

POLITICAL SUCCESSION AND RELATED CONFLICTS IN KENYA

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INTRODUCTION

Since independence in the late 1950s and early 1960s most African states have experienced different forms of political conflict which has been rooted in both internal and external factors. The conflict generated by political succession is conflict over control of the state, where conflict is about who governs and does not usually envisage the creation of a new state. The unity of the state is tacitly accepted, by competing elites and conflict centres on control of the state and state resources. Put another way, political succession is an attempt to capture the state through the use of political power by one group at the expense of other groups.

Political succession is the politics of leadership control over access to state power. In post-independent Africa " regimes, governments and political leaders have succeeded one another in a progression remarkable both for its frequency and pace. In short, Africa represents an area in which leadership change at the highest levels can be observed and studied" (Le Vine 1973:1).

This paper begins with an examination of conflict theory as it relates to the question of political succession; we shall then examine leadership succession within theory and the constitutional basis of succession in Kenya; how the struggle for state power leads to related conflict and how conflict manifests itself in various institutions in Kenya, and how this conflict is managed.

CONFLICT AND POLITICS OF SUCCESSION

In his study of conflict in Africa, T. William Zartman has identified six basic historically specific categories. Firstly, is decolonization power struggles. Where "Independence - the right and ability to control one's own destiny - is the highest political value". Hence both violent and non-violent means were adapted in the quest for independence.

Secondly, conflicts emerging from "new independent consolidation" or attempts by post-colonial regimes to achieve consolidation and control of national political space", an attempt to subdue regional, ethnic, ideological and personal ambitions which resisted state authority - the loser using fled into exile as a survival option. It is in this category of conflict that political succession fits.

Thirdly, are conflicts from "leftover liberation movements" which usually escalate into violent conflict and are sometimes legitimised by recognition as "the sole and authentic representatives for their people", such as SWAPO in Namibia, UNITA in Angola and Polisario in Morocco.

Fourth, is conflict over "ill-defined territory" or inter-state conflict over colonial boundaries as seen in the following cases" between Burkina Faso and Niger, Ghana and Togo, Libya and Chad and Uganda (under Amin) and Tanzania.

Fifth, is conflict that arises from "structural rivalries" in certain African states, as Zartman observes "by the end of the 1970s, the distribution of power on the continent and the potential for this redistribution had become more evident". Having achieved some degree of consolidation of power, some countries attempted to extend their influence outwards in regional terms, leading not necessarily to violent conflict but to tensions engendered by differences of national interest.

Zartman's final category is conflict of "runaway means" which stems from external interests - "external sources of power are activated primarily through alliances for political support and through arms for the military". Zartman links runaway means primarily to Cold War

rivalry and intervention in African politics (Zartman, 1985:12-17). With the end of Cold War external sources of power revolve around foreign aid and political conditionality which has a bearing on conflicts related to the politics succession or capture of state power.

A more stimulating treatment of sources and types of conflict in Africa is that of Chazan *et al* (1992). They emphasize that since independence "the focus of conflict...(in Africa) has gradually shifted from disputes over political boundaries to disagreements over political values". One such value is leadership succession of both political and economic elites within African political systems.

Chazan *et al* contrast five types of conflict based on the organizing actors and the degree of vertical linkages into the deeper reaches of society. This categorisation offers insights into the question of political succession and the related levels of conflict it is likely to generate at the national level and the extent to which these conflicts threaten the integrity of the state and the institutions through which they manifest themselves.

Elite Conflicts. This rarely threaten the established political order and rarely become broadly violent, although violence does manifest itself through assassinations of leading political figures. The conflict is relatively restrained and characterised by competition among elites for political power and therefore the conflict is self-containing and within the status quo. Assassinations and murder become alternative instruments of elite competition against those who threaten the ruling faction, such as Pio Pinto and Tom Mboya (1963-73), then Ronald Ngala and J.M. Kariuki (1973-83) and Robert Ouko and Alexander Muge (1983-93) in the three decades of elite competition in Kenya.

Factional Conflicts. These are based on and organized by elites and extend into society where recruitment and reward lead to the creation of patron-client networks. Such conflicts were common where party competition was intense during the transition to independence. Factional conflicts revolve around the narrow question of access to power and can lead to ethno-regional conflict. Since the factions depend on ethnic support through patron-clientalist politics, economic growth is important to ensure an adequate supply of resources to feed this type of political competition (Wolf, 1996:10). When the resources begin to dwindle tensions and conflict arise and can lead to demands for a change in the government - some form of leadership/political succession - the state apparatus may mitigate the conflict by:

- incorporating the most vocal critics into its ranks
- widening popular participation through political reform, and
- cracking down on the main protagonists (Wolf, 1996:11)

Elite replacement (succession) can enhance overall system stability by facilitating a rotation of access to state resources as different factions inherit and disinherit one another off state power and state resources.

Communal Conflicts. Are more broad based and pose a threat to overall political stability, they are a direct challenge not only on the ruling elite, but also on state power itself. Most are ethnic or ethno-regional in nature although they can be fuelled by religious differences. Chazan *et al* cites three patterns in the course of communal conflict.

- escalation and eventual military intervention

- protracted, vacillating conflict and,
- the actual capture of the state by ethnic based insurgents (1992:197).

Communal conflicts are more deeply rooted in society than factional and elite conflict and, therefore, require more than simple "ethnic arithmetic" to resolve.

Mass Conflicts. These have been rare in independent Africa, "mass" refers not to numbers but to "those violent eruptions which constitute contests between those who can effect rapid transformation of the structure of power in society, and those who seek to preserve the status quo". As structures of power are based on economic relations in society, such conflicts revolve around class - resulting from inequalities particularly economic. The politics of mass protest is dependent on: glaring inequalities inability of state mechanisms at redistribution, individual upward mobility in economic status, ideological and intellectual leadership of masses and a sense of nationalism. Hence, mass conflicts are rare, yet as Chanza *et al* point out they have a hidden potential for conflict in the future.

"...The possibility of revolutionary change may be greater in the stronger states on the continent (Nigeria, Kenya and Cote d'Ivoire), where centre consolidation has taken place and class distinctions have begun to appear as a consequence of factional disputes". (1992:204).

Popular Conflicts. Differ from the four above in:

"...It need not be directly concerned with gaining access to the centre (elite or factional conflict) or with changing the political centre or altering its forms (communal and mass conflicts) but is often concerned with creating distance between the formal (state) domain and individual citizens, local communities, and specific social groups (Chazan et al, 1992:205).

Which emerge as conflict between the state and institutions of civil society trying to recreate some realm of autonomy against the intrusive forces of officialdom, markets and modernization. It emerges when state structures fail to incorporate rural groups who suffer the intrusion of state power without sharing in its benefits. Conflict manifests itself in religious cults, cultural revivalist movements based on indigenous structures, rituals and beliefs. The politics of disengagement characterised by retreatist behaviour - like the refusal of coffee and tea farmers in Central Province to deliver, produce and even uprooting these cash crops as protest against state intervention in marketing the produce and delaying remuneration to farmers for upto three years!

While conflict is a feature of all political systems, no conflict can be as disruptive as conflict over control of the state and its resources. Political succession is conflictual as it involves the struggle for political leadership within the state by individuals, and factions of the elite to gain dominance in the exercise of state power. The focus of succession struggles in the African State revolve around the presidency and the institutions in which competition for leadership takes place. Our analysis of political succession involves the four category analysis developed by Taylor and Hudson (1972), that is:

- (i) "Regular executive transfer" which occurs according to the relevance of established rules, constitution, laws, customs, etc. which regulate succession and facilitate a peaceful and orderly transition.
- (ii) "Irregular power transfer", according to the key event which leads to succession such as, assassinations and political murder, deposition, resignation and coup *d'etat* as the instruments for succession.
- (iii) "Renewal of executive tenure" or "self-succession" which involves the search for regime legitimacy in elections, `constitutional' amendments and centralized control of political party and state administrative structures.
- (iv) "Executive adjustments" involving succession of political and economic elites, through cabinet shuffles party (re) alignments and alliance shifts and the ethnic-equation of governmental positions.

Kenya has experienced "regular executive transfer" as transition from Kenyatta to Moi in 1978, "renewal of executive tenure" particularly through elections 1969, 1974, 1979, 1983, 1988 and 1992 and frequent "Executive Adjustments" through reshuffles in the cabinet and civil service. Kenya has been spared "irregular popular transfer" albeit two attempted coup *d'etats* in 1971 and 1982. It is this post-independence leadership succession we now turn to.

POLITICAL SUCCESSION IN KENYA 1963-76

Kenya achieved independence in December 1963 under a federal `majimbo' system of government with a multi-party constitution. By December 1969 Kenya had emerged as a *de facto* one-party state with a dominant president in the person of Jomo Kenyatta. What factors account for the relative ease with which Kenyatta consolidated power in the Kenyan Republic?

Firstly, "to obtain stature in last years of colonialism, nationalist leaders owed a great deal of their success to verbal virtuosity. Until independence gave them concrete power, they did not have adequate resources for general patronage to win support. The skills of oratorical persuasion were often paramount in the initial phases of rising to power, though they had to be combined with political prudence and tactical competence" (Laikidi and Mazrui, 1973:24). The "gift of the gab" was therefore initially important and both Kenyatta and Tom Mboya attained their `height in stature' partly because of their capacity to captivate mass audiences. "Kenyatta in the Swahili language remains one of the most colourful and eloquent public speakers in East Africa" (Mazrui and Lakidi, 1973:24).

Secondly, the `political prudence and tactical competence' of Kenyatta in first declaring a republic in 1964 after KANU's election victory in the 1963 elections. This was followed closely with the wooing of KADU members to "cross the floor" from the opposition in parliament and join KANU and the government in forgoing national unity for "Nationa building for social and economic prosperity of the Kenyan people". This vision of a united Kenya eloquently portrayed by Kenyatta in colourful rhetoric reduce inter-party cleavages which saw the Akamba Peoples Party (APP) of Paul Ngei and KADU join KANU. As C.G.M. Mutiso (1997) observes "conflict over leadership was subsumed by both vision of a new Kenya and personal ambition of the nationalist politicians as ethnic organizations were used as bargaining chips in Kenya's political process".

Thirdly, declaration of a republic in 1964 meant that Kenyatta was able to reduce the power promised to the regions "**jimbos**" - powers which he firmly believed would militate against the creation of a national identity (Ingham, 1990:95). Finally, Kenyatta centralized political power in the person and office of the President, a situation reinforced by the fact that President of the

country was also the head of the ruling party. The institutions of political succession came under the control and direction of the president. Such as:

- The president was empowered with wide discretionary powers to appoint and fire all cabinet ministers - including the vice-president and all civil servants. Parastatal heads were his nominee or those of his ministers.
- Appointments of senior administrative officers (particularly Provincial Administration), helped cultivated a patronage system in which all parts of the country enjoyed some of the benison of patronage. As a way of gaining widespread support for the government.
- In the *de facto* one party state candidates could only 'stand' for civic and parliamentary elections if nominated by a political party - KANU. This ensured that political recruitment and mobilization of people occurred within a rapidly shrinking political space.

The shrinking of political space in Kenya began with the 'merger' of KANU and KADU in the National Assembly. Since the President and the National Assembly constitute the Parliament in Kenya, the growth of executive power affected parliament in its primary functions of law-making, public debate and political recruitment. As Lakidi and Mazrui aptly observe "Parliamentary practice and the very institution of parliament requires that the mechanism of competitive political recruitment become institutionalised such as elections. Which become a way of attracting new political talent, and whose rewards provide a stimulus for political ambition" (1973:1). The efficacy of the different functions of parliament, therefore, depends on: checks on the growth of executive power, the existence of a pluralistic political system; and active participation at all levels of political activity in the state.

Consequently, the growth of Kenyatta's power and its subsequent centralisation had wide reaching effects on political recruitment - by reducing the avenues of political recruitment in the Kenyan state, Kenyatta was able to contain the leadership succession of both political and economic elites. Political recruitment - the machinery/system of choosing political leadership is always based on some norms, laws and procedures of selection - the mode by which the legislators are chosen as members of the political elite. The nature of political recruitment and the precise relationship between political survival and national legitimacy is the context in which we shall now examine Parliament and the Presidency.

In the Westminster model, upon which the Kenyan parliament was originally derived, the Head of Government - the Prime Minister - derived legitimacy from parliament. The American system of government rests on the doctrine of separation of powers - the President is independent of congress. As Lakidi and Mazrui argue "the East African Experience provides a third model". Initially it was based in the Westminster experience, and the Prime Minister derived his legitimacy from Parliament. When the East African Countries went 'Presidential' not in the direction of the American system, the relationship between the President and Parliament changed - it was no longer a system in which the President derived legitimacy from Parliament, nor one in which the President was constitutionally separate from the legislature, but one in which the Parliament in reality came to derive its legitimacy from the President. (Lakidi and Mazrui, 1973:3).

As Lakidi and Mazrui further elaborate the Presidency in East Africa became the primary source of legitimisation for proposed political policies and social values. While in Britain the

Prime Minister cannot afford to lose the confidence of Parliament in East Africa, Parliament cannot afford to lose the confidence of the President. Constitutional amendments and changes in Kenya have over the years consolidated presidential power against parliamentary initiatives.

Political expediency and prudence dictate upon political survival or the ability of a political leader to retain political office or his political efficacy. Political recruitment is the other side of the coin of political survival - those who fail to survive are by definition out of the centre of politics; those who are recruited come either to replace the losers or to supplement the survivors. Political survival therefore dictates that political recruitment be regulated and controlled so as to limit leadership succession at all levels of the political ladder.

Kenyatta attempted to reduce competition for political recruitment through firstly an internal purge in KANU and secondly control of the electoral process. The roots of conflict in independent Kenya revolved around ideology and policies of the new state. The ideological conflict between Odinga and Kenyatta came to a head in 1966. By the time of the Limuru Conference in 1966 the myth of political unity and the illusion of leadership unity shattered as differences emerged on land, the organization of state power, economic development strategies and so on (see Furedi on how: Kenyatta and Mboya successfully isolated Odinga as a renegade politician bent on destroying our newly won Uhuru, secondly, they were able to demean Odinga's policies based on a Marxist ideology as 'the politics of the lazy' - Uhuru na Kazi became effective propaganda against members of the newly formed Kenya People's Union (KPU). The government effectively used its policy document **Kenya African Socialism: Its Application to Planning in Kenya**, better known as Sessional Paper No. 10 of 1965 to diffuse both the leadership and policy conflicts.

After Odinga and his colleagues resigned from KANU to form KPU. The Government rushed a bill through parliament requiring MPs who quit their party to seek fresh mandate at the end of the parliamentary session (Constitution of Kenya Act No. 17 of 1966). In the 1966 by-elections which were wrought with excessive interference by the Provincial Administration KANU won 21 of the 29 seats made vacant in conformity with the recent legislation (Ingham, 1990:98). Odinga survived the 1966 "little General Elections". In 1966 two constitutional amendments were passed; the (re)-introduction of the Public Security Act 1966 and the Constitution of Kenya Act No. 2 of 1968 which prohibited independent candidates from presenting their candidature for election at both parliamentary and civic levels. With these two amendments and the open hostility between the Government and KPU the 1969 General Elections were to be held - political recruitment into parliament was only through KANU and KPU.

In October, 1969 at the height of the Kenyatta - Odinga Conflict, Kenyatta was in Kisumu to open a soviet - built hospital, The display of open hostility by "heckling and booing" occurred in the course of the President's speech, which was aggravated by Kenyatta's own colourful language of ridicule against his critics. The Presidential escort responded as the situation deteriorated and open fired on the crowd. The event together with the assassination of Tom Mboya in July 1969 created an ethnic rift between the Kikuyu and the Luo. Upon Kenyatta's return to Nairobi, KPU was proscribed and its leaders arrested and detained. Political recruitment into parliament was now only through KANU in the 1969 general elections.

It was against this grim background that the General Elections were held in December 1969, however, the turnout and outcome was impressive "Out of a total of 3,661,320 persons registered as voters, the highest voter turnout was registered in Nyandarua and Kiambu districts, where 70% of the registered voters turned out to vote. South Nyanza had 26% voter turn out" (ACR, 1970:B127). In the elections out of a legislature of 158 members, the electorate rejected

5 out of 19 Cabinet Ministers, 14 out of 26 Assistant Ministers and elected 93 new members of Parliament. We shall return to the question of elections in political succession later.

The year 1969 remains "the watershed year" in Kenyan politics. In May 1968 President Kenyatta suffered a mild heart attack. This caused panic among a clique of Kiambu politicians and members of Kenyatta's ruling elite. It was a year punctuated by the use of force or the institutionalisation of the use of force by government to deal with opposition to the Kenyatta state.

Tear gas became a common feature in the clash between opposition and government. In January 1969, Nairobi University College students rioted resulting in closure of the University. In July 1969 Tom Mboya was assassinated on Government Road (now Moi Avenue) in Nairobi, riots and communal expressions of anger heightened tensions in Nairobi. In October, the Presidential escort opened fire on a crowd in Kisumu and two days later KPU was proscribed and most of its members arrested and detained. Order was maintained, but only through the increasing use of force, political recruitment was limited in a *de facto* one party state. In December 1969 Kenya held its second General Election a year late!

The only avenue of political recruitment to parliament remained and hinged substantially on the role of elections and the Kenyan electorate as the only mechanisms of effectively mobilising political talents into Kenya's political system. Ultimately, the function of elections and can be reduced to one or both to two principles: the principle of choice; and the principle of acclamation (Lakidi and Mazrui, 1973:3-4) The principle of choice is deeply rooted in the liberal tradition of politics, it confers on the electorate the right to choose/elect between candidates for Parliament among alternative political parties, simply put the principle rests on "Let the People Decide".

In one sense of democracy, elections can be understood in terms of acclamation rather than choice. When the electorate is faced with only a single candidate or a single list of candidates, the ballots allow the population to acclaim rather than choose the candidate or candidates put before them. There are, however, degrees of acclamation which indicate the prevailing state of popular feeling about candidates. The choice is between voting and not voting and the size (voter registration and voter turn out) of the poll or the balance of affirmative votes as against negative votes determine the popularity of candidates as selection between and among different party candidates is not possible (Mazrui and Lakidi, 1973:4). The principle of acclamation explains the low voter turnout in South Nyanza 26% in the 1969 General Elections, which occurred after KPU was proscribed and its leaders detained.

The utilisation of elections for acclamation converts elections into a mere subsidiary mechanism in the process of political recruitment. But elections as the right to choose candidates for political leadership is central to political recruitment. Initially Kenya's one-party system between 1969 and 1983 did allow for competitive politics within KANU. Choice was exercised in the one-party parliamentary and civic elections in 1969, 1974, 1979 and 1983. The one-party state democracy was a momentous experiment in modern African Constitutional and parliamentary history. Kenyatta's justification of the one-party democracy was both eloquent and logical - he argued that since no political system exhibited a one-party democracy under capitalism, then practice would have to precede theory!

Within the context of choice and acclamation in Kenya's electoral politics the question of political succession was effectively resolved. An electoral system emerged that used the principle of acclamation for the presidency and the principle of choice for election of parliamentarians and civic leaders. In the 1969 General Elections, the principle of choice

prevailed while President Kenyatta's tenure was implicitly by acclamation. The conflict of political succession, particularly as regards the presidency was mitigated by this emergent electoral system, leadership succession was mitigated by the principle of choice by the electorate, political recruitment rested on both principles while the central recruiting institution remained KANU. It is from this perspective that we examine the 1974 General Elections.

As Lakidi and Mazrui wrote "Under African conditions the liberal principles of choice in parliamentary elections stands a real chance of being realised mainly in a situation where the non-liberal principle of acclamation operates with regard to the President" (1973:8). The President in such parliamentary and civic elections becomes a "grand referee", the confidence of his survival and the security of his position means he is less likely to put pressure in favour of different contenders in pursuit of office. The fusion of party chairman and the Presidency made Kenyatta *ipso facto* the president of the country. To further secure this position was the institutionalization of party life membership in KANU, which culminated in Kenyatta being declared KANU chairman for life! The President's position became non-elective and in effect not open to succession either through choice or acclamation.

In the 1974 General election: the voting age was reduced from 21 to 18 years. Of the 6.3 million Kenyans aged 18 years and over, only 2.6 million turned out to vote. Representing 57.6% of the total 4.5 million registered voters and only 21.6% of the total

population (Weekly Review, Election Handbook, 1979). Just as in 1969, there was no presidential election. The KANU Manifesto stipulated the conditions for nomination.

- To be eligible for candidacy, all aspirants had to be life members of KANU.
- Former KPU members had to have been members of KANU for a period of three consecutive years from the time of their release from detention.
- All candidates and in particular former KPU members had to identify themselves with the government and KANU policies.

On realising that Odinga and some of his KPU associates might qualify KANU stipulated that meeting the conditions would not result in automatic clearance to stand in the elections. Odinga and nine of his KPU associates were not allowed to vie for the 1974 elections. Although, KANU cleared a total of 737 candidates to contest for 158 seats in parliament (ACR, 1974/5:B199). In the elections 4 Cabinet Ministers, 13 assistant ministers and 71 backbenchers lost their seats. The principle of choice did allow parliament to remain to some extent an institution of political recruitment albeit the control exercised by KANU in recruitment through the institutionalization of the procedure of party clearance. The 1974 elections were the last under Kenyatta's regime and were wrought with irregularities and rampant manipulations in constitutional and electoral law. The widespread irregularities were manifested by the large number of election petitions. Some results were nullified most notably Paul Ngei's election on election offences. He was later barred from contesting the subsequent by-election. The Government published and had parliament ratify an amendment which granted the President powers to annul disqualifications arising out of an election court-Constitutional (amendment) Act No. 1 of 1975 (JPC Training Manual, 1995:24) subsequently Ngei was pardoned by Kenyatta and won the by-election. This amendment could not save Dr. Njoroge Mungai the Minister for Foreign Affairs who had been electorally defeated, by the late Dr. Muthiora as MP for Dagoretti. It was the unprecedented self-sacrifice of the late Mrs Jemimah Gecage his sister, who stepped down as a nominated member of parliament so that Dr. Njoroge Mungai could be nominated to parliament, he was also appointed Executive Chairman of the newly established Kenya Pipeline Company.

Although Kenyatta and KANU won the 1974 elections the question of political succession to Kenyatta's leadership re-emerged. In 1971 there was a momentary threat to the presidency when the government announced it had thwarted an attempted coup d'etat. Thirteen men were tried and convicted for the coup attempt, while the Chief of staff since 1967 Major-General Joe Ndolo and the Chief Justice Maluki Kitili Mwendwa both resigned when their loyalty to the Kenyatta government was openly questioned. Pay and working conditions of the military were improved and the armed forces remained relatively small. Popular politics focused after the elections on land particularly after "the transfer of 1.6 million acres of large farms intact to wealthy members of the community - mainly Kikuyu closely associated with the President-aroused hostile criticism" of the government both within the KANU parliament and outside parliament (Ingham, 1990:102). The most eloquent in parliament was J.M. Kariuki, a former Mau Mau detainee and an

assistant minister in the Kenyatta government. His views on land, the issue of corruption and the increasing inequality in Kenyan society did not endear him to the ruling elite.

As the economic situation in the country deteriorated from effects of drought, the first oil shock in 1973, and the poor relations among East African Community members, growing public concern over corruption and `ethnisation of job opportunities in the public sector (ACR, 1974/5:B210). J.M. Kariuki became the "rising star" in Kenya politics, advocating that the government guarantee a fairer distribution of the country's resources to all Kenyans. He became an advocate for the "Wananchi". Within the Kenyatta government J.M. as he was popularly known caused panic among the Kikuyu elite in the government and in GEMA. It is not clear to whom the J.M. threat was greatest - to Kenyatta or to the ruling elite who were already grooming Kenyatta's succession - but the threat increased as J.M. began to make an impression upon public opinion. J.M.'s popularity and eloquence sealed his fate, in March 1975 he was brutally murdered at Ngong forest, in Nairobi.

His murder and the subsequent cover-up by government officials proved a greater threat to stability in Kenya than J.M. had posed while he was alive (Ingham, 1990:104). J.M.'s murder ignited the country, University of Nairobi students rioted leading to its closure, parliament witnessed highly charged debate of the government's implication in the murder - until Kenyatta agreed to appoint an Independent Commission of Inquiry into the murder of J.M. The report was highly critical of the Police and GSU while implicating senior members of the Kenyatta government. The Report created further turbulence in Parliament and the all KANU parliament verged on a vote of no confidence in the Kenyatta Government. The Government's response was quick and brutal - the Deputy Speaker and two MP's were arrested during the parliamentary session and holders of official positions who criticised the government were dismissed or told to resign (Ingham, 1990:104). Resistance and challenge to the Government collapsed but the unease in the country subsided more slowly.

Although the murder of J.M. eliminated a potential successor to Kenyatta, it did not resolve the succession crisis in the Kenyatta state. A number of prominent Kikuyu, felt sufficiently threatened both by Kenyatta's old age and frail health and the constitutional provisions governing presidential succession as embodied in Chapter II of the Kenyan Constitution. Part I deals with the Executive, specially with the succession of the vice-president in section 6. which states:

- "(1) If the Office of President becomes vacant by reason of the death or registration of the President, or by reason of his ceasing to hold office by virtue of section 10 or Section 12 of this Constitution an election of the President shall be held within the period of ninety days immediately following the occurrence of that vacancy, and shall be held in the manner prescribed by section 5(5) of this constitution.
- (2) While the Office of President is vacant as aforesaid, the functions of that office shall be exercised.
 - a) by the Vice-President; or
 - b) if there is no Vice-President, or if the Vice-President considers that he is for any reason unable to discharge the functions of the Office of the President, by such Minister as may be appointed by the Cabinet.

This constitutional provision on succession was a legacy of the Moi-Njonjo amendment of

June 25, 1968 (see Murray 1968:46 and Goldsworthy, 1982:270). This did not suit members of GEMA and KANU who advocated a constitutional change to bar the vice-president from automatically succeeding Kenyatta. September 1976 saw the beginning of the famous "Change-the-Constitution campaign", led by Kihika Kimani and supported by Dr. Njoroge Mungai, James Njenga Karume, James Gichuru, Jackson Angaine and Paul Ngei. As Kihika Kimani was to argue - instead of the vice-president acting as President, the functions of the President should be discharged by the Speaker of the National Assembly, who would also take the responsibility of organizing for Presidential elections. Kihika Kimani stated "Kenya should not be different from other countries where the speaker of the National Assembly normally assumes the Presidency temporarily until election are held" (Karimi and Ochieng, 1980:20). At a Nakuru rally, on 26 September 1976, attended by over 20 MPs including Kenyatta's heir apparent Dr. Njoroge Mungai (a nominated MP) the campaign by Change-the-Constitution advocates was launched. Paul Ngei, Minister for Co-operative Development said "During the three months that allows the Vice President to become President....a lot of things can happen. If you give me that period I can really teach you a lesson and I can assure you it would not be a pleasant one: (quoted in Karimi and Ochieng, 1990:21). The constitutional debate on succession heated up!

On October 4 the fiery member for Mombasa Central Shariff Nassir, became the first to openly condemn the advocates of Change-the-Constitution. Two days later the Attorney General, Charles M. Njonjo issued an attack on the 'Kimani Group', He said;

"In view of the recent wave of statements at public meetings about the alleged need for amendment to our constitution, I would like to bring to the attention of those few who are being used to advocate the amendment that it is a criminal offence for any person to encompass, imagine, devise or intend the death or deposition of the President....Furthermore, it is also an offence to express, utter or declare such compassings, imaginations, devices or intentions by publishing them in print or writing" (quoted in Karim and Ochieng, 1980:22).

The Change-the-Constitution advocates did not take Njonjo seriously and on October 7 issued the "Midlands Hotel Declaration" after a meeting between Kihika Kimani, Njenga Karume, Njoroge Mungai, Jackson Angaine, James Gichuru and Paul Ngei who read the press statement refuting the implications contained in Njonjo's statement and vowed to see the amendment through democratically since it enjoyed public support. In Nairobi 98 members of Parliament led by the late Stanley Oloitipit Minister for Natural Resources issued a statement condemning the amendment as "unethical, immoral, bordering on criminality and very unAfrican". Notable among the 98 MPs was Dr. Gikonyo Kiano and Charles Rubia, and the silence of Mwai Kibaki! The rift between the pro and anti-constitutional amendment groups heated up and became nasty. The cabinet met at Nakuru under President Kenyatta, and reiterated Njonjo's statement about it being illegal to talk about the death of the President - the cabinet statement became binding under the principle of collective responsibility. The advocates of Change-the-Constitution lost the battle but only for the moment.

Kenyatta's support for the Attorney General's statement led the advocates to focus on KANU and the up-coming Party conference, because only KANU could nominate the Presidential candidate, in the absence of an opposition party and the three-month interim period required by the constitution the vice-president's position was not only strong but also constitutional,

surprisingly Kenyatta called off the conference and the government began to clamp-down on the pro-constitutional amendment advocates, although a scandal was later to emerge the "Ngoroko affair" as a spill-over of the pro-amendment lobby. When Kenyatta died on August 22, 1978 in Mombasa, an emergency meeting of the Cabinet was called, and President Daniel T. arap Moi was sworn in by the Chief Justice Sir James Wicks in the Afternoon. The anti-amendment lobby or the Moi-Njonjo-Kibaki coalition carried the day.

Several factors emerge from the conflict over succession:

- The conflict over succession never became violent and was contained for two reasons. Firstly, the amendment was never introduced in Parliament because its advocates were not confident that parliament would endorse the amendment. Secondly and perhaps most importantly was Kenyatta's role both advocates for and against the constitutional amendment had access to the head of state and both believed he was on their side, this to a great extent helped contain the conflict.
- The conflict lacked an institutional basis. In the final analysis it was a conflict among individual groups not institutions and this contained its focus and direction. It was only when the pronouncements of the pro-amendment group became militant that Kenyatta stepped in to mitigate the emergent conflict.
- The conflict although pitting two groups was extremely narrow the pro-amendment-Kihika Kimani group-which was fronting for a Kikuyu to succeed Kenyatta was supported by predominantly members of GEMA and some members of various other ethnic groups. The group lacked popular support for its initiatives and, therefore the conflict did not spread to communities and other institutions in Kenya.
- The Change-the-Constitution campaign coming the year following the murder of J.M. Kariuki may have acted as a caution to both groups - that Kenyatta may not accept the clear emergence of a potential rival and therefore except the statements of Kimani and Njonjo no clear aspirant to the position of President openly emerged.
- The individual abilities of those involved bears mention. As C.G. Mutiso aptly notes the ' key factor explaining the lack of conflict escalating to violence in Kenya is the substantial lack of sustainable political organising skills of the leaders. Few leaders in independent Kenya have systematically organized followers into a cohesive political force except Odinga' (1977).
- Kenya's economic performance during the Kenyatta government allowed for development in education, health, infrastructure. The Population in the periphery was busy expanding its land holdings, educating children etc. as activities for prosperity rather than engaging in ethnic politics (see Mutiso 1977).
- The emergence of the *de facto* one-party and the deliberate

depoliticisation of politics in a shrinking political arena made the actors vulnerable to manipulation by the President. The struggle for leadership succession was subdued by the struggle to "stay afloat in the political limelight". Although this had grave consequences on policy formulation, it was an effective political tool in containing conflict on political succession.

THE MOI STATE 1979 TO DATE

Upon his accession to office - President Moi was unanimously elected president of KANU on October 6, 1978 and became the sole party candidate for the post of President. On October 10, 1978 President Moi was sworn in as Kenya's second president. His succession was both peaceful and constitutional, "Moi was not a man of outstanding ability but was an indefatigable worker" (Ingham, 1990:99), he embarked on consolidating his position both within KANU and in a predominantly Kenyatta government. His close alliance with Njonjo and Kibaki was of immense importance in the initial years.

Whereas Kenyatta had relied on neither KANU nor Parliament to consolidate his position, he had relied on centralising the government machinery around the Office of the President and in particular the role of the Provincial Administration. This had greatly reduced Party efficacy in meaningful patterns of organization and occasional mobilisation of the electorate. Similarly, Parliament as a representative institution can only maintain its central position in a political system where the dominant ideology is liberal democracy and where the notion of representation in the lawmaking processes become fundamental to the definition of political participation. The Kenyan Parliament had not evolved any of these characteristics. Its role as a mechanism for political recruitment was rooted in the lack of effective party recruitment and the importance of parliamentary elections increased by default, precisely because the party system was weaker (see Lakidi and Mazrui, 1973:20-21). In Tanzania the converse was true if Parliament and the party are to be regarded as the political mates of a bigamous presidency, it is quite clear in Tanzania which of the two wives of the presidency is the favourite. Parliament may have been the first and senior wife, but the party has become the favourite one' (Mazrui and Mohiddin, 1970:76). President Moi sought to court the party in controlling access to Parliament.

President Moi retained Charles Njonjo as Attorney General and appointed Mwai Kibaki as Vice-President. The first Moi government revolved around this triumvirate, and Moi's persistent reminder that he would follow Kenyatta's footsteps through his emergent philosophy of Nyayo. The 1979 elections were an important step in consolidating Moi's position in KANU and Parliament. By 1979 the Kenyan economy was in decline mainly due to escalating oil prices, the collapse of the East African Community, a deteriorating balance of payments deficit and steadily declining prices (ACR, 1979/80:229 and 283). Although the aftermath of the Coffee Boom money was still available for individuals and the government - which necessitated an increase in campaign spending from Kshs.20,000/- to 40,000/-. An interesting characteristic of the 1979 General Election was the relatively short period for campaigning under the 'guise' of visiting development projects, harambee's for school and churches and even using funerals for campaigns.

The KANU secretariat undertook to screen and clear prospective candidates a process marked by conflicting positions within the secretariat such that it was impossible for candidates

to know whether he had met the necessary requirements (Weekly Review 21/11/79). The criterion for clearance was equally nebulous, as KANU's Organising Secretary, Nathan Munoko put it some of the conditions were:

- (i) Loyalty. Although it was not clear this was loyalty to who, KANU, the President or the Country, more seriously the party did not state any parameters on which to gauge the loyalty of candidates.
- (ii) Popularity. The party was to determine who was popular with the electorate. The principle of choice in parliamentary election was being replaced with the principle of all acclamation at least with regard to Moi's closest associates.
- (iii) Life membership to KANU was mandatory prior to nomination, and
- (iv) Branch recommendation was mandatory. All candidates were expected to seek recommendation from their respective branches.

In the final analysis, the electoral process was confined to candidates who had "satisfied" KANU's conditions. Again Odinga and his former KPU associates were denied clearance despite having rejoined KANU - they failed the "loyalty test" and the Secretary General Robert Matano declared them security risks. An attempt to sue Matano in his private capacity by one of the ex-KPU members, saw the President intervene on Matano's behalf. Drawing on African epistemology, Moi observed 'that a suitor could not take his prospective father-in-law to court and expect to be allowed to marry the woman in question'. He instructed that the other five KPU members who had appended their names to the suit: Oginga Odinga, Tom Okello Odongo, Acholla Mak Anyengo, Ochieng Oneko and Luke Obok be denied clearance. (ACR, 1979/80:B230).

In the 1979 elections an estimated 6,432,830 eligible voters some 5,264,223 voters registered. The extension of the registration deadline by one week saw an additional 576,000 people register (Africa Diary, 1979:1536). The election results saw 7 out of 20 cabinet ministers defeated, and 96 out of 158 legislators lost their parliamentary seats, among them Nathan Munoko - KANU's National Organising Secretary. Among the newly elected were 'the new elite' Philip Leakey, Krishna Gautama - Kenyans of European and Asian descent, and an increased number of business executives and former heads of parastatals such as: the Chairman of the Kenya Commercial Bank, John Michuki; the Chairman of the Industrial Credit Development Corporation (ICDC), Matu Wamae; the former Vice-Chancellor of the University of Nairobi, Dr. Josephat Karanja; the National Chairman of GEMA, Njenga Karume who defeated Kenyatta's loyal associate, Mbiyu Koinange and the Chairman of Kenya Breweries, Kenneth Matiba who defeated Julius G. Kiano. Other notable defeats included Willian arap Saina who had won in 1974 while on suspension from the University of Nairobi. In Tinderet Jean Marie Seroney lost to Henry Kosgey, and in Nakuru North, Koigi wa Wamwere defeated Kihika Kimani of the Change-the-Constitution movement of 1976. The most astonishing was Fred Gumo's victory over veteran politician Masinde Muliro, who had won comfortable majorities since his election into the legislative council in 1957. Muliro blamed his defeat on rigging!

President Moi's first cabinet increased in size as he attempted to make its representation countrywide while significantly reducing the power of the Kikuyu elite. In a bid to woo the Luo, Odinga was appointed Chairman of the Cotton Lint and Seed Marketing Board and granted life membership to KANU - he was however, denied clearance to compete in the elections. This precipitated university students unrest who regarded Odinga as spokesman for greater social

justice, this led to closure of the University. Leading to increasing confrontation between Government and students, in an attempt to diffuse the tension Moi proposed an anti-corruption campaign. It was rhetoric as "corruption was only the extreme aspect of patronage, which was deeply rooted in Kenyan society and provided a system of outdoor relief which the government was powerless to supply by other means" (Ingham, 1990:107). President Moi's position was dependent on the politics of patronage without which he could not retain the allegiance of his supporters, however, his hold on to power was precarious as the quest for succession continued to dominate Kenya's politics leading to the opinion that Moi was just a passing cloud".

In 1980 the threat became manifest. The Attorney General Charles Njonjo having reached the age of 60 years retired from the Civil Service, he however, did not intend to retire from the public scene - he went to Parliament un-opposed in a by-election following the timely resignation of the MP for Kikuyu constituency. In June, he was appointed Minister for Home and Constitutional Affairs, Njonjo's ambitions resulted in an inevitable clash between him and Kibaki, in which Kibaki was able to win the support of Kiambu district - Njonjo's record had not endeared him to the elite in Kiambu, particularly those involved in the abortive campaign to Change-the-Constitution. Kibaki emerged as a formidable figure in the politics of Central Province, perhaps too formidable for Moi's comfort. A cabinet reshuffle saw Njonjo deprived of the Home Affairs element of his portfolio, which went to Kibaki who in turn surrendered the Ministry of Finance to Arthur K. Magugu. This was Moi's attempt to reduce the influence exercised by the two men who had done most to ensure his succession to the Presidency, the relative ease with which he effected these changes showed his growing confidence.

In a bid to consolidate his position, Moi began initiating populist schemes such as: a free primary school education, free milk to school children, a 10% increment in public sector employment and the banning of all ethnic based welfare organisations - especially GEMA, although Abaluyia East Africa, Luo East Africa and New Akamba Association went with it. The economic decline due to poor terms of trade - particularly commodity prices, generated a balance of payments deficit and a fall in foreign exchange reserves. This resulted in a high rate of borrowing by the government on the international capital markets, which created a debt service ratio of over 18% of the export earning by 1982. Unemployment in both rural and urban areas also increased (Africa South of the Sahara, 1983/84:46). This economic situation created ground for criticism against Moi's performance in the intelligentsia and in the Trade Unions. The government's response was to clamp-down on critics of the regime, in May 1982 Moi expelled Odinga from KANU accusing him of engaging in divisive politics against the government, a number of students and radical lecturers were arrested and the civil servants union banned and a crack down on a strike organised by medical doctors. Government action against individuals and institutions of civil society led to the expression of open sentiments for an alternative political party.

In June 1982 Odinga and George Anyona attempted to register an alternative party - the Kenya African Socialist Alliance (KASA). The government rushed a constitutional amendment to parliament - Amendment Act No. 7 of 1982, resulting in the infamous section 2(a) which constitutionally transformed Kenya from a *de facto* one-party state into a *de jure* one-party state. Also amended were nomination procedures for general elections, henceforth it became constitutionally the preserve of KANU, bearing in mind Amendment No. 2 of 1968, which prohibited independent candidates from contesting elections, KANU became the only gateway to parliament. Following this amendment Odinga was placed under house arrest and George Anyona who was one of the Change-the Constitution advocates in the mid 1970's was detained;

also detained was John Khaminwa, a lawyer who had undertaken to represent Anyona and Mwangi Stephen Muriithi the former deputy director of the CID. They became the first in a long list of political detainees in Moi's regime. Although the critics lacked co-ordination and were sporadic, Moi's increasing fear of criticism led to further clamp-downs on individual freedoms and detention without trial. Two university lecturers Maina wa Kinyatti and the late David Mukaru Nganga were detained. The editor of The Standard newspaper, George Githii published a scathing attack on detention without trial, this caused an outcry in Parliament and resulted in Githii dismissal by the Standard - a subsidiary of the Lonrho Group of Companies.

Amidst these political tensions the attempted coup d'etat of August 1982 occurred. A contingent of Kenya Air Force ground troops seized strategic government institutions: Voice of Kenya, Central Bank, JKIA etc. The ensuing confusion saw Nairobi degenerate into chaos as looting and killings occurred on Sunday August 1, 1982. The Army and GSU loyal to the President moved in to quell the mutineers and looters, a battle that left 159 people dead (official figure), 3000 members of the airforce arrested and the force disbanded. The coup exhibited considerable involvement by the Luo community and was provoked by what the mutineers claimed as:

"the corruption of government officials, by restrictions upon freedom - particularly by the use of preventive detention - by economic problems which the government had failed to resolve and by the poverty of leadership in the country generally. It was a cause which attracted the support of a fair number of university students....." (Ingham, 1990:109)

The resultant government reaction to the coup attempt was to constrict associational life - public and private meeting came under scrutiny from the Provincial Administration. Government critics were arrested or harassed among them Raila Odinga who was accused of treason and Professor Alfred Vincent Otieno was charged with failing to report treason, although the treason charges were later dropped both were nevertheless detained! In this tense atmosphere punctuated by court marshals, political trials and detentions against opponents of the state Moi launched an attack on his political ally - Charles Njonjo, Minister for Constitutional Affairs.

On May 9, 1997 at Kisii, Moi accused an unnamed "traitor" who was being groomed by foreign governments to take over the presidency of the country, and characteristic of Moi - implied there was a plot to undermine the position of Vice-President. Of his two key allies (Njonjo & Kibaki), Moi had chosen one while seeking to eliminate the other. It was a classic outmanoeuvring of Njonjo by Moi, from a seemingly fundamental weakness of a defensive position (retaining power) he had taken the offensive on terrain which was more favourable. In June, Njonjo was suspended from the Cabinet and in July a Commission of inquiry was appointed to inquire into allegations made against him. Denying all charges, Njonjo resigned from his Parliamentary seat and exited from mainstream Kenyan politics. To consolidate his position further, Moi announced he would call elections early (one year), expressing dissatisfaction with some of his ministers and the performance of Parliament, this would of course give Moi the opportunity to prune Parliament, KANU and the Civil Service off Njonjo supporters/allies. In August, Moi was nominated as the sole KANU candidate for the General Election on September 16, 1983.

Prior to the elections, KANU undertook an unprecedented recruitment drive aimed at boosting its membership in a *de-jure* one-party state, although party elections were postponed. All candidates were expected to seek clearance from KANU headquarters which now included

payment of Kshs.1,000/- and submitting to the party president a complete pledge of loyalty. Once again Odinga and his closet allies were denied clearance except Ochieng Oneko and Luke Obok. Moi announced he would retain Kibaki as Vice-President after the general elections in a bid to quell rumours in Central Province that he would do away with him after the fall of Njonjo.

The 1983 election was notable for the considerable apathy among the electorate, of whom less than half registered as voters and in Parliamentary voting, only 48% turned up to vote, the lowest turnout since independence! Voting in some urban areas was as low as 33%, however 40% of the seating MPs were voted out, among them 5 cabinet ministers (ACR, 1983/84:B 166). This was the first serious popular threat to the Moi regime - the degree of acclamation for Moi and the KANU government was indicated by the number who turned up to vote - this led to a deeper sense of insecurity and Moi reacted severely to criticism it marked the beginning of Moi's continuous search for legitimacy in the Kenya state. Mainly from the University of Nairobi and the Press, despite the release of all but two of the political detainees in the country. His perceived insecurity was manifested in a Cabinet reshuffle in June and the secret execution in July of 10 men found guilty of leading the 1983 mutiny -both were not actions of a confident ruler.

By 1986 the witch-hunt had begun with rumours of secret movements aimed at overthrowing the government such as *Mwakenya*; *Kenya Revolutionary Movement* and *Kenya Patriotic Front*, all seen as emanating from University graduates and many were arrested and charged with possession of seditious publication notably *Pambana* and *Mupatanishi*. In 1987, criticism and dissatisfaction was evident both in the Government and in the electorate, Moi's proposal to substitute the secret ballot with queue-voting in the forthcoming elections in 1988 led to confrontation of the government and the Protestant Church represented by the NCCK - who argued that if Pastors queued they might unfairly influence the voting patterns of their congregations. The Church allied with the Law Society of Kenya (LSK) to oppose a government bill designed at removing the security of tenure of the Attorney General, the Controller and Auditor General (Exchequer), the Chief Justice and Judges and Commissioners of the Public Service Commission (Amendment Act No. 14 of 1986). All positions granted security by the constitution to check the power of the Executive and make actions of the government accountable to Parliament. Despite popular opposition against the bill, it was pushed through Parliament only to be later withdrawn by an amendment in 1990 due to external pressure.

This amendment was followed by another constitutional (Amendment) Act No. 20 of 1987 which made all offenses punishable by death non-bailable, such as treason, murder, robbery with violence and attempted robbery with violence. These amendments saw the executive begin exercising due control over the judiciary which was necessary if the regime was to continue its clamp down on government criticism, it would have been unable to do so with an independent judiciary. In November the University of Nairobi rioted and was closed, and KANU began massive recruitment drive to legitimize its popularity in a one-party system including intimidation that party membership was a requirement for every citizen!

The elections were to be held in March 1988 - the first decade of the Nyayo era and the secret ballot was replaced by queue-voting! All candidates were, prior to filling nominations to submit a duly completed loyalty pledge form for approval by the National Executive Committee. Under the queue-voting system, any candidate who secured over 70% was considered as having been elected unopposed. Candidates who obtained at least 30% of the total vote in a constituency or the top three contenders were allowed to proceed to the second round of elections. As Nick G. Wanjohi observes:

"The 1988 General Election was a farce with most results being the work of fabrications by the Executive. While the government and KANU showered praise on themselves for victory, the country rejected the results outright. Many Kenyans even regretted having participated in the elections which were flawed right from the start.

It must be reiterated that in both queue-voting and secret ballot, majority of the Kenyans declined to participate" (Wanjohi, 1993:32)

The voter turnout was extremely low, especially in urban areas. In Nairobi, the turnout was 10-20% (ACR, 1988/89:B318). Only 2 million out of 5.6 million registered KANU members cast their votes (Wanjohi, 1993:32). 14 members of Parliament were elected unopposed and 51 under the queue-voting rule, 36 were elected by minority secret ballot and 87 by simple majority secret ballot (Wanjohi, 1993:31). Notable in this election were the attempts in Kangundo to rig out Paul Ngei, who in the first round lost to Jackson Mulinge who garnered 11,000 votes to Ngei's 1,000 having polled 10,758 votes to Ngei's 6,240. In the secret ballot Ngei trounced Mulinge. Similarly, the Kiharu elections caused controversy.

In the post-election period Mwai Kibaki was removed as Vice-President and made Minister for Health, while Dr. Josephat Karanja who was elected by less than 7% of the registered votes in Mathare Constituency was appointed Kenya's fifth Vice-President. The government could not shake off the tag that the 1988 elections were rigged! This led to the emergence of real opposition to the Moi regime and growing criticism of Kenya's human rights record abroad. The end of the Cold War meant closer scrutiny of the political and economic realm of the Moi regime. The government's high handedness in dealing with criticism, the rampant levels of unabated corruption and the brutal murder of Dr. Robert Ouko Minister for Foreign Affairs and International Co-operation in February 1990 crystallised opposition both internally and externally against the Moi government. The Moi state came under siege. In April 1990 Kenneth Matiba, a Cabinet Minister, resigned and together with Charles Rubia called for the (re)introduction of a multi-party political system, culminating in the July 7, 1990 "Saba Saba" riots. The donor community stated that future aid to Kenya would depend on the government's willingness to implement economic and political liberalisation.

The government responded with its high handedness and promptly rounded up all multi-party advocates like Mohammed Ibrahim, John Khaminwa, Gitobu Imanyara, Raila Odinga, Kenneth Matiba, Charles Rubia and detained them. The resultant unrest saw Nairobi, Nakuru, Mombasa and Kisumu erupt in spontaneous rioting that left 20 Kenyans dead (according to official statistics; Newspaper reports put the death toll to 100). The reaction of the United States was immediate. It immediately suspended military aid to Kenya and other donors quickly followed by suspending quick disbursement aid to Kenya in 1991. As a result of the aid freeze and mounting internal pressure for multipartism the Government pushed Amendment Act No. 12 of 1991 which saw the repeal of Section 2(A) which transformed Kenyan into a multi-party political system. Even though Moi had legalised political parties, he made it clear he had been pressured to do so:

"... I have not changed my mind, it is because of the Western media set against us, because of the economic setting today. The trend of the World economy is today controlled by developed countries, and I did not want my people hammered and bothered for a long time .. And therefore we Kenyans have accepted (multi-

party system) not because we are influenced by anybody to jump on the wagon, but because of the attack from the West and all that. They tell you to do this ... and they expect everybody to swallow what they say..." (Africa Events, 1992:7-8).

This orientation was to inform Moi's perception and behaviour towards the opposition. Before Parliament was dissolved in 1992, it passed two amendments. The Election Laws Amendment requiring all parties to meet the bill for preliminary elections contrary to the past practise where the State footed the bill. Secondly,, the presidential candidate was to secure 25% of the votes cast in at least 5 provinces in addition to securing a simple majority. If no candidate was able to meet the 25% rule, then a run-off election was to be held for the first two candidates.

The greatest threat to Kenya's stability emerged not from electoral politics but from ethnic clashes in the Rift Valley which the Government unsuccessfully tried to portray as instigated by the Opposition. More accurately as Bertha Amisi notes "they were KANU's efforts to frustrate the efforts of the democratisation movement, to prove that multi-party politics can only lead to ethnic conflict and perhaps civil war", this led to "factoring of politico-ethnic conflict into Kenyan politics in such a way that it raises concern over the potential [that] the current political struggles between KANU and the Opposition can degenerate into outright civil war" (1997:9). They however did lead to the displacement of a large number of potential voters in the 1992 General Elections. Although KANU no longer controlled access to political recruitment through KANU it sought to frustrate the efforts of the new opposition parties through a partisan Election Commission.

The Electoral Commission was also plagued by administrative problems and divisions over policy issues among the commissioners as confirmed by a statement issued by Commissioners Abel Nyamu and Francis Nga'natha which said:

"Since our appointment to the Commission, we have watched with keen interest the type of leadership the Commission has been working under. It has been, to say the least, a type of leadership completely lacking in the basic rudiments of management and administration. It can only be the kind of the leadership which can only be described as doctored to suit somebody's special mission..." (Nairobi Law Monthly, December 1992:37).

The Electoral Commission under the Chairmanship of Justice Zacheus Chesoni was raft with controversy. According to Professor Kibutha Kibwana the Commission failed to exercise the powers conferred upon it by Section 41 (10) of the Constitution to ensure that: the Kenya Broadcasting Corporation (KBS) provided equal coverage of all political parties in its broadcasts; the Provincial Administration did not infringe on the campaign licencing process; the Police and other security organs did not harass political actors and returning officers in an electoral process characterised by malpractice from voter registration to nomination and campaigning and in the vote counting and announcement of the results. Other complaints against the Commission were that an estimated 3 million eligible voters were not registered due to lack of identity cards.

However, the Commonwealth Observer Group put the figure of unregistered voters at 2.5 million (Commonwealth Observer Group, 1993:14). The 1992 General Elections showed the glaring proportional inequality of parliamentary representation in the Kenyan Parliament - there are more constituencies in less populated provinces than in the higher populated provinces. This has consequence on the electorate perception of government legitimacy and is a potential

source of conflict in a multi-party political system whereas Kenyatta controlled access to parliament through the *de facto* one party state Moi has sought to control parliament through disproportionate representation. As Wachira Maina puts it constituencies in Kenya.

"Are sharply skewed in favour of districts considered dependable supporters of the ruling party. Rift Valley periphery districts of Turkana, Samburu and West Pokot, have a total of 170,000 registered voters and a total of 8 parliamentary seats ... (this) compares easily with total registered votes in Mathare constituency ... with 160,000 registered voters. The National Average of registered votes per constituency is 42,000. If urban and rural seats were to be distributed on the basis of equality of citizenship, using the national average ... Nairobi province would have 16 constituencies instead of 8 it currently has. The Rift Valley district we have mentioned would have 4 parliamentary seats, and not 8 as they currently have" (Maina, 1996:20).

This disproportionate representation was also noted by Rok Ajulu, he observes that "Nairobi with 8.53% of the registered voters had only 8 parliamentary seats, thus comparing unfavourably to North Eastern Province's 1.79% of registered voters and 10 parliamentary seats. Central Province with 15.51% of the registered voters has 25 parliamentary seats, compared to Coast Province's 8.37% registered voters with 20 parliamentary seat" (Ajulu, 1995:15). See Table 1.

Table 1: BREADKDOWN OF REGISTERED VOTERS AND CONSTITUENCIES BY PROVINCE

PROVINCE	REGISTERED VOTERS	% OF TOTAL REGISTERED VOTERS	NUMBER OF SEATS	% OF TOTAL SEATS
Nairobi	673,814	8.53	8	4.26
Coast	661,427	8.37	20	10.64
N.Eastern	141,088	1.79	10	5.32
Central	1,224,981	15.51	25	13.30
Eastern	1,221,196	15.46	32	17.02
Rift Valley	1,919,672	24.30	44	23.40
Western	851,191	10.87	20	10.64
Nyanza	1,205,132	15.26	29	15.42
TOTAL	7,898,501	100.00	188	100.00

Source: Rok Ajulu, CDS 1995:15

The General Election in 1992 was characterised by violence and partisanship of both the Electoral Commission and the Provincial Administration. The nomination for Parliamentary candidates took place on December 9, 1992 and were characterised by violence, kidnapping, blockades, abductions, actual beatings and snatching of nomination documents from some candidates. It took pressure from the Law Society of Kenya and the public before the Commission ordered returning officers to accept nomination papers for some of the candidates who failed to beat the deadline (See Law Monthly No. 51., January 1995 and NEMU Report, 1993:53). In 1992 for the first time since the 1969 elections a candidate challenged Moi for the Baringo Central constituency. With respect to Henry Cheboiwo the High Court and the Court of Appeal noted that the Electoral Commission had powers to ensure that elections were held within the law and that nominated candidates had access to returning officers. The Courts ruling did not deter armed thugs from burning down Cheboiwo's house and raiding his livestock and in the process forcing him to bow out of the contest, subsequently granting KANU the Baringo Central seat unopposed!

The elections were held in a conflict ridden setting. Ethnic clashes engulfed the Rift Valley, parts of the Western and Nyanza Provinces. These clashes pitted members of the Kalenjin vis-a-vis "immigrant communities" in the Rift Valley. Despite government assurances on security being "beefed up" in the clash areas the conflict escalated to dangerous heights and in the process causing loss of life, destruction of property and the displacement of thousands of Kenyans. Many victims complained of the partisan role of law enforcement officers assigned to end the clashes. Two task forces investigated the causes of the ethnic clashes, one was independent and commissioned by the NCKC and the other was a parliamentary select committee under the Chairmanship of the Hon. Kennedy Kiliku. Both reports concluded that the ethnic clashes were politically instigated and motivated. The Task Force report and the 'Kiliku Report' both accused prominent members of the government namely William Ole Ntimama, Nicholas Biwott, Vice-President George Saitoti and the Speaker of the House Jonathan Ngeno. Parliamentary debate on the Kiliku Report was suddenly suspended and the report subsequently rejected. It is, however, evident that the ethnic clashes had an impact on both the electoral process and the outcome of the 1992 General Election.

President Moi and KANU emerged as winners of the 1992 General Election amidst accusation of rigging and manipulation of the results. Moi's precarious position is clear from the statistics of the 1992 election. Only 50 sitting MP's were re-elected, 133 lost. KANU won 100 seats in parliament with a total of 1,219,515 votes or 26.6% of the total vote. While Moi polled 1,964,867 votes or 36.8% of the total presidential vote. Put differently 73.4% of the electorate did not vote for President Moi! (See Ajulu, 1995:29) It is within this scenario that the 1997 General election will occur.

POLITICAL SUCCESSION AND RELATED CONFLICTS

What emerges from our examination of political succession in Kenya is the twin issue between political succession and political recruitment through the electoral process and the shrinking of the political space and the institutionalisation of elections as a mechanism of both political recruitment and legitimacy under both Kenyatta and Moi. The related conflicts that have emerged are:

Conflict between the state and university students

Kenya's political history and political development has been punctuated by sporadic conflict between the state and University students. The State has sought to contain or delimit this conflict through the force and they use of University administration. The conflict is, therefore, presented as conflict between the administration and the students. Although this has not always been successful it has helped isolate University discontent and thus deny it a "mass" appeal which would forge a link between grassroots discontent and the ideological protest of University students. In 1990s popular discontent with the government and university student protests seem to be laughing against the Moi government. This is likely spark for igniting conflict between government and student and the general public - particularly with the current police killings of University students.

The (re) emergence of institutions of civil Society.

Since 1969 KANU has endeavoured to emasculate institutions of CIVIL society such as SELF-HELP, NGO'S Church Organisations, Co-operative Society such as Trade Unions, Community Groups etc. in an attempt to align them to the State. The re-emergence of politically motivated and conscious institutions at the grassroots and national level willing and able to criticise the state and thus reassert the role of civil society in the democratic process becomes a source of conflict since the state is unwilling to concede a reduced role in the democratisation process. In 1991 through the NGO Co-ordination Act, the Government sought to reduce and regulate the number and activities of NGOs. However, this has not reduced the efficacy of new NGOs organise and get mass appeal, as civil society engages the conflict is likely as each assets its space.

Ethnic violence and insecurity.

In Kenya there appears a definite connection between ethnic conflict and political succession- particularly presidential succession. Ethnicity is a potential resource for ethnic entrepreneurship although its existence does not automatically lead to conflict. In Kenya the fusion of ethnic identity and politics has already occurred, in a multi-party system where ethnicisation' of politics becomes the driving force the potential for ethnic violence is likely to increase. As Professor Mutiso aptly observes 'The ethnicisation of politics in Kenya as a defence against the Opposition focuses conflict not on the political process but rather on the fear of ethnic conflict- thus to challenge KANU is no longer to challenge a political party but to challenge the Kalenjin and the President (1997).

Corruption and economic conflict.

The Kenyan state has reached unprecedented heights of public corruption and this is likely to fuel economic conflict particularly conflict between the emerging economic elite within KANU that thrives on political favours and government contracts. The importation of sugar, milk, clothes and other locally available products has had impact in mot rural economies. The delay in payment by the state for farm produce particularly tea, coffee, milk etc has already generated anti-government sentiments at the grassroots. While this form of conflict is easy to

mitigate it will pit the state against its own supporters.

Constitutional reforms.

As popular support for constitutional reforms builds and the government maintains its hardline stand or delaying tactics on the issue of dialogue on the constitution, conflict is likely to escalate as citizens and institutions of civil society engage the state. As is already happening on May 31, 1997 and "Saba Saba" riots. There is potential of violence becoming a political weapon of forcing the KANU government to listen. Although this conflict can be mitigate and resolved by the government'S commitment to meaningful constitutional reforms these reforms are likely to have an impact/effect on political succession.

The 1997 General Election.

This remains the most likely source of conflict and a direct challenge on the relative stability that Kenya has enjoyed since independence.. The advent of multi-partism has opened a perilously narrow and constricted political space, particularly as it relates to political succession. The principle of acclamation has been replaced by the principle of choice in Presidential election. The Government can no longer exercise control over the institutions of political recruitment as it had under the one-party system. Competitive politics in a plural society "ethnisation" of politics has already occurred is likely to generate conflict. Secondly, as the integrity and impartiality of the Electoral Commission is increasingly questioned the issue of a free and fair election in 1997 is important. An election boycott or rejection of the result is likely to generate conflict- which can escalate into violent ethnic conflict.

CONCLUSION

Political conflict over succession in Kenya has not led to violent conflict for various reasons. Conflict over succession has been constitutionally driven, that is, candidates have accepted the legitimacy of the constitution and the provisions which regulate succession. Secondly, political murder and assassination have intimidated potential successors narrowing the range and scope of conflict over succession. Thirdly, conflict regarding succession has been issue driven, that is, Section 2(A), licensing of political rallies and constitution reforms etc., has meant that conflict is contained within the existing political framework. Finally, all political conflict in Kenya has been elite dominated, as stake holders in the Kenyan state the competing elites are willing to contain conflict so as not to threaten stability.

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