closely linked to their individual clients or followers. All these are guided by mutual material advantage. For instance, the patron furnishes excludable resources like money and jobs to dependents and accomplices in return for their support and cooperation through votes and attendance at rallies. The patron being the leader has disproportionate power hence they enjoy wide latitude more so on how to distribute the assets under their control. Kenya is not an exception to this as the leaders are surrounded by people who are within a larger grid of contacts and they serve as middlemen who plan and organize exchanges between the local level and the national center (Kettering 1988).

This means that most of the decisions are influenced by certain individuals who in most cases will be from the community of the leader. This explains the constantly changing politics of a state that do witness conflicts emanating as a result.

The continued ethnic divisions should be addressed sooner than later. It is well known that the quest to do this is like climbing a steep hill or moving a roller to the peak where it falls before getting to the peak because of the heightened ethnocentrism. The policy makers end up in dilemma situations whereby none is sure on the appropriate public policy to undertake to successfully address ethnic divisions. One possible institutional reform according to Alesina et al (2000) is promoting power-sharing across ethnic groups either within governments or other organizations.

Accommodating such a system would give room to ethnic minorities to having some minimum influence over policy. This can include veto power over certain policies. In our thinking, the challenge that may emanate from this is whether it shall all be accepted with little or no resistance basing on the ethnic politics and its polarization. Powers sharing as a tool of uniting communities in practice and on how it overcomes the underlying causes of negative ethnic diversity again in Kenya tend to be divisive in similar lines. The rigid power-sharing rules can immediately take ethnic classifications due to the existing ethnic divisions that may hinder the development of new social identities and multi-ethnic political coalitions which can cut across pre-existing divisions hence widening polarization rather than uniting.

Dialogue is one diplomatic tool that has proven worth in conflict resolution. This can be used in multi-ethnic communities like Kenya but when power is in favour of other nation's at times there is no need to use it,

‘wait for your turn’ to occupy the seat, in other words it is a distraction to power holders, a great pointer to why federalism. .

IV. Conclusions and Recommendations

Historically it is true that Kenyans have interacted, lived, and loved each other except in matters of nationalism extended to leadership and focus of resource use and benefits. Manley (1990), a society is best able to organize justice for itself when it is consciously organized on the basis that everyone should have access to the decision-making process. In the process of segregations and exclusions, nationalism often re-evaluates itself within their boundaries, a process to ensure progress, evolution, civilization, and avoiding permanent primal chaos. Garvey (1990), suggest that in this process, chance has never yet satisfied the hope of a suffering people except; action, vision of self on the future has always been the ultimate means by which the oppressed have realized their freedom.

From the foregoing discussions, this paper notes that there is a missed element in development which can be brought out by different languages of nations in a country. Languages have been very useful in states where realization of nationalism did not stigmatize their use negatively. Africa’s major nations such as Buganda and the likes have never stopped to express this in the 21st century. This consciousness is made more pronounced by the undoings of existing socio-eco-political conditions prevailing in African state.

Shah (2016) critically evaluates why language is important and intimates, the desire of communication was the main cause of language making. Nowhere has the old proverb “Necessity is the mother of invention” received a better illustration than in the history of language; it was to satisfy the wants of daily life that the faculty of speech was first exercised. Charles Winick has defined language as “a system of arbitrary vocal symbols, used to express communicable thoughts and feelings and enabling the members of a social group or speech community to interact and to co-operate.” It is the medium of oral expression. As Professor Whitney has observed, it is as much an institution as a body of unwritten laws, and like these it has been called forth by the needs of developing society. Language making is a mere incident of social life and of cultural growth.

On its exposition about what language is, *Fragile States* (2012), an assertion is made that it is one of the most neglected areas in the development field that barely registers on any agenda to help poor countries despite its importance to a number of crucial areas and it being a barrier to progress in many fragile states. Why is this? Language is how individuals communicate, acquire knowledge, and work with others. It is how societies pass on culture and institutions, import new ideas and technology, and forge links among members. It can unite as well as divide, act as an instrument of empowerment as well as a barrier to advancement, and influence how societies evolve. In the least developed countries, language policy should have two basic aims; to acquire knowledge so as to increase education levels and productivity, and to increase its ability to cooperate to promote national development.

In Ekeh’s words (Ekeh, 1975), the Japanese do not strive to speak English or French as well as an Englishman and an American or as a Frenchman. They see themselves as different from them. The African bourgeois, born out of the colonial experience, is very uncomfortable with the idea of being different from his former colonizers in matters regarding education, administration, or technology. One suspects that he is unconsciously afraid that he may not be qualified to be an effective replacer of the former colonizers.

Again as in *Fixing Fragile States* (Fragile States, 2012): Instead of forcing whole populations to learn foreign languages, much greater effort should be made to translate world knowledge into major indigenous tongues such as Arabic, Hausa, and Punjabi. . . . Certainly, no society that has successfully developed has depended as heavily on foreign resources, foreign political models, foreign languages, and foreign laws as fragile states typically do today. By using an official European language as the basis of education and government, they entrench elites in power, and reduce the ability of the general population to acquire knowledge. Half a century after colonialism ended in Africa, for instance, English, French, and Portuguese still matter much more than African languages in most countries even though they are not well spoken by the rural population and urban underclass, which consists of the majority of people. The disadvantages the poor face directly contribute to the stark inequities and social divisions that plague such countries.

For African multinational states where the ‘Kenya- state’ is it is emphatic that language is important as it allows communities to interact and to co-operate for empowerment and advancement and for further evolution of societies. Lack of appreciation of languages has made Africa to lose the wisdom of its many people, old and young simply because they never knew the colonially adopted languages that prevail today hence their contributions have wasted for the past half a century. Two instances are appreciable on this line of argument; Ngugi wa Thiongo’s efforts to translate his literary works into Kikuyu dialect and the recent scripting of ekegusii dictionary is a plus to recognition of long forgotten nationalism for development of a people. These paltry efforts need support and moved to higher stages of development. We herald a Swahili saying “muacha mila ni mtumwa” (he who cuts off from tradition is an alien) yet in context we don’t uphold it. The Baganda in

Uganda have tried to commodify their language their language for development such that it is even taught in schools and colleges even though because of corporate states (corporate nationalism) it has no impact to them.

European countries through their long history of many challenges were able to come to the realization of European nationalism in their formative years. This led Frenchmen, Germans, Portuguese, Spanish, Belgium etc. to form themselves into states. In a way it helped them also use language positively as a means of civilization and development unlike African nations which find themselves in a clash of civilizations. Cultures in multinational states are in reality expressing in clear terms that there is a feeling of renaissance. This requires a system of governance that accommodates or else secessions at worst. African nationalism might be reawakened in the 21st C.

The desire for federation in Kenya must not be misdirected to the masses as it was in the 1990s and earlier by implying it will mean people virtually migrating back to their homes of origins. Kenyans will remain being Kenyans despite federation. This paper underscores; *first*, that there is need for political semi-autonomy of federated states with power to chart unique destiny. This is different from devolution. *Second*, these states can have dominant languages used as a means of communication in addition to English and Kiswahili. *Third*, charting of own economic plans to suit the available resources to promote employment and local infrastructure. *Four*, the federated states can chart their most suited systems of representations at their level. *Five*, each state may find what kind of education system is good for its subjects and in addition the court systems may also take the forms prescribed by the regional states. *Finally*, the federal states here should now determine how they support the Federal republic.

The current system and others before have denied Kenyans from self expression as unique nationalists yet in practice it is used as a gangsterism mechanism to guard state benefits against each other. The trends employments are taking in counties despite provisions of the constitution being very clear may not be reversed. Issues to do with settlement and business by individuals and non-Kenyans in a federal state outside your origin are areas that can be discussed under resident and non-resident laws.

The “Kenya State” is an idea and concept only existing in the minds, true to what Prof Ogot hinted decades before that the “Kenyan Project” was dead. “Kenyan-State” nationalism which should have heralded patriotism has continued to fail as Ndii pointed out earlier. Because of scholarly assertions including Ogot’s and Ndii’s observations, a decentralist model of federalism can work. In this case, Kenya may think of states as Coast, Lower Eastern, North Eastern, Central, Upper Eastern, Lower Rift, Upper Rift, Western and Nyanza States. What is Nairobi to our thinking is a derivative of other states but can as well remain independently as a state. In redefining itself, Kenya as it is has an option to remain a unitary state or opt for a federal state. Failures in African system of governance to date should no longer be eurocentrically advance but afrocentrically engineered.

Reference

- [1]. Alesina, Alberto, and Eliana, Laferrara. (2000) “Participation in Heterogeneous Communities,” *Quarterly Journal of Economics*, 115(3), 847-904.
- [2]. Babalola, Dele (2013). “The Origins of Nigerian Federalism: The Rikerian Theory and Beyond” *Federal Governance*. Vol. 8, no. 3, pp. 43-54.
- [3]. Bayart, J. F. (1993). *The state in Africa: The politics of the belly*. London: Longman
- [4]. Bratton, M. (1989). Beyond the State: Civil society and associational life in Africa. *World Politics*, 41(3), 407-430.
- [5]. Burgess, M. (1999). ‘Obstinate or Obsolete? The State of the Canadian. Federation’, *Regional & Federal Studies*, Vol. 9, No. 2, 1-15.
- [6]. Chweya, L. (2010). Corruption and the limits of bureaucratic rationality. In: J. Kivuva and M. Odhiambo (eds.) *Integrity in Kenya’s Public Service: Illustrations from Goldenberg and Anglo-Leasing scandals*. Nairobi: Claripress.
- [7]. Clapham, C. (1985). *Private patronage and public power: Political clientelism in the modern state*. London: Frances Printer Publishers.
- [8]. Ekeh, Dr. Peter P. (1975). “Colonialism and the Two Publics in Africa”. University of Buffalo.
- [9]. Fragile States (2012). Language Policy and Development: Lost in Translation. www.fragilestates.org 19/04/2016.
- [10]. Gaiho, Macharia (2016). Election Referee: Jubilee and Cord Should Give us a Credible Replacement for IEBC. *Daily Nation*, April 26th.
- [11]. Garvey, Marcus (1990), in Michael Manley, *The Politics of Change: A Jamaican Testament* (New Ed.), Howard Univ. Press, Washington, D.C.
- [12]. Geys, B. (2006). Explaining Voter Turnout: A Review of Aggregate-Level Research,” *Electoral Studies* 25. 4, 637-663.
- [13]. Ghai, Y. P. and J. P. McAuslan, (1970). *Public law and political change in Kenya*. Nairobi: Oxford University Press.
- [14]. Grundgesetz (GG).
- [15]. Hill, C. and Smith, M. (2005). *International Relations and the European Union*. Oxford University Press: Oxford.
- [16]. Hyden, G. (1983). *No shortcuts to progress: Development management in perspective*. Berkley: University of California Press.
- [17]. Jackson, R. and C. Rosberg (1982). Why Africa’s weak states persist: The empirical and juridical in statehood. *World Politics*, 35, 1-24.
- [18]. Juma, T. O., Sitienei, S. K., and Serem, N. (2016). In Search of African Leadership Destiny: Revolutions, Elections, or Dialogue? *International Journal of Recent Advances in Multidisciplinary Research*, Vol.3, Issue 2, pp. 1214-1220.
- [19]. Kagwanja, Peter and Mutunga, Willy (2001). Is Majimbo Federalism? *Constitutional Debate in a Tribal Shark-Tank*. *The Nation*, 20th May, Nairobi.

- [20]. Kettering, Sharon (1988). The Historical Development of Political Clientelism. *Journal of Interdisciplinary History* 18(3): 419-447.
- [21]. Kimenyi, Mwangi S. (1997). *Ethnic Diversity, Liberty and the State: The African Dilemma*, Cheltenham, Eng: Edward Elgar.
- [22]. Kumar, Dr. Chanchal (2014). Federalism in India: A Critical Appraisal. *Journal of Business Management & Social Sciences Research (JBM&SSR)*, ISSN No: 2319-5614. Volume 3, No.9.
- [23]. Lasswell, D. Harold, (1936). *Politics: Who Gets What, When, How?* New York, Whittesey.
- [24]. Manley, Michael (1990). *The Politics of Change: A Jamaican Testament* (New Ed.). Howard Univ. Press, Washington, D.C.
- [25]. Migdal, J. (1988). *Strong societies and weak States: State-society relations and state capabilities in the Third World*. Princeton: Princeton University Press.
- [26]. Montesquieu, (1949). *The Spirit of the Law, Thomas Niget with an Introduction by Franz Neuman Hinton Press Trans.* New York: Hatner.
- [27]. Muigai, Githu (1995). Ethnicity and the Renewal of Competitive Politics in Kenya,” in Harvey Glickman, ed. *Ethnic Conflict and Democratization*. Atlanta, GA: The African Studies Association Press, 1995, 161-96.
- [28]. Ndii, David (1998). Kenya: Is Majimboism the Panacea? www.allafrica.com 17/04/2016.
- [29]. Ndii, David (2016). Is South Sudan, like Kenya, a Cruel Marriage Too and Should Be Dissolved?. www.ndii@netsolafrica.com 17/04/2016.
- [30]. Nugent, Paul. "Ethnicity as an Explanatory Factor in the Ghana 2000 Elections". *African Issues*, 29, No. 1/2 (2001): 2-7.
- [31]. Nyerere, J. (1974). From Uhuru to Ujamaa. *Africa Today*, 21 (3), 3-8.
- [32]. O'Donnell, Guillermo (1996). Illusions about Consolidation. *Journal of Democracy* 7(2): 34-51.
- [33]. Odhiambo-Mbai, C. (2003). The rise and fall of the autocratic state in Kenya. In: W. Oyugi et al. (eds.), *the politics of transition in Kenya: From KANU to NARC*. Nairobi: Heinrich Boll Foundation.
- [34]. Oyugi, W. (1994). The uneasy alliance: Party, state relations in Kenya. In: Oyugi (ed.) *Politics and administration in East Africa*. Nairobi: East African Educational Publishers.
- [35]. Oyugi, W. 2000. Politicized Ethnic Conflict in Kenya: A Periodic Phenomenon. Addis Ababa (Processed).
- [36]. Polten, Eric P. and Glezl, Peter (2014). *Federalism in Canada and Germany: Overview and Comparison*. Toronto Ontario. Polten and Associates.
- [37]. Remmer, Karen, (1991). The Political Impact of Economic Crisis in Latin America in the 1980s. *American Political Science Review*, 85 (1991): 777-800.
- [38]. Rosamond, B. (2000). *Theories of European Integration*. Palgrave Macmillan: Hampshire.
- [39]. Sailus, Christopher (2016), Federalism System of Government in Europe, www.study.com/academy 17/04/2016.
- [40]. Sandbrook, R (1980). *The politics of basic needs: Urban aspect of assaulting poverty in Africa*. London: Heinemann.
- [41]. Shah, Shelly (2016). Language and its Importance to Society. www.sociologydiscussion.com 20/04/2016.
- [42]. Stewart, F. (2000). Crisis Prevention: Tackling Horizontal Inequalities. *Oxford Development Studies*, 28, 3:245-262.
- [43]. Studlar, Donley T. (2006). *Understanding Federalism and Devolution*. West Virginia University.
- [44]. Wallis, M (1994). Central-local Relations. In: Oyugi W (ed.) *Politics and administration in East Africa*. Nairobi: East African Educational Publishers.
- [45]. Waweru, Major John F. (1988). *The Bitter Struggle To Independence*. www.globalsecurity.org/military, 17/04/2016.
- [46]. Weber, M. (1978). *Economy and society*. Berkeley: University of California Press.
- [47]. Wheare, K. C. (1963). *Federal Government*. 4th ed., London: Oxford University Press.
- [48]. Wiener, A. And Diez, T. (2004). *European Integration Theory*. Oxford University Press: Oxford.
- [49]. Wiener, A. And Diez, T. (2005). Constructing the Self and Changing Others: Reconsidering Normative Power Europe'. *Millennium-Journal of International Studies* 33 (3), 613-636.