

REVIEW

Kenya's Quest for Democracy: Taming the Leviathan

M Mutua

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The book focuses on Kenya's journey towards achieving democratic ideals. These entail politics anchored in the ethos of accountability, adherence to the rule of law and the right of citizens to participate in periodic credible elections. The scope of the book extends from the colonial period to the 2007-2008 post-election violence triggered by the controversial declaration of Mwai Kibaki's reelection. Though the book covers African politics in general, Kenya provides the lens through which these issues are discussed.

In chapter one, which constitutes the introduction, Mutua argues cogently that constitutional reform is the sine quo non of reform, not only in Kenya but in many other African countries as well. In his words, 'the redemption of the post-colonial African state must start with the writing of a broadly legitimate national charter that creates a new compact between the state and its citizens' (p 2). He recounts some of the measures the Kibaki administration put in place in an attempt to clean up the body politic upon Kibaki succeeding Daniel arap Moi in 2002. However, he faults Kibaki's commitment to reform. Mutua criticises Kibaki for equating reformation of the state with forming numerous commissions, ostensibly to unearth improprieties under Moi's rule. He asserts that the fact that the Kibaki government was not genuine in its quest for reform resulted in the reform momentum fizzling out after he ensconced himself in power. Mutua bemoans the paucity of visionary leadership in most African countries. So grave is this leadership deficit, he believes, it is the single biggest threat to Africa's attempts to achieve prosperity, since, 'although many a society has failed with a visionary elite, not a single nation has ever prospered without one since the beginning of recorded history' (p 3).

Throughout the book the author places the burden of leading the state reformation process in Kenya on the shoulders of civil society. I do not, however, entirely agree with this opinion. Perhaps Mutua cannot resist the bias because he has close associations with this sector through the Kenya Human Rights Commission (KHRC).

In the wake of the 2002 general elections there was some kind of haemorrhage as most key figures in civil society took up positions in government. The alacrity with which they joined the political class that has so catastrophically betrayed Kenyans was astonishing. Civil society in Kenya has demonstrated that it is not immune to the ethnic factionalism and self-aggrandisement that have such an

overwhelming influence on the country's politics. Notably Mutua cautions against a failure to seize the opportunity presented by the post-election violence in 2007-08 to reform the state. He analyses Kenya's socioeconomic and political malaise along a continuum beginning with the Jomo Kenyatta state in 1963, concluding that some of the excesses of the Kibaki presidency have their genesis in the immediate post-independence state that Kenyatta designed.

Chapter Two takes a bird's eye view of Africa's politics. According to Mutua the common denominator in Africa's upheavals in the post-colonial period is a struggle over the nature of the state. In most African countries various competing interests disagree about the way in which state power is organised, shared, and exercised. The author locates the pivot of the contest in the constitution. Unambiguously he asserts that, 'the crisis of the African state is an inability to create viable, legitimate, and democratic societies' (p11). The chapter engages with the theoretical postulations of different scholars on the issue of democracy.

Mutua believes African countries must strive to become constitutional states because such states are based on the concept of popular sovereignty. Moreover, in constitutional states the constitution provides for the state to be accountable to the people through a range of devices and techniques, the most critical of which is open, periodic, multiparty elections (p 110). However, the author fails to mention African countries such as Mauritius and Botswana, which have tried to institutionalise governance, thus demonstrating that poor governance in Africa is an aberration, not the norm.

Mutua spends considerable time on the politics of ethnicity and how it impedes the realisation of a civic culture in Kenya. He argues that the politicisation of ethnicity, through which Kenyan politicians tended to mobilise support, was responsible for Kenya's stalled constitutional reform process. As a result of ethnicity the state reformation process was so bogged down in ethnic polarisation that politicians were more preoccupied with how the Constitution would help them further their political careers than about negotiating a set of rules and principles that would serve the country.

Mutua cites Tanzania to illustrate that there is nothing inevitable about ethnic politics. However, success in creating a nation state out of disparate ethnic communities requires the type of visionary and committed leadership embodied by Mwalimu Julius Nyerere, the first president of Tanzania. Mutua's analysis portrays ethnicity as an entirely repugnant phenomenon. He is oblivious to the fact that ethnicity can be used as a rallying point for grievance articulation by an ethnic group that genuinely feels excluded from mainstream politics. In this context, ethnicity can be used to pursue democratic ideals such as holding a government to account.

The chapter recognises the importance of religion to Kenya's democratisation process. Certain religious organisations played an instrumental role in the fight against one-party dictatorship in Kenya, especially under Moi. However, some denominations supported one-party rule despite its excesses. But the intersection between religion and politics can be a tricky one, as evidenced during the constitutional conference in early 2002, where religion became a source of tension and animosity among the delegates. Among the contentious issues was the extent to which the Muslim *kadhi* courts should be enshrined in the Constitution. Mutua cautions that religion should not be mixed with politics because of its tendency to be conservative in relation to issues such as gender. Moreover, if religion is allowed to have free rein in politics, it could easily precipitate fundamentalism.

Overall, Mutua is optimistic about Africa's journey towards reform. However, he identifies the twin problems of illegitimacy of the African state and resistance to reform, which manifest themselves through repression, a disdain for civil society, the inability to perform the function of statehood and its proclivity for corruption as the most intractable and enduring of challenges to the reformation of the state.

Recognising the link between Africa and global politics the author argues that Africa's place in the international legal, political, and economic order is in need of revision.

Chapter three opens on a pessimistic note with the author judging the modern African state as an abysmal failure. He finds it hard to square the history of pain and suffering Africa has gone through with the mirth the continent invariably exudes. Dramatically, Mutua writes (p 33): 'Watching the plight of the continent, one cannot help but ask: Are Africans forever condemned by history, or is there hope? Once a part of the ubiquitous Third World, Africans now live in a lower substratum of that world, or even worse. Today they are segregated in something akin to Fourth World. Whatever the case, contemporary Africa is the forgotten continent, a sad and pathetic afterthought to most of the world.'

The author evokes an image of Africa as a desolate space left to its own devices. He conceives Africa not as part of the rest of the world but as an addendum, an appendage to the global community. Mutua identifies three epochs in Africa's history as being at the centre of the continent's pathologies: slavery, both European and Arabic, colonial conquest and the post-colonial African state. In his assessment colonialism has created the worst trauma on the continent, obliterating Africa's political institutions, borders, and culture.

So destructive was colonialism that it left in its wake what Mutua evocatively refers to as 'a phenomenon of self denial, an attempt to produce dark skinned Europeans, in essence dumb copies of the original' (p 34). In this context he

portrays Africa as an ontological crisis that only excels in mimicry. Because of the colonial legacy Africa comes across as devoid of innovation and creativity. However, the author draws our attention to the fact that it was not so much colonialism *per se* that dislocated the continent as the violence and depth of the colonial enterprise. Of all former colonies in the world, Africa was exceptional in this regard.

The chapter shows that it has proven difficult to get rid of the tag of illegitimacy that hangs over the post-colonial African state because the citizens see it as a predator not a nurturer. The depression that pervades this chapter is tempered by Mwalimu Nyerere's exceptionalism. Nyerere showed that it is possible to inculcate into the citizenry a sense of nationhood through the invocation of certain ideals and norms that guide a people's lives. However, the caveat is that for nation-building efforts to bear fruit those ideals and norms must find expression in the lives of the leadership.

One of the poignant points made in the chapter is that in order to stave off the ontological crisis facing the post-colonial state there is need to indigenise the norms and values governing it, as opposed to those based on the European experience. The author avers that the African state has abdicated its responsibilities by its inability to protect its citizens and give economic meaning to their lives. The consequence of this dereliction of duty is a disillusioned and deeply cynical people across the continent.

Under the sub-heading 'Taming the Leviathan', Mutua attributes the crisis of the African state to its artificiality. The invention of the African state by colonialism, and the subsequent misapplication of the right to self-determination constitute a double whammy facing the continent. Coupled with other aggravating factors, the multinational character of the state is, in Mutua's words, 'its deforming Achilles' heel' (p 40).

The imposition of the one-party state in most African countries a few years into independence was intended to mitigate flaws characteristic of the African state. Mutua dismisses the one-party state, arguing that instead of fostering national unity, as its proponents argued it would, it failed catastrophically, so much so that in most cases it was 'a demented bandit, looter, and terrorist' (p 40). Tanzania is an exception.

The chapter engages with the question of devolution of governance structures through federalism, which a number of African countries experimented with as an antidote to the challenges of the post-colonial state. In Kenya an ethnic alliance advocated federalism for fear of being excluded from political leadership. The white minority settler class and sections of the Luhya, Kalenjin and several other ethnic groups feared the Kikuyu-Luo-Kamba alliance would deny them their share of the spoils of independence.

The federalist experiment in Kenya came a cropper because the alliance substantially 'owned' the new post-colonial state, was numerically superior, and boasted the most prominent anti-colonial nationalist leaders. Though the experiment failed the federalist aspirations have never been extinguished.

Mutua attributes the failure of the constitution-writing project partly to these aspirations, pointing out that the federalist question was one of the most emotive issues at the National Constitutional Conference in 2003. Mutua contends that the problem of the 'ownership' of the Kenyan state remains one of the banes of its existence. In the 2003 constitutional talks 'devolution' replaced 'federalism' as the term of choice for the conflict between the centre and the regions, but despite the change in words emotions reached fever pitch because opponents of federalism viewed devolution as a camouflage for ethnic separatism.

The author takes a comparative approach to the federalist debate to show how controversial this form of governance was in countries where it has been tried – Uganda, Congo (formerly Zaire), Ethiopia, the Cameroons, and Nigeria. In all these cases the experiment either failed early on or created tensions among various ethnic groups within the state. Ethnicity partly accounted for the challenges federalism encountered on the continent.

Mutua asserts that because of the youth of the post-colonial state, the fragility of most economies, and the scarcity of other loci of power, elites treated the capture of power as a life-and-death matter. I am not sure how the author defines 'youth' in this context. Most African countries have been independent since the early 1960s (Ghana since 1957). How long does it take for an African nation to get it 'right'? The federalist contest tended to be bifurcated, as the Kenyan case demonstrated. Those in power, usually drawn largely from one ethnic group or coalition of groups, saw federalism as an attempt to weaken their grip on power, while those on the outside, vying for power, saw it as an equaliser, a tool to prevent domination and retain autonomy over their affairs.

The chapter concludes with an indictment of the post-colonial elite in Kenya for abandoning the liberal Constitution left by the colonialists. However the author observes that the Constitution was not 'homegrown', which is why some of the politicians of the time could not identify with it. Disregard for the Constitution under one-party rule in Kenya was seriously challenged during the immediate post-Cold War period, when there was a renewed clamour for liberal constitutions, which were seen as a solution to dictatorships and other excesses of the post-colonial state.

The author analyses some of the political changes in African countries since the beginning of the 1990s within the ambit of global politics. Since the end of the bipolar world a new global consensus has put political democracy at the centre of a cultural, social, and economic renaissance. Indispensable to this renewal is the

reconstruction of the state into a liberal-democratic, pluralistic, market-oriented, open society, all of which hinge on the existence of a constitution. The chapter engages with various constitutional devices that could be used to address the challenges of the post-colonial African state and places the constitution at the centre of Africa's reconstruction.

Chapter four traces the history of the Kenyan state since the arrival of missionaries and colonialists. It covers the struggle against colonialism and focuses particularly on the political parties formed at the time. Mutua portrays Mau Mau as the foremost liberation movement in Kenya. He engages with the debate over whether Mau Mau was a liberation movement or an atavistic ethnic organisation. Taking a balanced approach Mutua observes that there was a class cleavage in the Mau Mau liberation movement which still has a bearing on Kenya's politics and concludes that Mau Mau was both a war of liberation and a civil war among the Kikuyu, pitting the educated and propertied against the landless.

The chapter attributes the perennial land conflict in most parts of Kenya to colonial dispossession and the failure of the Kenyatta government to redress the conflict by means of a land-reform policy. The author observes that 'Mungiki', a rag tag army of unemployed youth with violent inclinations, predominantly from the Kikuyu community, is an offshoot of the failure of the government to address colonial era class schisms. He is sceptical about whether the Kenyan state can gain substantial legitimacy as long as the volatile problem of land and atrocities and distortions of the colonial era are left unattended.

Mutua contrasts the rubric of the Constitution and the naked repression that characterised the colonial state. This contradiction is Kenya's enduring trademark in the sense that even multiparty general elections held every five years since 1992 have failed to rid the polity of the canker of illiberalism, corruption, and human rights violations.

The chapter shows that the constitutional review process in Kenya dates back to the period soon after independence. Although the independence Constitution had checks and balances, the Kenyatta government amended it liberally. The net effect was a dictatorship resulting from the centralisation of power in the presidency.

Mutua contends that the belief that an apparently well-drafted Constitution would work was a pipedream. Firstly, he argues that there was no way a well-meaning constitution could be superimposed on a state that was oppressive, alien, and illegitimate. Secondly, the Constitution lacked contextual authenticity, since it was not home grown, having been prepared by Britons in the presence of few of Kenya's first-generation politicians.

Mutua blames the failure to institutionalise efficient governance in Kenya on the irresistible urge for self-preservation within the political elite. This class

breached the sanctity of the Constitution with abandon throughout the post-independence period. The author points out that it was political convenience and survival that were the forces behind constitutional development and evolution in Kenya, rather than the challenges of a particular epoch.

The author casts aspersions on Kenyatta's liberation credentials, claiming that he warmed up to the colonialists just before independence and compromised on the land question, which was the impetus for the liberation struggle. The chapter also covers the ideological differences between Kenyatta and Oginga Odinga, the doyen of opposition politics in Kenya. Succinctly, Mutua accounts for the dishevelled post-colonial Kenyan state by blaming Kenyatta's authoritarianism, which transformed him from a liberation figure (in folklore though not fact) to a 'Big Man' in African politics who created 'a rubber stamp parliament stifled dissent and constructed a near monarchical personality cult' (pp 62-3).

The chapter indicates that Daniel arap Moi, who succeeded Kenyatta in 1978 following the latter's death, continued to muzzle alternative political views. He banned multipartyism and made the Kenya Africa National Union (Kanu), the ruling party, the centre of power. With the end of the Cold War domestic and international forces compelled Moi to accede to calls for a multiparty democracy.

In chapter five Mutua further bemoans the lack of tolerance of debate in Kenya, whose basis is the authoritarian colonial state. He asserts that in Kenya's history 'ruling elites have defined the state's interests so restrictively that quite often they even mistook their friends for foes' (p 75). Both Kenyatta and Moi used state apparatus to harass and detain both real and perceived opponents. Both rules were characterised by political assassinations, testimony to attempts to annihilate dissent.

Mutua blames Moi for frustrating constitutional reforms to such an extent that he proved to be the greatest obstacle to constitutional, legal, political and economic reform during his tenure. The use of ethnicity as a criterion for the occupation of key positions in government began during the Kenyatta state and continued throughout the Moi state. So pervasive was this neo-patrimonial brand of politics that opposition to Moi was equally informed by ethnicity. Government wished to defend the state; the opposition to capture it, but neither felt the need to effect institutional reforms. He avers that since Moi was associated with many malpractices opposition to his government came cheap: distaste for Moi and Kanu and loose and vacuous rhetoric supportive of democracy, the rule of law, and human rights were sufficient to identify opposition leaders as reformists.

The chapter brings out the recrudescence of ethnicity in Kenya's politics, as demonstrated by the crumbling of the once formidable opposition party the Forum for the Restoration of Democracy (FORD) in the run up to the 1992 multiparty

elections. The author observes that although the party imploded because of personal and generational differences most analysts attributed the inability of the opposition to dislodge Moi to ethnic factionalism. Implicitly, Mutua doubts whether FORD would have governed any better had it won the elections. Although the party presented itself as an alternative to Kanu, the author argues that it had no social vision which could address the class character of the state. Against this backdrop it was highly unlikely that it would have fared any better than Kanu.

In this chapter Mutua analyses once again the role of civil society in democratisation in Kenya, mentioning several civil society organisations that played a significant role in bringing about political change. He believes these organisations must surmount inherent challenges in order to offer credible leadership. The chapter covers the half-hearted reforms Moi used to hoodwink the opposition into thinking he was committed to reform. Significantly, the chapter mentions the use of state sanctioned ethnic violence against communities sympathetic to the opposition in the early 1990s. The Rift Valley, Moi's home province, was the epicentre of the violence. Mutua delineates opposition struggles against the Moi regime since the 1992 general elections and the infighting within their ranks until they eventually succeeded in forming an alliance of convenience, the National Rainbow Coalition (NARC), which routed Kanu in 2002.

In chapter six Mutua argues that institutional and constitutional reforms are a prerequisite to the rebirth of governance. He shows that after Kenya's return to political pluralism a cross-section of Kenyans believed the opposition would easily bundle Kanu out of power since the party was synonymous with dictatorship. But through deft and ruthless use of the extensive apparatuses and resources of the state Moi soon recovered the initiative and won two consecutive presidential elections, in 1992 and 1997. The author shows that since Moi dictated both the pace and the content of the reforms until he left office in 2002 it was hard for the few reformists to effect any meaningful changes.

The chapter places constitutional reform at the centre of the country's transition from authoritarianism to a democratic dispensation. However, like the governing party a section of the opposition had an insular and self-serving interest in the reform agenda that resulted in the stillborn constitutional reforms. The author observes that the opposition which fought against a single-party monolith consisted of two groups whose visions for the country were at odds with each other. Whereas one advocated the legalisation of the opposition and the institutionalisation of minimum legal and constitutional reforms to level the playing field, with the ultimate aim of capturing state power, the other called for constitutional overhaul of the state and a basic reformulation of the purpose of political society.

The first opposition grouping was not enthusiastic about comprehensive reforms, it hungered for raw political power. Thus the onus of leading state reform fell on the shoulders of civil society, notably bodies such as the KHRC and the Release Political Prisoners (RPP) organisation. It was ironic that even donors who had pressurised Moi to accept reforms prior to 1992 abandoned their interest in reform and focused on the elections. Mutua opines that the opposition was blinded by a false sense of hope that they would beat Moi and inherit the state, with all its awesome powers intact. Divided along ethno-regional lines they lost the 1992 general elections.

The Citizen Coalition for Constitutional Change, better known as the 4Cs and later the National Convention Executive Council (NCEC), are the other civil society organisations the author credits with spearheading the search for a new constitution. It was a process characterised by mass action and violence as civil society engaged with a recalcitrant regime determined to hold onto power at whatever cost.

The chapter underscores Moi's political acumen, especially after the 1992 general elections. In the run-up to the 1997 elections he realised that the clamour for reform threatened his hold on power. He astutely took back the reform initiative through the Inter-Parties Parliamentary Group (IPPG) talks, a conclave of Kanu and the parliamentary opposition. The move stole the thunder from the reform movement as most opposition members of Parliament abandoned the call for comprehensive constitutional reforms and acceded to minimum reforms which had no constitutional backing and were thus dependent for their implementation on Moi's goodwill.

In this chapter Mutua exposes the hypocrisy and lack of conviction of most politicians in Kenya. Instead of agitating for comprehensive reform the opposition was content to participate in elections organised under a constitutionally flawed system. The chapter details the treacherous road of the review process and the numerous hurdles and false starts it encountered, largely because of the opposition's hunger for power, which invariably rendered it susceptible to Moi's skullduggery.

Some of opposition figures who appeared committed to reform were half-hearted in their supposed commitment, many of them being indebted to the Kanu government, having benefited from its largesse. Moi astutely exploited deployed patronage to entrench himself in power, a move that partly explains why the route to constitutional reform has proved to be winding and convoluted.

In chapter seven the author attempts to place a finger on the pulse of the constitutional reform agenda in Kenya. Most Kenyans demand that the Constitution address a plethora of competing interests – class, religious, gender, ethnic, racial, political and social. The challenge is how to harmonise them before

delivering on this all-important process, at the centre of which lies Kenya's renewal.

From the outset the author highlights the factors that impede attempts to reform the Kenyan state. He observes that since those in power use the state for self-aggrandisement they resist reform out of fear that should they lose power they will be economically and politically marginalised. This fear runs deep even within the opposition, as illustrated by the speed with which a section of the opposition abandoned reform rhetoric after ascending to power in 2002. The argument in this chapter is that Kenyans must strive for the institutionalisation of power rather than place their trust in politicians irrespective of their avowed ideological orientation.

The chapter covers the tensions and mutual suspicion between Moi and Raila Odinga. The latter was a seasoned oppositionist before entering a political relationship with Moi, which was loosely referred to as cooperation, an arrangement that was put in place immediately after the 1997 general elections in which both were presidential candidates. The birth of the Constitutional Review Commission of Kenya (CKRC) seemed to herald the advent of a new constitution but was caught up in the factional politics extant on Kenya's political landscape between supposed reformists and those who supported the existing constitution.

Throughout the process Moi appeared to hold all the aces, even after he acceded to a merger between the government committee for constitutional review and the civil society one. Most significantly Moi retained the option to change the rules and frustrated the work of the committee once he realised the CKRC was determined to make constitutional changes that threatened his hold on power. In addition he was able to influence the work of the commission since he appointed the chair and all the commissioners.

The commission was also beholden to the Parliamentary Select Committee (PSC), particularly to its chair, who had the power to propose amendments to the review law, to change the terms of service of the commission and to trim its powers. Ultimately the state succeeded in fending off attempts to create an independent, constitutionally protected review process but left a loophole through which it could exit from the process. Before the review was concluded Moi dissolved Parliament in readiness for the 2002 general elections, effectively scuttling the work of the commission because members of Parliament comprised one-third of all delegates to a scheduled National Constitutional Conference. Moi was suspicious of the radical reforms the commission suggested through a draft constitution aimed at dismantling the presidential behemoth.

Mutua even-handedly dismisses all the parties to the constitutional review process as narrow and self-centred in their approach. The Moi state, the opposition,

civil society, and the religious fraternity did not have the national interest at heart, he contends.

Chapter eight dwells on the national constitutional conference process. Mutua points out that the reform process was flawed from the start because it did not begin with the type of constitutional conference used to rout entrenched regimes in countries like Mali, Congo, Zambia, and Benin. In Kenya, the incumbent regime controlled the review process. The author observes that the national constitutional conference failed because of the absence of sufficient momentum in the form of violence or another emergency that might have pressured the parties to come together to expedite the process. However, since other countries have held successful national conferences without the impetus of a crisis it is difficult to understand why the situation should have been different in Kenya.

The author takes the reader through the horsetrading that preceded the formation of NARC before the 2002 general elections and describes how, after wresting power from Kanu, the opposition was gripped by infighting and squabbling, an eloquent demonstration that Kenya's political landscape was devoid of national ideals beyond insular, self-serving and sectarian interests.

Mutua singles out a politician called Paul Muite as a champion of reform, but conveniently avoids stating that he was the very individual who, in 1982, had drafted the constitutional provision that made Kenya a *de jure* one-party state. The author argues that the fact that most of the political parties the country has had since independence have been ideologically anchorless explains the paucity of reform minded leaders within the NARC coalition. The only exceptions were the Kenya People's Union (KPU) and the Social Democratic Party (SDP). Thus, being united by the resolve to oust Kanu and without any alternative programme of action, NARC imploded because of factionalism as a result of a pre-election power-sharing agreement Kibaki trashed.

Mutua sums up the intrigues attendant on the constitutional reform process in the post-Moi political dispensation. The constitutional contest was tied to supremacy fights over control of the process. Rather than being a unifying factor the review process became a divisive element that polarised the country almost irreparably, as the 2005 plebiscite indicated.

In chapter nine Mutua zeroes in on some of the competing interests that emerged during the constitutional conference in Nairobi in 2002. There were heated debates on matters touching on gender mainstreaming, abortion, and the place of religion in the country's Constitution. Instructively he casts doubts on the viability of a government structure in which there is a powerful prime minister and a ceremonial president in a country fraught with ethnic divisions. According to him it would be disastrous if the two office bearers failed to agree and instead chose to involve themselves in zero-sum politics.

The ascendancy of NARC to power resulted in heightened expectation among most Kenyans. However, factionalism, courtesy of the perennial paucity of ideology and sense of purpose among the political elite in Kenya, came to bear on the reform agenda in a profoundly negative way. The need to reorient Kenyan politics was abandoned in favour of self-aggrandisement. After the 2002 general elections members of Parliament awarded themselves hefty emoluments, which were compared to the earnings of their counterparts in developed economies.

The author observes that debate at the national constitutional conference was sterile because of a lack of depth among delegates which impeded their ability to grasp the issues. As a consequence they resorted to supporting a given position based on the identity of the individual taking that position as opposed to the merits and demerits of the issue. The chapter brings out the notion of the ineluctability of Raila Odinga, which some Kenyan politicians and analysts have long propagated.

Mutua states that delegates to the conference assumed that Odinga argued for a parliamentary system of governance because he could not be elected through a direct presidential election. This notion was shattered by the 2007 presidential elections, in which Odinga proved such a formidable challenge to Kibaki that his supporters were convinced he had been robbed of victory.

Mutua traces the genesis of Kenya's presidential system to Kenyatta's tenure and the fact that soon after independence he embarked on dismantling the Westminster system by doing away with the office of prime minister and incorporating the responsibilities hitherto undertaken by the occupier of that office into those of the president. In addition he dispensed with regional autonomy, thus reducing politics to a zero-sum affair.

The chapter covers the shenanigans that dogged the draft constitution under Kibaki in pretty much the same way as had Moi's intrigues. Kibaki's use of the courts to frustrate the constitutional review process marked him out as an obedient student of Moi. Recalcitrantly the Kibaki government presented Kenyans with a draft constitution with the executive structure still heavily tilted in favour of the president. Unsurprisingly it was resoundingly rejected by 57 per cent to 42 in the 2005 plebiscite. Though devolution has been touted as an antidote to Kenya's political woes Mutua argues convincingly that devolution without democratising both the centre and the periphery will not bring substantive reforms. In his words, 'it would multiply the number of dictatorships that Kenyans would be subjected to' (p 225).

The chapter places the plebiscite at the centre of the rupture that culminated in the post-election violence in 2007-08. The plebiscite, a dress rehearsal for the 2007 general elections, was essentially an ethnic census in the sense that Kenyans were mobilised to vote on the draft constitution along ethnic lines. Alliances formed,

some of them based on personality cults. Kibaki's candidature was the rallying point for an oligarchic grouping fearful of an Odinga presidency. Politicians in the camps of both the opposition and the incumbent were implicated in malfeasance and other egregious acts during Moi's and Kibaki's tenures in office. Once again the reformation of Kenya's polity hit a dead end as politicians made political choices based on self-preservation.

The chapter identifies political parties as the foundation on which a democracy could be built. However, in the Kenyan context most political parties were ideologically bankrupt, lacked internal democracy, had no members and were in the vice-like grip of their leaders, who doubled as the principal financiers. Perhaps if the parties were constitutionally regulated the conduct of politics in the country might be less chaotic.

Chapter eleven deals with the tempestuous process of constitution-making under the Kibaki administration. Following in the footsteps of his predecessor Kibaki frustrated the review process because it threatened his untrammelled powers as president. The NARC's pledge to reform the state in the run-up to 2002 general elections was aimed at hoodwinking Kenyans who had suffered under one-party dictatorship. The author observes that the contestation over constitutional changes in Kenya does not fall within the saint and villain dichotomy. Few politicians at either end of the political spectrum can lay claim to reform credentials. Issues pertaining to the way statecraft must be approached depend on the individual's political fortunes and there is little commitment to national consciousness.

The 2005 plebiscite was the point at which polarisation in the country took an unprecedented form. However, blinded by Kibaki's need to secure power at all costs and his opponents' quest to wrest it from him, no one was concerned when Kenya began to hurtle steadily towards the abyss. The violence that erupted in the wake of the 2007 general elections was the result of zero-sum politics infested by a heavy dose of ethnicity.

Ethnic alliances that formed during the plebiscite replicated themselves during the 2007 elections, albeit with slight changes. In Mutua's opinion the violence gave politicians an opportunity to re-engineer the political and constitutional configuration of the country and to move away from the politics of self preservation that had been the norm since Kenya attained independence in 1963.

The elections shattered Kenya's image as a peaceful nation in a region ravaged by civil strife. The violence demonstrated compellingly that the Kenyan nation state was fragile and much would have to be done to infuse civic values into the body politic.

In chapter twelve Mutua summarises the issues raised in the book. He also

points out what he believes needs to be done to make the country acceptable to all its citizens, irrespective of their linguistic or cultural background. He strongly recommends a new constitutional order, pointing out that its achievement calls for foresight and vision in the political class, for there is a close connection between the insight of leaders and the prosperity of a country. However, it appears that Kenya's political elite does not have the commitment to transform rhetoric into reality.

Matua accuses Kenyatta of erecting a monolithic presidentialism which visited upon the young nation inequities such as corruption, economic deprivation, mass atrocities and the denial of basic rights. His two successors followed the same route, to the extent that even after the reintroduction of multiparty politics in 1991, Matua believes, Moi left his position without internalising the limits of executive office.

Notably Mutua argues for devolution of power from the centre to the regions as a prerequisite for self-determination. He is quick, though, to state that this is not a panacea for the challenges facing Kenya, since almost all regions in the country are ethno-tribal unicultural enclaves designed along tribal lines. He also observes that the system of governance is potentially expensive in the sense that if not well designed it could result in an unnecessary proliferation of government departments, which will lead to lethargy, inertia, and inefficiency.

Mutua places the responsibility for leading reform on civil society and the churches, writing, 'Since the late 1980s, the mantle for reform leadership has unquestionably belonged to civil society. Within this sector, churches have been critical leaders in the struggle to open up the political process, guarantee fair play, and protect basic rights' (p 275). But as shown by the political events leading up to 2007 elections, these constituencies are not immune to the myopia, insularity, and sectarianism that hold sway among political parties in Kenya.

Though there are committed voices within civil society and the church, most of them unashamedly pursue politics injurious to the national fabric and hence are no better than the political practitioners. Some civil society figures who were co-opted into government after the 2002 general elections failed to stand up against the excesses of the Kibaki regime.

Mutua sums up in this chapter what he deems a combination of the factors that are troubling Kenya's body politic. In relation to the crushing poverty that afflicts most Kenyans he cites the global economic situation, particularly the debt burden, as one of the causes. He also discusses the Bretton Woods institutions, the World Trade Organisation, and their role in Africa's development.

He asserts that in a fractious multiethnic society like that in Kenya it would be dangerous to ignore pacts made among political leaders who derive their power from an ethnic base, as Kibaki did after the 2002 elections. He decries the

squandering of the opportunity to rejig Kenya's political system presented by the 2002 opposition victory, comparing it to the situation soon after independence when the reform agenda was lost soon after NARC came onto power and instead power was colonised by a cabal of politicians drawn from the Mt Kenya region.

Matua observes that certain politically motivated actions such as assassination of prominent politicians since the Kenyatta era contributed to the entrenchment of despotism and the aversion of the powers-that-be to debate. This, he maintains, stifled the institutionalisation of democracy. Rather than engaging opponents the Kenyatta state resorted to eliminating them.

He also states that the banning of the Kenya People's Union in 1969 robbed the country of a chance to learn the practice of multiparty politics in a fragile multiparty democracy, since these formative years are crucial to determining how states will evolve in the future. He asserts that Kibaki's betrayal of the NARC dream irrevocably altered the course of Kenya's politics and the effects manifested themselves in the 2007 general elections. Although those elections were coated with a thin veneer of ideology they were driven by ethnic fears and 'othering'.

The chapter ends on a sanguine note with the author observing that the African state can be tamed, as happened in Tanzania, for instance. Mutua's thesis is that the fact that Kenya almost joined the ignoble league of failed states in the wake of the 2007 general elections is testimony to the urgent need to institute reforms in that country.

One of the strengths of this book, one of the most recent analyses of Kenya's politics, is the even handed manner in which the author addresses most issues, even those as emotive as ethnicity. A lawyer by profession, Mutua has succeeded in making his work accessible and easy to read and to understand. I recommend the book for students of Kenyan politics as well as those who are interested in African politics in general.

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