



Kenya Beyond Liberal Democracy: The Rationale for an Ethnically-Based Federation

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Whenever there is a crisis of the magnitude of the current COVID-19 pandemic, people are forced to inspect their most basic assumptions. In [Philosophy and Education in Africa](#), R.J. Njoroge and G.A. Bennaars noted that we get the English noun “crisis: from the Greek noun *krisis*, denoting separation, decision, or judgment. Among the things that many have often taken for granted, but that are worth inspecting, is the belief that democracy is all about elections, after which the executive, the legislature and the judiciary run the country. This is the liberal democratic framework that deserves a fresh look, alongside the many other things that we can no longer take for granted.

The woes of liberal democracy

For many, “democracy” simply means “liberal democracy” – characterised by individual freedom (which entitles citizens to the liberty and responsibility of charting the course of their lives and conducting their own affairs), equality before the law, the right of everyone to vote (“universal suffrage”), universal education, freedom of movement, freedom of expression, and freedom of assembly.

Many of these features have been proclaimed in historical documents, such as the 1776 U.S. [Declaration of Independence](#), which asserted the right to life, liberty and the pursuit of happiness,

the 1789 French [Declaration of the Rights of Man and of the Citizen](#), which affirmed the principles of civil liberty and of equality before the law, and the 1941 Anglo-American [Atlantic Charter](#), which affirmed the “four freedoms”, namely, freedom of speech, freedom of religion, freedom from want, and freedom from fear of physical aggression.

Liberal democracy is the political expression of liberalism - an ideology that emphasises the pre-eminence of the autonomy of the individual over the authority of society. In 1859, John Stuart Mill classically articulated the centrality of the autonomy of the individual in Western liberal thought in his [On Liberty](#), in which he argued that the individual ought to be protected against the tyranny of the majority in the same way as he or she ought to be protected against political despotism. For him, society is only justified to limit the individual’s freedom in instances where his or her actions result in harm to others.

In “[The Case against Democracy](#)”, C. Crain notes that proponents of liberal democracy contend that it has several strengths, among which are that countries that subscribe to it very rarely go to war with one another, rarely murder their own populations, nearly always have peaceful transitions of government, and respect human rights more consistently than other systems of government do.

However, since most African states attained political independence in the late 1950s and early 1960s on the back of constitutions that were by and large liberal democratic, they almost immediately faced major challenges in their efforts to put this imported model of governance into practice. Thus there were numerous amendments of constitutions to perpetuate incumbent regimes, often leading to autocratic one-party states, military coups, contested elections, and violent inter-ethnic conflicts.

Furthermore, in a masterly book chapter titled “Western Modernity, African Indigene, and Political Order: Interrogating the Liberal Democratic Orthodoxy” in [Electoral Politics in Kenya](#), the Kenyan political scientist Ludeki Chweya pointed out that the re-introduction of multiparty democracy in several African countries from the early 1990s met with challenges very similar to the ones experienced at the dawn of independence. From the early 1990s, newly elected governments were overthrown either through military coups (Sierra Leone, Burundi and Côte d’Ivoire), or at the hands of armed guerrilla movements (Congo-Brazzaville). Further, adulterated multiparty elections resulted in the retention and legitimisation of the continent’s long-standing authoritarian civilian regimes (Burkina Faso, Cameroon and Kenya). Even where there was a successful change of guard through multiparty elections, new, ostensibly democratic regimes quickly assumed an authoritarian character typical of their predecessors (Zambia and Malawi). A few others remained aloof to these democratisation initiatives (Sudan).

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Consequently, an increasing number of African and Africanist political theorists are now convinced that what is often called “the failure of democracy in Africa” is really “the failure of liberal democracy in Africa”, and that this failure is doomed to be witnessed in our continent again and again until we stop trying to implement this foreign model of governance and design our own home-grown models of democracy instead.

For Ludeki Chweya, the development of a stable and enduring democracy in Africa is contingent

upon a fusion of elements from two civilisations that make up the continent's socio-political heritage, namely, the abiding indigenous African forms of democracy and Western liberal democracy, so as to produce a special variant of democracy for the continent.

On the basis of the decentralised political structures in a considerable number of pre-colonial societies in Africa, the Kenyan philosopher Aloo Osotsi Mojola, in a chapter in the edited volume, [Law and the Struggle for Democracy in East Africa](#), prescribes a restructuring of the global system through radical decentralisation that no longer has the "nation-state" at its core.

On his part, the renowned Ghanaian philosopher, Kwasi Wiredu, in [Cultural Universals and Particulars: An African Perspective](#), prescribes a no-party consensual democracy for contemporary African states, averring that many pre-colonial African communities were effectively governed through this form of governance. He is emphatic that while unanimity might be the perfection of consensus, it need not be achieved in every instance. Instead, quite often, it will be enough to ensure that all views are adequately articulated in the course of decision-making in order to secure the goodwill of those whose wishes are not adopted for implementation.

Moreover, in his 2002 conference paper, "Democratic Governance and New Democracy in Africa: Agenda for the Future", the late South Africa-born scholar, Archie Mafeje, proposed that African scholars abandon the Western debate between liberal democracy and social democracy, and adopt a new approach to democracy instead, entailing three crucial components. *First*, the sovereignty of the people ought to be recognised as both a basic necessity and a fundamental right. *Second*, social justice, not simply formal rights, must constitute the foundation of the new democracy. *Third*, the livelihood of the citizens must not be contingent on ownership of property, but rather on equitable access to productive resources.

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Tatah Mentan's 2015 book, [Decolonizing Democracy from Western Cognitive Imperialism](#), seems to capture the spirit of the views of the foregoing African theorists.

In line with the foregoing African thinkers, I hold the view that there is no reason for giving liberal democracy a third chance instead of exercising our creativity to come up with alternative models of democracy that take cognisance of our socio-political realities instead of attempting to override them as experiments with liberal democracy have done for almost six decades now. In "[Liberal Democracy: An African Critique](#)", I argued that from an African perspective, the almost hegemonic status of liberal democracy can be challenged on at least five grounds:

1. *Logical inconsistency* - liberal democracy advocates for the autonomy of the individual, and yet no individual is born with an awareness of liberal ideals; these can only be taught to the young and old in a social context.
2. *Impracticability* - while liberal democracy lays emphasis on the autonomy of the individual, many Africans have a largely communalistic outlook based on their conception of family as extending beyond their immediate household to a broad range of kinship relations that extend all the way to their ethnic groups. Besides, due to the large amounts of money required to effectively compete for elective positions, liberal democracy marginalises the masses to mere voting pawns.

3. *Inconsistency between affirmation and action* - Western societies that emphasise the liberal ideals of the dignity of the individual and his/her various freedoms have been some of the greatest violators of those very ideals through the slave trade, colonialism and neocolonialism.
4. *Violation of the right to ethnic identity* - the ethnically-blind vision of liberal democracy unjustifiably criminalises the right of the individual to enjoy associating with his/her ethnic group, and even to desire that this loyalty be recognised and respected in the management of public affairs.
5. *The moral imperative to assert the right to cultural emancipation* - genuine political independence requires that the cultural orientation of African peoples find expression in their political organisation instead of such organisation being designed to reflect the ideals of their erstwhile colonisers.

Three Grounds for an Ethnically-based Federation for Kenya

According to the advocates of liberal democracy, post-colonial African states ought to minimise, if not entirely get rid of, the multiplicity of ethnic identities and loyalties. In other words, they advocate for ethnically-blind polities, where states focus on the demands of the individuals in them rather than on those of cultural groups.

However, there are at least three reasons why Kenya ought to be re-structured into an ethnically-based federation.

First, freedom of association ought to include the liberty of the individual to associate with people with whom he/she shares a cultural heritage, and this can find considerable room for expression in an ethnically-based federation. Western liberalism strangely fails to see that criminalising the free expression of ethnic loyalty amounts to a violation of the right to free association, and is a case of liberalism itself being illiberal in practice. Furthermore, social scientists attest to the fact that the individual's views regarding the good life are significantly influenced by his or her social environment whose major feature is often ethnicity.

The 1948 United Nations' [Universal Declaration of Human Rights](#) had a distinctly liberal democratic orientation, envisaging rights as strictly belonging to individuals and not to groups. However, due to pressure from non-Western communalistic cultures, current discourse on human rights within the UN framework acknowledges three categories of entitlements, referred to as "generations of rights", namely (1) civil rights (entailing the well-known personal liberties, such as freedom of movement, association and conscience), (2) economic welfare rights (including entitlements to food, shelter, medical care and employment), and (3) what may be broadly termed "rights of cultural membership".

Thus the 1966 UN [International Covenant on Civil and Political Rights](#) declares that third-generation rights ought to be protected: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

Second, recognition and protection of the right to ethnic identity through an ethnically-based federation would be an antidote to perpetual cultural, political and economic domination. In unitarist ethnically plural post-colonial African states, ethnic groups that enjoy numerical advantage, or, more importantly, that have managed to hang on to political power, configure the state to reflect and support their own worldviews, and this has a direct impact on access to economic and political influence. For example, in "[Kenya: Minorities, Indigenous Peoples and Ethnic Diversity](#)", Maurice Odhiambo Makoloo pointed out that just like their colonial predecessors, post-colonial Kenyan

regimes have defined the economic potential of the country strictly through agro-ecological zones, thus retaining the colonial fixation with highland agriculture. Central Kenya and the highlands are defined as high potential areas, while the Lake Basin and Ukambani lowlands (Eastern province) are defined as medium potential and the rangelands, which comprise 70 per cent of the country's land mass, are defined as lowest potential.

Consequently, as John R. Campbell observed in "[Ethnic Minorities and Development: A Prospective Look at the Situation of African Pastoralists and Hunter-Gatherers](#)", a hierarchy has developed based on unequal political power which translates into unequal access to, and control over, land. Campbell went on to note that from colonial times, alien Western capitalism has encroached on land, whether it belongs to agriculturalists, pastoralists or hunter-gatherers; agriculturalists have moved into pastoralist lands, and agriculturalists and pastoralists have taken over hunter-gatherer territories.

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Except for alien Western capitalist encroachment, numerical strength or weakness has been pivotal to this hierarchical process of socio-political dispossession, as the agriculturalists are more numerous than the pastoralists, and the latter have a demographic advantage over the hunter-gatherers. Consequently, entrenching the right to the recognition and protection of ethnic identity into the country's constitution would significantly enhance efforts to address these injustices.

Third, in "[Nationhood and Statehood: The Impact of a Conflated Discourse on African Polities and their Non-Dominant Ethnic Groups](#)", I argued that constitutional protection of ethnic identity would address the need to mitigate the harmful effects of the discourse on the nation-state. From the days of the so-called nationalist struggle for independence, the idea was popularised that Kenyans are "one people".

However, the formation of the Kenyan state was an act of gross violence, commencing with the formal inauguration of the Imperial British East Africa Company rule in 1888, but more officially with the declaration of the British East African Protectorate on 1st July, 1895. The 1886 Anglo-German agreement delineated the sovereignty of the Sultan of Zanzibar from the country's coastline to ten miles into the interior. In 1895, the Sultan of Zanzibar leased the administration of the strip to the British.

These events set in motion the violent process of placing different ethnic communities with their diverse systems of government within one large and new area of central administration. The territory beyond the ten-mile coastal strip was declared to be "Kenya Colony" in 1920. Thus while the ten-mile coastal strip continued to be referred to as a Protectorate, the rest of the territory was henceforth referred to as the Kenya Colony.

Nevertheless, the British administered the Protectorate and the Colony as a two-in-one unit out of expediency. Is it any wonder then that our people display greater loyalty to their ethnic identities that are centuries old, while giving lip service to the Kenyan identity which, very loosely speaking, is only a century old this year? Consequently, like most post-colonial African polities, Kenya is a multi-national state, not a nation.

While current geopolitics make it impossible for our various peoples to revert to their pre-colonial

political formations, we can mitigate their pain considerably by setting up an ethnically-based federation in which ethnic identity is recognised and respected instead of being criminalised, as it has been thus far. Thus, in the place of the nationalist discourse, we need to build a polity in which our various peoples can organise their local spaces in a manner consonant with their worldviews. This point becomes clearer when we recognise the fact that politics is part and parcel of culture, so that a political formation enjoys greater legitimacy when it reflects the cultural milieu of its inhabitants. Regarding this, A.S. Narang, in "[Ethnic Conflicts and Minority Rights](#)", wrote:

People invariably retain an attachment to their own ethnic group and the community in which they were brought up. There is an interdependence between the individual and collective processes of identity formation. Thus individuals expect to recognise themselves in public institutions. They expect some consistency between their private identities and the symbolic contents upheld by public authorities, embedded in the social institutions, and celebrated in public events. Otherwise, individuals feel like social strangers, they feel that the society is not their society.

Many people in Kenya, especially in the rural areas, still cherish their indigenous systems of governance. This is perhaps most evident during electioneering seasons, when politicians go around the country receiving politico-spiritual "honours" from elders of various ethnic groups in a bid to enhance their popularity in those communities. It is therefore high time we took the rampant loyalty to indigenous governance models seriously by giving the people space to utilise them at the local level through an ethnically-based federation.

In "[What is the Problem of Ethnicity in Africa?](#)", the late renowned Nigerian social scientist, Claude Ake, stated:

... ethnicity supposedly epitomizes backwardness and constrains the development of Africa. This presupposition is misleading, however, for it is development rather than the people and their culture which has to be problematized. Development has to begin by taking people and their culture as they are, not as they might be, and proceeding from there to define the problems and strategies for development. Otherwise, the problematic of development becomes a tautology. The people are not and cannot be a problem just by being what they are, even if part of what they are is ethnic consciousness. Our treatment of ethnicity and ethnic consciousness reflects this tendency to problematize the people and their culture, an error that continues to push Africa deeper into confusion...The point of course is not to romanticize the past and be captive to it but to recognize what is on the ground and strive to engineer a more efficient, less traumatic, and less self-destructive social transformation.

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Ake went on to warn that the usual easy judgments against ethnic consciousness are a dangerous luxury at a time when long-established states are decomposing under pressure from ethnic and nationalist assertiveness, and when the community of independent states is shrugging off their demise. For him, the enormous implications of this for Africa, where hundreds of ethnic groups are squeezed chaotically and oppressively into approximately 50 states, are easy enough to imagine.

Are there successful cases of ethnically-based federations in Africa? The answer to this question is not straightforward, but the Ethiopian case is worth careful study. While in "[The Trouble with](#)

[Ethiopia's Ethnic Federalism](#)" Mahmood Mamdani dismisses the Ethiopian experiment on the basis of the ethnically-blind liberal vision of society, Kalundi Serumaga plausibly replies to him in "[Speak of Me as I Am: Ethiopia, Native Identities and the National Question in Africa](#)".

Yet, whether or not there are successful cases of ethnically-based federations is neither here nor there: the hypocritical nationalist discourse in Kenya, in which politicians speak about their commitment to a Kenyan identity while mobilising their followers along ethnic lines, can only be slain by finally acknowledging our ethnic diversity and factoring it into our socio-political engineering. We can achieve this by granting constitutional protection to the right to ethnic identity, and on its basis creating an ethnically-based federation.

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