

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

The Challenges and Opportunities of Decentralized Political Systems:

Lessons for Kenya from India and Nigeria

BY

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ADM.NO. R/50/69707/2013/14

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*A Research Project submitted in partial fulfilment of the requirements for the Degree of
Master of Arts in Diplomacy and international Studies*

AUGUST 2014

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Declaration

I, Pius Mugambi Murugu hereby declare that this research report is my original work and that it has not been presented for a degree in any other university

Signed.....Date.....

This project has been submitted for examination with my approval as University Supervisor

Signed Date

Dr. Adams Oloo

SUPERVISOR

Dedication

This Research is dedicated to my loving wife Lisqueen Jepchumba Mugambi and my precious children Lyn Makena, Gloria Jebet and Shallom Mwende for their overwhelming love and encouragement during the Course.

Acknowledgement

My first gratitude is to the Almighty God for his faithfulness and providence throughout my study period at the National Defence College and for giving me the strength and good health to pursue this program.

I am equally highly indebted to the Government of Kenya through the Ministry of Interior and Coordination of National Government for the privilege of nominating me to undertake this program; the Commandant National Defence College, Senior directing Staff and all NDC fraternity; Director institute of Diplomacy and international studies University of Nairobi and all the Course Lecturers for the knowledge imparted on me which has enabled me carry out this research.

My final appreciation goes to my supervisor Dr. Adams Oloo for his invaluable guidance and direction of this research.

Abstract

Decentralization has been increasingly seen and adopted worldwide as a guarantee against discretionary use of power by central elites as well as a way to enhance the efficiency of social services provision by allowing a closer link between public policies and the desires, needs and aspirations of people at the grassroots.

Over the last few decades a growing number of countries have moved to decentralize their governance systems by devolving significant governing authority down from the centre to lower levels, or at least decentralizing some significant elements of government responsibility down to local levels. Increasingly decentralization has become a fundamental democratic principle.

Good democracy requires that people are able to elect their own local leaders and representatives, and that these local governments have some real power to respond to the needs of the people. In short decentralization is increasingly being demanded from below, through pressure from grassroots, and is embraced for its potential to enhance the depth and legitimacy of democracy.

Indeed, decentralization can strengthen democracy and enhance its stability by helping to hold the country together by giving each group some control of its own affairs. It may also help to sustain the political system by distributing power among a wider array of political parties, each of which finds that it has some tangible stake in the the system. And it speaks to the aspirations of people and communities who simply want government to be closer and more responsive to their needs.

The clamour for constitutional reforms in Kenya core driviving force was decentralization of government which was highly centralized and oppressive.

The Kenya's constitution 2010 entrenches devolved government by guaranteeing minimum unconditional transfer of power and resources to the counties under the new dispensation. Consequently, there are great opportunities and enormous challenges waiting Kenya and occasioned by the new dispensation, which will determine the fate of the country politically, economically, and socially after the recent elections which kicked off implementation of devolution and anticipated benefits in the years ahead.

Despite the new devolved constitutional dispensation and coming in of two tier governance system a lot of teething problems have been experienced in the course of implementation of the new system. The politics of devolution currently being experienced in Kenya explain the high intensity hopes, and expectations that have been pinned on it. It also means that there are high risks if not handled and implemented properly. The teething problems being experienced in implementation of devolution in Kenya is the core driving force which informed the quest for this study to be able to understand the experience of other countries on the same.

This study examines the challenges and opportunities of decentralized political systems with special reference to Kenya's new devolved political structure. The study also attempts to assess the decentralized political structures of India and Nigeria to derive lessons for Kenya. The project argues from both a positive and negative angle and the lessons learnt will go a long way into shaping Kenya's devolved system which has experienced a lot of initial teething problems in the early stages of its implementation.

List of Abbreviations and Acronyms

CAA	Constitutional Amendment Act
CDF	Constituency Development Fund
CIC	Commission on the Implementation of the constitution
CIC	Constitutional Implementation Commission
CKRC	Constitution of Kenya Review Commission
CoK	Constitution of Kenya
CSSs	Centrally Sponsored Schemes
DC	District Commissioner
DDCs	District Development Committees
DFRDs	District Focus for Rural Development Strategy
GDP	Gross Domestic Product
GOK	Government of Kenya
GPs	Gram panchayats
ICT	Information Communication Technology
MCA	Member of County Assembly
MPLAD	MP Local Area Development Scheme
MPS	Ministry of Public Service

NDC	National Defence College
NGOs	Non-Governmental Organisations
NGOS	Non-Governmental Organisations
PA	Provincial Administration
PRIs	Panchayat Raj Institutions
PRSP	poverty Reduction Strategy Paper
RDC	Resident District Commissioner
SMS	Small short Message
UN	United Nations
UNDP	United Nations Development Programme
USA	United States of America

CHAPTER ONE:

INTRODUCTION TO THE STUDY

1.1 Introduction

Decentralization has increasingly been adopted worldwide as a guarantor against discretionary use of power by central elites as well as a way to enhance the efficiency of social service provision by allowing a closer link between public policies and the desires, needs and aspirations of citizens. The clamour for decentralization of government services has been sweeping fast across the world.

Post-independent Kenya has been characterized by centralization of political and economic power in the hands of a few, which resulted in un-even and unfair distribution of resources and corresponding access to social and basic services in all regions of the country. The unequal distribution of power and resources was the main driving force for the clamour for constitutional changes which climaxed in 1990's onwards and eventual referendum in the year 2010 which brought in a new devolved constitutional dispensation.

Kenya's constitution (2010) makes a critical departure in the nation's trajectory and extensively alters the political and constitutional dispensation with far reaching changes. Its vision encompasses a dramatic transformation of Kenya through the adoption of a devolved system of decentralized government; new accountable and transparent governance institutions, inclusive approaches to government and a firm focus on equitable service delivery for all Kenyans through the newly established two tiers National and the 47 county governments.

Devolution is at the heart of Kenya's new constitution and is a key vehicle through which spatial inequalities are meant to be addressed. It is premised on the foundation that a more

decentralized government makes eminent sense, given Kenya's diversity and experience. The Kenya constitution 2010 entrenches devolved government by guaranteeing minimum unconditional transfer of power and resources to the counties under the new dispensation. The devolved units started functioning immediately after the March 4th 2013 general elections and after the election of governors to run the 47 county governments, election of the senators to sit at the senate and election of the county assembly members.

Devolution in Kenya has been having implementation challenges with accusations and counter accusations on how it is being frustrated by different forces. The biggest challenge now is how to effectively manage the newly created devolution structures to achieve the desired result and meet the high expectations of the people. The politics of devolution explain the high intensity hopes, and expectations that have been pinned on it. It also means that there are high risks if not handled and implemented carefully. Kenya is also being watched by many other countries because of the highly ambitious and robust constitutional dispensation ever enacted in Africa and will be the fulcrum through which other countries will follow and especially those in Africa which have centralized power to few bureaucracies over the years.

The opportunities and challenges being experienced in Kenya occasioned by the new devolved political dispensation will determine the fate of the country politically, economically, and socially. The success of devolution in Kenya will depend on lessons learnt from the other decentralized polities like those of Nigeria and India.

Nigeria is an African powerhouse which has experienced a lot challenges but still emerged as a regional hegemony. India has also its fair share of challenges with its huge population and diversity but has overcome ethnic challenges and emerged as an industrialized nation and one of

the most successful nation and join the the BRICKS club. Kenya has a lot to learn from these two diverse countries and their extra ordinary experiences.

1.2 Statement of the problem

‘The mere fact of opting for decentralization shall not by itself ensure that the population effectively participates in its development which is the ultimate goal of good policy of decentralization and good governance. It is important to set up mechanisms reassuring the participation of the population.....’¹

Kenya today faces a major transition challenge from a centralized state to one that has adopted the concept of devolution.

The new political dispensation in Kenya has heralded both challenges and enomous opportunity for the people of Kenya and and its success will depend on how it can learn from and experiences of other decentralized and devolved countries.

The implementation of the constitution of Kenya 2010 and especially the management of the new devolved political structures is the single most critical challenging issue facing Kenya’s policy makers and implementers today both at the national and county government levels and its success will be a big lesson for the entire world and especially those still in the process of decentralizing and devolving their governments.

Kenya’s devolution transition has seen new administrative structures established, new centres of power emerge, and new relations between the national and the nascent county governmens

¹ Ministry of Local Government and Social Affairs: *Community development policy 2nd Edition*, (Kigali, 2001, pg 20)

develop and continue to evolve. Implementing the new political dispensation has had its fair share of challenges and successes with both positive and negative results.

According to the cabinet secretary for Devolution and planning during the evaluation of the State of Counties in Kenya today, there have been teething problems with different institutions grappling with new roles and mandates. Various institutions have been having supremacy wars. At the national level we have witnessed a supremacy battle between the Senate and the National Assembly and on the other hand between the Senate and Governors. County Executive Committees in a number of counties are at variance with their County Assemblies, and incidences of impeachment and threats of impeachment are on the rise. County Assembly members have gone on strike demanding higher pay and equated terms of service to those of their National Government counterparts. Health personnel downed their tools protesting against the transfer of Health functions to the counties. All newly created constitutional institutions are learning to operate in a pure presidential system of government, a new executive structure, within a bicameral legislature in the context of devolution. The challenges experienced thus far have unfortunately propelled our innate fear of change as a nation.

Despite the fact these teething problems are acknowledged as normal problems which accompany any new governance reform process, doubts and reservations have been expressed on the viability of the new governance system. Ideas have been toyed around about reducing the representatives of the people, revising the number of counties, introducing fusions of administrative structures, and taming the perceived power of governors. To this end, Leaders and citizens have barely allowed the Kenyan version of devolution to define itself.

It is therefore too soon to judge the future of devolution in Kenya and more importantly too soon to derive any lessons. As the experience and lessons from other decentralized countries around the world have shown, going forward it is important for the country to appreciate that devolution is a process and not an event, and barely one year of devolution cannot be a yardstick to judge failure or success of devolution in Kenya.

Kenya can learn a lot on how to navigate through the decentralization process from those countries that have more experience with devolution and have implemented the system over long period.

The lessons from Nigeria and India shows that decentralized governments are still facing the same problems many decades of the implementation of the same.

In Nigerian Federalism the version of Decentralization was adopted as a means of achieving its much needed goal of National intergration. In essence the feralism adopted was expected to reduce the immensely aggressive inter-ethnic competition and tension and allay the fear of domination by big tribes over the small tribes. It was anticipated that this would bring government nearer to the people and give different groups more opportunities, thereby intergrating the country.

However, the anticipated gains in Nigeria have not been achieved. The case of Nigeria shows that despite adoption of federalism, power instead of being dispersed to the states is still largely concentrated in the central government. The crisis of national integration is still very severe and has thus made Nigerian federalism quite a challenge. There exists serious structural imbalances between the North, East and the west of Nigeria and it has thus shown that Nigeria cannot make any meaningful progress in the absence of unity due to persistent power struggles. Federalism in

Nigeria was adopted as a pragmatic instrument for achievement of the goal of national unity. The rationale was to see if there could be unity in diversity and look for ways of bringing diverse ethnic groups into a modern nation. However, amidst all the efforts the goals of national integration are not yet possible owing to the numerous problems inherent in Nigerian federalism. Kenya can learn a lot of lessons from the Nigerian model.

On the other hand India put high hopes on rural decentralization and this has created an opportunity for restoring confidence in government and has empowered poor jurisdictions in contrast to the difficulties faced in the past by an ineffectual and centralized administration.

As De Souza (1999) summarized, the expectations put on decentralization as expressed by a large number of thinkers and organisations in India are: more accessible government; speedier resolution of local disputes; more legitimate, accountable and transparent government; a training ground for political leadership; more competition in political leadership; empowerment of the most vulnerable and disadvantaged groups; better service delivery and a more balanced and sustainable development in the village.² Key findings in India shows that past attempts towards rural decentration were highly unsuccessful and PRIS remained non-functional. Since independence there has been an agreement on the need for rural decentralization but the design in the various attempts faced inadequate institutional, legislative or policy environments for implementation. As a result past attempts were unsuccessful, with the PRIS haunted by bureaucratic and political resistance at the state level.

² In Datta Prabhat (1997) *Politicizing Rural Development: Lessons from India's West Bengal*, Asia – Pacific Journal for Rural Development, December 1997

In conclusion therefore, Kenya is in the transitional stages of implementing her devolved system. She is in this case entering unchartered territory given that the majimbo system of 1963 collapsed without being implemented. Nigeria and India on the other hand have a long experience of implementing their respective decentralized systems. Through the years they have encountered both opportunities and pitfall.

This study seeks to draw lessons from the two countries that can be used to inform the implementation devolved system in Kenya

1.3 Objectives of the Study

This study seeks to achieve the following objectives:

Specific objective

The study examines the main devolution challenges and opportunities in Kenya and lessons to be learnt from Decentralized political systems in India and Nigeria.

General objectives:

1. To examine the opportunities and challenges of decentralized political systems
2. To identify lessons that Kenya can learn from India and Nigeria's decentralized political systems and
3. To make recommendations on how best to overcome current devolution challenges in Kenya

1.4 Justification of the study

Decentralization today has become a global trend and a key issue in development policy in the last two decades. Most developing countries are embracing decentralization whether In Latin America, Europe, East Asia or Africa. Decentralization has been part of the democratization process as military or autocratic regimes have been replaced by democracies. Decentralization has shaped government structures in Africa as most of the states have transferred power, resources and responsibilities to authorities in their sub-national level and it has aided a more equitable distribution of public services and increased citizens' participation. Decentralized governance is thus increasingly being favoured by many African countries as the most suitable mode of governance through which poverty reduction and interventions can be conceived, planned, implemented, monitored and evaluated. However decentralization all over the world has not been smooth. The central governments have always been cautious and reluctant to transfer real power to decentralized units. Problems and challenges of implementation of decentralized structures will always be experienced like what is currently happening in Kenya today.

Kenyans through a referendum and subsequent promulgation of the new constitution on 4th August 2010 voted overwhelmingly for a change of the government structure from highly centralized to a devolved system with a two tier National and 47 County governments. The implementation of the new structures, their management under the new constitution and overall institutional relationships poses the biggest challenge of the time. The implementation of the devolved structures of government and anticipated benefits and high expectations from the people of this country and inherent implementation challenges cannot be wished away and ways and lessons of managing the same is invaluable. Lessons of managing decentralization

challenges from other decentralized political systems in the world and especially India and Nigeria will be of great benefit to Kenya. One being an African country which has faced enormous challenges but still strong as a regional hegemony and the other a newly industrializing country which has also overcome enormous challenges.

The research shows that devolution benefits are not a one stop shop and will require patience and understanding. Though the aspiration and expectations of devolution among Kenyans is high, it is now widely believed that devolution will be hard to implement if the current implementation challenges are not diagnosed and possible solutions sort. Kenyans have a lot of faith that the two levels of government will serve them well and bring the perceived benefits. More so, the county governments are expected to revolutionize rural areas and make them centres of economic and social development.

Failure of the system can lead to serious disillusionment and apathy to Kenyans with very high cost and loss to the Nation. The new heat and confusion generated by the new devolved political structures in Kenya leads us to conclude that the devolved system is currently least understood by both policy makers and implementers hence this study deriving from other experienced decentralized democracies will be invaluable to policy makers and implementers of the new devolved system in Kenya. It is also hereby appreciated that not much literature has been written to guide policy makers, implementors and general public especially on challenges inherent in decentralization of power and resources to devolved structures and at the same time the maintainance of national unity in the country. Balancing the two is tricky as will be shown by the experience both from Nigeria and India.

This study will therefore try to define Kenya's current devolution challenges and opportunities with a view to guide a smooth transition and implementation of the new dispensation. The study will also derive possible lessons to be learnt from decentralized political systems of India and Nigeria. It is envisaged that the lessons learnt will assist the national and county governments in Kenya to foster a seamless transition and unity in the implementation of their respective mandates. Experiences from other countries will also assist policy makers, implementers and the public to make informed decisions and appreciate that other countries have experienced the same pitfalls in their endeavours to decentralize governance structures and resources and the challenges currently experienced should be a resource for further resolve in order to succeed and avoid irrational decisions and abrupt change of the structures already established. Hence both county and National government will benefit immensely from this study in the hope that success of devolution in Kenya will be a mirror to be emulated by other countries in Africa and the world.

1.5 Literature review

Introduction

Historically, African countries have experienced fused, personalized and at best highly centralized governance system and practices. In pre-colonial times kings or traditional leaders represented basically all authority. During the colonial and immediate post-colonial periods, governance was structured and practiced in a highly centralized manner. During military and quasi-military dictatorships that in many African countries replaced the immediate post-colonial governments, governance was practically personalized.

Political and administrative reforms that have been going on in many countries in Africa, especially since the 1990s, have sought to break with the past through decentralization of powers to lower local governments. Decentralization has become a key issue in development policy in the last two decades. Decentralized governance is increasingly being favoured by many African countries as the most suitable mode of governance through which poverty reduction interventions can be conceived, planned, implemented, monitored and evaluated.³ Many pro-poor strategies have been adopted in third world countries, in an attempt to reduce the poverty rate and decentralization is one of such rescue policies. Many countries hope that the process of decentralization will facilitate greater participation as well as oversight which in turn will increase ownership and the likelihood of sustainability of such initiatives.

An attempt to bring the government closer to the needs of the people has made decentralization become popular with the pro-poor policies (Faguest, 2004). This process often involves administrative, fiscal, market based, political and or a combination of these. The question, as to whether or not decentralization is an appropriate approach is thus an essential question.

This section will review various literatures by scholars who have conducted research in related fields, and give an account of what has been published on this topic by scholars and researchers as well as examine some theories that have been put forward to explain various issues related to Decentralization.

³ John-Mary Kauzya, *“Decentralization: prospects for peace, Democracy, and Development”* (conceptual background paper for the first conference of the European and African regional assemblies on Decentralization held in Florence Italy, 17-18th September 2004).

1.6 Decentralization concept

The term decentralization embodies several concepts including devolution, deconcentration, delegation and delocalization. Decentralization is a generic term which covers a number of modes such as the following: (i) Deconcentration which refers to the process of administrative decentralization whereby the central government designs a structure that enables its agents to work close to the local people in field units / agencies of central government, (ii) delegation which is the transfer of responsibilities from central government to semi-autonomous bodies that are directly accountable to the central government, (iii) devolution which is the process of transferring decision making and implementation powers, functions, responsibilities and resources to legally constituted local governments, (iv) delocalization which is the spatial distribution of central government, social-economic development facilities and activities such as schools, hospitals, etc in peripheral regions.⁴

Decentralization can be defined as a process of transitioning from a governance structure in which power is concentrated at the central or national level to one in which authority to make decisions and implement them is shifted to lower level governments or agencies.⁵ It consists of a transfer of public functions from higher tiers to lower tiers of governance. Governments can have many different reasons for decentralizing to increase the efficiency of public services, for example, or to allow for greater local participation. In Latin America and Africa, for example,

⁴ John Mary Kauzya (2003) “*Strengthening Local Governance Capacity for participation*” in Dennis A. Rondinelli and Shabbir Cheema: *Reinventing Government for the twenty-first century: State capacity in a globalizing Society*, Kumarian Press, inc, Bloomfield, CT, USA (2003)

⁵ Angel Allan et al. *Decentralizing Development* Oxford University Press Inc. New York (2001)
pg1

decentralization has been a part of the democratization process as military or autocratic regimes have been replaced by democracies.⁶

Decentralization connotes generally the transfer of political power from central governments to sub-national governments. In principle, decentralization is perceived as a means of improving the efficiency and responsiveness of the public sectors. By transferring decision making power to levels of government that are close to beneficiaries, decentralization gives citizens greater influence over the level and mix of government services they consume and greater ability to hold their officials accountable.

Decentralization has thus become a key issue in development policy in the last two decades. In Latin America and Africa decentralization has been part of the democratization process as military or autocratic regimes have been replaced by democracies. It's a key strategy for promoting good governance interpreted as greater pluralism, accountability, transparency, citizen participation and development. It is an important process that results in decongestion of central government and reduces the workload to manageable proportions.

Asante and Ayee (2008) argue that local governments because they are local are better placed than central governments to know what public services are needed, by whom, and how best to deliver them. That is, the power over production and delivery of goods and services should be

⁶ Oyugi W (2000). *Decentralization for Good Governance and Development: The Un-ending Debate. In regional debate dialogue*, Nagoya: United Nations Centre for Regional Development.

left to the lowest unit capable of capturing associated costs and benefits. This leads in economic terms, to what has been referred to as 'locative efficiency'.

It has also been argued that Local councils are more easily held accountable to local groups and individuals than the central government and its agencies. Where a local government is genuinely accountable to a local electorate, it will have more incentives to improve the services for which it is responsible. It is further argued that accountability is essential to improved performance and that accountability is stronger when authorities and those they govern are proximate. The electorate can apply their electoral power more effectively on governments that are local, and elected officials will be more sensitive of their reputations if they belong to the local communities they serve.

Decentralization has been termed as a hydra-headed creature, and because of this it is important to distinguish among the various types of decentralization. This is necessary because they have different characteristics, policy implications, and conditions for success. Thus, decentralization can be administrative (transfer of civil servants and public functions to the lower level), fiscal (devolution of decision-making powers), or a mixture of these (Juttinget al. 2005).

Decentralization is intended to increase power and resources at a level of government that is closer, better understood and more easily influenced (than was previously the case) in order to enhance participation (Bonfiglioli 2003).

From the political perspective, according to Okojie (2009), decentralization is a key strategy for promoting good governance, interpreted as greater pluralism, accountability, transparency, citizen participation and development.

Since decentralization enhances the ability of citizens to monitor locally elected officials, there are possibilities of improved transparency and reduction in corruption and overall improvement in local governance.

Administratively, decentralization on the other hand is an important process that results in decongestion of the central government and reduces the workload to manageable proportions. Since decentralization transfers decision-making powers from the centre to local institutions, it provides an opportunity for local involvement in decision-making and harnessing of local knowledge, resources and expertise in the development process (Asante and Ayee,2008).

Facquet (1997) points out that the term decentralization connotes disassembling of political power in order to effectively respond to the needs of the poor. It imputes transitioning political power and responsibility from the center to the local level attempting to bring the people closer to their government in order to better address their needs.

Because of these inherent features of decentralization and especially people's popular participation at the grassroots, decentralization of Government has become a vital aspect of donor discourse and poverty interventions strategy. However, advocating decentralization as a suitable approach to pro-poor policy is not a technical process that is straightforward and without challenges and has so far proved disputable thus constrict impact has been experienced so far (Thomas, S. 1999).

Hypercritically, the role of actors involved in facilitating the processes of decentralization brings to notice the challenges that accompany balancing the role of the central government, accountability, transparency, and synchronizing the political system at the local level to achieve

a common goal: pro-poor policy. There is no clear or straightforward answer to whether or not decentralization is a suitable approach for pro-poor policy.

Up until the mid 1980s, there was no definite clarity between the role of the state and political structures in most African states. The dissatisfaction of public services brought to notice the weakness of centralized government. In most cases distribution of public funds was urban biased and distributed in politically determined areas to the detriment of the rural and other areas which were and in most cases still lacking basic amenities and support, (Adamolekun et al.. 1988). Since the mid 1980s decentralization has shaped government structures in Africa as most of the states have transformed power, resources and responsibilities to authorities on their sub-national level and it has aided a more equitable distribution of public services and increased citizen's participation.

Impact analysis in Ghana proved that decentralization had a positive impact in strengthening local government (Owusu et al., 2005) although limitations were experienced as a result of a lack of capacity in terms of technical expertise and good infrastructure. Furthermore, because the power to make decision is shared among the sub-national governments, where such rights is assigned to a particular tier of government, it becomes unclear and difficult to compare or measure impact in order to arrive at a composite measure of decentralization. Citing Bird Triesman (2000) proposed that the central question in the political process of decentralization process remains; "who should decide" as in the case of Ghana and Nigeria the local government still relies on the government at the federal level for budgetary funds.

In Nigeria, decentralization dates back to the early 1960s and the federation has grown to constitute thirty-six states and seven hundred and seventy-four local governments. The central

government allocates 24% and 20% as gross revenue respectively to state and local government, regardless of power distribution among federal, state and the local government.⁷ However, the federal government still remains a dominant force in the decision making process for the budgetary institutional and operational arrangement for the state and local governments. Thus, project planning and implementation decisions are made at the federal level without significant inputs from the grassroots government which would better reflect the community needs. Deduced from the above scenario is the case where authorities and responsibilities overlap, and local governments exercise minimal authority. Typically, this could create conflict, duplicate efforts and waste resources making the system and decentralized units inefficient.

Nigeria like many other developing nations has embraced the process of decentralizing significant functions to local governments. Here we understand decentralization to mean the transfer of authority and responsibility from the central government to subordinate or quasi-independent government organizations or the private sector. According to the 1999 constitution of the federal Republic of Nigeria, the Federal Government has autonomous constitutional responsibility for functional subjects under the 'exclusive legislative list' while both the federal and state governments have control over the 'concurrent legislative list' of functional subjects as per the 1999 Constitution. The Fourth Schedule of the same constitution outlined the functions that should be performed solely by the Local Government Council or in conjunction with the State Government in which primary education is one of such responsibilities.

Furthermore, it is essential to note that the structure of the functions outlined for the respective levels of government have remained the same throughout the constitutional changes since 1979. It is also vital to note that the components of functions included in the specific legislative lists,

⁷ Almond A. Et...al. *Comparative Politics Today: A World View*. Longman, New York 2003 pg 712

and in the fourth schedule (for local government) include both expenditure functions (functions which involve incurring expenses) and revenue functions (functions which involve the raising of revenue). The allocation of tax-raising powers or determining fiscal jurisdiction is essentially a legislative function. Indeed, even during the years of military rule in Nigeria, the allocation of tax-raising powers was issued through the instrument of a decree. An important point to note about the allocation of tax-raising powers in Nigeria is the relative long-term stability of the system as there has been no major change in this structure over the last three decades (Onwe, 2011).

Similarly, the 1999 constitution of the Federal Republic of Nigeria has outlined the procedure for disbursing the 'Distributable Pool Account' to the three levels of government. Such an outlined procedure is theoretically expected to provide adequate financial resources for the different tiers of government to meet their constitutionally assigned functions and responsibilities. Unfortunately though, regardless of this constitutional act in practice, the dynamics of federalism have unconsciously or consciously bred a dependency theory between the local governments and the centre without much room for accountability from the central government. This is commonly referred to as the non-correspondence problem which usually arises from the fiscal imbalance occasioned by the divergence/incongruence between constitutional functions and responsibilities and fiscal resources. According to Bello-Iman and Agba (2004), non-correspondence usually leads to the inability of some levels of government to effectively fulfill their functions and responsibilities.

Akindele (2009) states that in Nigeria, local government expenditure has constantly surpassed the potential for revenue sources owing to the great gap between their needs and their fiscal

capacity leading the author to ask; is the local government equipped with the capacity and resource to administrate the most important level of education (primary education) and construction and maintenance of roads? This has largely been caused by the confusing nature of revenue rights and fiscal jurisdiction with the duties and functions constitutionally allocated to them. The paradox of decentralization and lessons learnt for Nigeria will be analyzed in detail in chapter three.

In India Decentralization of governance structures is manifested by the Panchayati Raj systems as a concrete form of democratic decentralization in rural India which is a creation of the colonial rulers. The birth of PRIs (Panchayati Raj Institutions) in independent India, however, owes its origin to the Balvantrai Mehta Committee Report. The Committee stressed the need to develop a network of three-tiered elective institutions known as the panchayati raj and gave birth to what can be called the first generation panchayati raj in India.⁸ Outlining the concept, the report observes that PRIs would be representative bodies and vigorous democratic institutions in order to take charge of all aspects of development work in the villages. The committee proposed a model of panchayati raj with three tiers – Gram Panchayat at the base, Panchayat Samiti at the intermediate block level and Zilla Parishad at the apex.

The first generation PRIs encountered potent and widespread distrust from their very inception. The bureaucracy could not agree to share power with people but had to accept the panchayati raj system because of the existing political support for it. The process of bureaucratization gained considerable ground in the 1960s and more focus was given to production oriented programmes to meet the increasing demand for food which increased the hold of the bureaucracy and in the process, the PRIs were bypassed.

⁸ Prabhat Datta (1998) *Major Issues in the Development Debate*, New Delhi: Kanishka pg 14-19

Added to this, was a growing centralization of the Indian polity which reached its culmination during the days of emergency. The lack of constitutional sanction and conceptual clarity about the role of PRIs made it possible for policy makers to accept it either as an agent of government or as institutions of self-government. This paved the road towards the slow decline of the system and by the end of the 1960s, the PR (Panchayati Raj) system was moribund throughout the country.

The Kenyan structure and nature of decentralization is what is referred to as devolution which needs to be interrogated here. Devolution is a form of decentralization and is a political arrangement whereby power; political, administrative and fiscal, is distributed to territorial units. Devolution, entails creation of semi- autonomous local level decision- making centres, which by and large are more accountable to their constituents rather than to the central government. Devolution, unlike de-concentration, entails transfer of political and administrative decision making powers and authority to sub national entities. It is therefore a vehicle for involving lower level units into policy and decision making processes on matters that affect them. To that extent it empowers local level units and their constituents to participate in the creation of their present and future.⁹

Several reasons have been advanced in support of devolution: one reason advanced is that devolution is seen as an ideal way of responding to regional demands, and thereby ensuring regional unity, as is the case in Nigeria, Ethiopia and India, where decentralization was a response to demands of ethnic groups usually minorities, who wanted a bigger share in affairs of

⁹ Muia, D. (2005). *Devolution: Which Way for local Authorities in Kenya*, DP No. 073/2005

the state.¹⁰ Devolution promotes good governance; enhances separation of powers, inbuilds accountability mechanisms on governmental systems as well as empowering people to control their political, development and administrative destinies. It is however important to note that devolution will only succeed if it is entrenched within the constitutional framework of a country in order to avoid its frustration by the central government as happened in many decentralized countries.

Decentralized Devolved local units calls for development of local units as truly autonomous entities, which local citizens can feel belong to them, satisfy their needs, and are subject to their influence and control. While the overwhelming rationale for devolution is to promote good governance and enhance separation of power, it is also a mechanism of ensuring that people take part in the governance of their state.

It has been noted that devolved governments have certain basic characteristics that include: First, the existence of serious intent to grant autonomy and independence from the centre, as well as having the local limits outside the central governments control.

Second, the local units ought to have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions. Third, local units have to be given corporate status and the power to raise sufficient resources to carry out sufficient functions. Fourth, it implies the need to develop local governments as autonomous institutions perceived by people as belonging to them in the sense that satisfy their needs and remain subject to peoples control, direction and influence.

¹⁰ CKRC (2002) *The people's choice: The main Report of constitution of Kenya Review Commission. Nairobi: Constitution of Kenya Review Commission.*

Decentralization has been defined as the transfer or delegation of legal or political authority to plan, make decisions, and manage public functions from central government and its agencies to subordinate units of government, semi-autonomous public corporations, area wide or regional development authorities, functional authorities, local government or non-governmental organizations.¹¹ The importance of decentralization can therefore be to transfer decision making power and management of affairs of the nation- state to a subordinate entity.

Decentralization carries certain risks with it: while it increases equity, efficiency and macroeconomic stability, on the other hand, it can fail to improve service delivery. It can also promote the risk of national destabilization and therefore, have undesirable effects. However, decentralization is increasingly a reality.¹² One must add that it has become an imperative in governance. Decentralization has two interrelated dimensions, the political as well as administrative, which must go together.

Many theoretical arguments, some in favour and others against decentralization tend to counter-balance each other comparing good decentralization with bad decentralization and vice versa. Indeed, it is quite challenging to provide criteria for evaluating the performance of decentralized governments.

Oluwo (1977) brought out three aspects of centralization; political, administrative and fiscal decentralization. Political decentralization includes greater citizen participation, and higher levels of accountability of the political system to the citizens leading to a positive governance,

¹¹ Rondinelli D. A and Cheema G. S. (1993) *Decentralization and Development: Policy Implementation in Developing countries*, Sage publications- London.

¹² Litvark J. Ahmed J. & Bird, R. (1998) *Rethinking decentralization in developing countries*. Washington DC: the World Bank.

institutional responsiveness and reduction in governmental corruption and waste. Administrative decentralization has the objective of strengthening of field administrative units of the civil service in a country including efforts at capacity building at national and local levels. Fiscal decentralization or financial decentralization is another form of decentralization which involves the transfer of financial resources from the central government to autonomous local agencies. This may be done directly through tax powers to enable the decentralized agencies to undertake responsibilities already transferred to them.

Indeed, without the above named three aspects devolution will be meaningless. Kenya's past decentralization failure is partly related to failure to decentralize the three aspects, political administrative, and fiscal. The political aspect is especially important.

On the other hand, for decentralized units to be able to carry out their functions effectively, they must have adequate revenue either raised locally or transferred from the central government, as well as adequate authority to make decisions about expenditure. Financial sufficiency is important if local aspirations have to be met. This can take many forms including, self financing, or cost recovery through user charges; co-financing or co-production arrangements through which the users participate in providing services and infrastructure through monetary or labour contributions; expansion of local revenues, through property or sales taxes or indirect charges; intergovernmental transfer that shift general revenues from taxes collected by the central Government to devolved units for general or specific uses and finally the units can get revenue through authorized local borrowing or loan guarantees from the central government.

The primary concerns of decentralization are institutional arrangements in terms of democracy, participation and civil rights. For others politics is a secondary concern and successful programs are those that increase efficiency, improve service delivery and enhance cost recovery.

As manifested in other countries, devolution is a process of giving political autonomy to administrative units that are already in place. The practice and institutionalization of devolution in Africa is not unique to Kenya. Essentially decentralization in other countries in Africa like Rwanda and South Africa was a vital and urgent corrective measure, and was promoted in response to the political and economic problems in their history. In South Africa, promoting local governments was aimed at “rebuilding local communities and environments, as the basis for a democratic, integrated, prosperous and truly non-racial society” following the trauma of apartheid in the country.¹³

In Rwanda decentralization was to provide a structural arrangement for government and the people of Rwanda to fight poverty at close range, and to enhance their reconciliation via the empowerment of local populations following the trauma of the genocide of 1994.¹⁴ In Uganda, decentralization was a democratic reform, which sought to transfer political, administrative, financial and planning authority from central government to local government councils and to promote popular participation, empower local people to make their own decisions and enhance accountability and responsibility¹⁵

¹³ Republic of South Africa: Department of Provincial and Local Government: The white paper on Local Government, 1998

¹⁴ Government of Rwanda: Ministry of local Government, good governance, community development and Social Affairs: Decentralization policy, May 2000.

¹⁵ Government of Uganda, Ministry of local Government, Decentralization secretariat: Decentralization in Uganda- The policy and its implications (1994)

1.7 Devolution in Uganda

Uganda's decentralization policy is one of the most ambitious and radical decentralization policies in sub-Saharan Africa¹⁶. Uganda adopted the policy of decentralization in 1993, with the aim of bringing government decision making as close as possible to the people and to deliver services more efficiently and effectively to all her citizens. The district was established as the primary unit to which powers and responsibility for service delivery would be devolved. The provisions of the 1995 constitution clearly spelt out that the state was to be guided by the principle of decentralization and devolution of government functions and powers. In terms of structure, local government in Uganda is made up of Districts, counties, sub-counties, parishes, and villages. Substantial powers, functions, and responsibilities are devolved to local governments by the local government priorities. The government initiated the process of empowering local governments through decentralization, and the first step was the enactment of the 1987 resistance council/committees (RCS) and gave those powers in their areas of jurisdiction at the local level. The decentralization policy was later enshrined in the constitution of 1995 and legalized by the local government act 1997 establishing District, Municipality, and sub-county/division/town council as corporate bodies of local Governments, and devolved them far-reaching powers and responsibilities in such areas as finance, legislation, planning, and personal matters.¹⁷

Uganda adopted a decentralization process that allowed central government to retain responsibility of matters of defence, law and order. These functions are mostly concerned with

¹⁶ Asiibwe D. etal Decentralization and Transformation in Uganda, Fountain publishers Kampala – Uganda (2007)

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¹⁷ Ibid.

policy formulation and coordination, forward planning, monitoring, mentoring, and ensuring that local governments comply with decentralization laws and regulations.

Just like in Kenya, the operations of key sectors like health, primary education, transport, civil works, community services, agriculture and extension services, communication have been decentralized. Local governments now are responsible for the bulk of administrative and political processes within their territories. Line ministries in Uganda's decentralized units have specific mandate in relation to local government under decentralization. They are required to inspect, monitor, and where necessary, offer technical advice, support supervision and training.

The devolution of power, functions and responsibility to local government in Uganda was intended to achieve the following objectives; to transfer real power to the districts and thereby reduce the workload to remote and under-resourced government officials; to bring political and administrative control over services to the point where they are actually delivered, and thereby improve accountability, effectiveness and promote peoples ownership of programs and projects executed in their districts, to free local managers from the central government constraints and as a long term goal, allow them to develop organizational structures tailored to local circumstances; to improve financial accountability and responsibility by establishing a clear link between payment of taxes and provision of services that they finance; and to improve the capacity of local councils to plan, Finance and manage the delivery of services to their constituents. Lessons from Uganda shows that decentralization allows local people a greater chance to participate in the development planning and decision making for their areas which gives them a sense of ownership of projects. It also permits the convenient provision of services locally for which people normally would travel long distances to obtain. Devolution also gives local politicians

and the public a chance to learn, carry out and understand democratic practices and makes it easier for the local people to relate taxes to development¹⁸.

There are many interrelated challenges and constraints associated with decentralization as experienced in Uganda which very much resemble those teething problems of Devolution in Kenya today: like the Challenge of clash or conflict between elected and appointed officers especially from the central government; the problem of practically distinguishing between the functions that are the responsibility of the central government and those that are the responsibility of local governments. There also occurs the difficulty associated with managing the interrelationship between policy formulation and policy implementation; the overlap of roles between the Resident District commissioner(RDC) and the District chairperson(DCP) very much resembles kenyas clash of roles between the County Commissioners and Governors; the problem connected with who among the RDC, DCP and to some extent the LAO, is the most powerful despite legal provisions; the personality of the key players, the RDC and the DCP and the LAO and the fact of the bureaucrats being a heterogeneous group, with varied backgrounds, interests, and loyalties.

According to Waswa Katono (2003) there are other causes of conflicts. He mentions conflict between councillors, and the executive committee over allowances, tenders, appointments, conflict due to diverse political views; and conflict between councillors and the LAO related to lack of understanding by councillors of the LAOS role as an accounting officer and as secretary to the district tender board by for instance not understanding if it is the LAO says that there is no money for their allowances; or when they fail to win tenders.

¹⁸ Asiimwe Delius & Musisi B.N. Decentralisation and Transformation of Governance in Uganda, Fountain Publishers, Kampala- Uganda (2007)

Decentralization has had a lot of political consequences in Uganda. It was anticipated and expected that it would open the floodgates of political activity at the national, county, and sub-county levels and that political groups would engage in political cooperation as well as conflicts.

The truth of the matter is that it was a policy chosen by the big donors, particularly the US which wanted a new world order after the demise of communism in Eastern Europe. African states like Uganda found it in their national interest to adopt the system in order to access donor funding.

The key casualty of decentralization is the central government. Originally monopolizing power and having a hand in virtually all major social-economic activities, the state is now perceived as ill-suited for this function. The malfunctions within the old structure of governance included favouritism, nepotism, inefficiency, rigidity, arrogance, red tape, duplication of efforts and empire building.

Thus the devolution of powers trimmed the powers of the central government and transferred them to governments at sub-county, municipality and district level. Owing to adoption of the decentralization policy, there have been significant improvements in service delivery in all of Uganda's districts. However these successes have not been without problems and challenges. There are also a number of opportunities available to the districts owing to the policy of decentralization like various investment opportunities and government policy of market liberalization and diversification.

Some of the threats facing decentralized units in Uganda are: demand for federalism by some sections of the society especially in the central region; the agitation by some local leaders to break away from respective districts to form a new district. They thought that service delivery to

these districts (areas) will be improved if they attain district status. However, such threats have been dismissed by the government since this sub-division is not viable economically.

Other internal threats include negative/ harmful social cultural practices that hinder development, high levels of poverty among the population which affect their participation in development activities, lack of awareness on gender, children's statute, disability issues and the enormous needs of the vulnerable groups, i.e. orphans, widows, children, and the elderly. The other threat is the negative attitude of some people towards payment of taxes.

In the analysis of the study carried out in Mukono district, factors that disrupt the implementation of the district council plan and their existence explains why service delivery gaps remain in the district. The gravest internal constraints to service delivery revolve around issues of finance. There exist cases of serious financial maladministration. Cases cited include diversion of funds, non-remittances of statutory shares of revenue collection, embezzlement, etc. Audit weaknesses are partly to blame for this scenario. It has also been noted that the audit department is too small and inadequately funded to supervise all the government projects and programs both at the district and all the sub-counties.

The sources of local revenue for devolved units are graduated personal tax, property tax, licenses, permits and agency fees. Local revenue contributes a lot in financing administration costs and in promoting local infrastructure. It's used to regulate business and promote accountability to the community and improve quality of services. Furthermore, local revenue reduces pressure on central governments funds and reliance on donors. Marked decline in local revenue at the national and local level therefore adversely affects service delivery

Perhaps the Uganda experience can be a pointer to the challenges and opportunities awaiting Kenya and have started to be experienced.

In Brazil, the state and municipal governments wield tremendous influence in Brazilian politics. One study of the state of Ceara in the poor northern region has demonstrated that even the most underdeveloped sub-national governments can produce important policies to promote industrial investment, employment, and social services.¹⁹

Conclusion

The discussion in this chapter has shown that decentralization is an ambitious process that seeks to empower local communities to engage in their own development. This is a departure from most past decentralization efforts which were geared only in the direction of administration. The objectives of decentralization in most countries gave decentralized governance a development mission and call up on local communities to shape their destiny.

Decentralization has enhanced participation in decision making, enabled local communities to determine their local leadership through democratic elections, provided institutionalized structural arrangements for participatory bottom-up development planning, and for involving special groups such as women, youth, and the disabled in decision-making.

The experience of Uganda, Rwanda, and South Africa illustrate that whether decentralization is demanded as in South Africa, engineered from the top through consultations and pilot programs as in Uganda, or directly driven from the top as in Rwanda, the process of agreeing on the exercise of shared power and authority should not be taken for granted. Whichever approach applies, support for decentralization comes through patient and sustained negotiation,

¹⁹ Kesselman Mark et al. Introduction to comparative Politics, Wadsworth-USA (2010) Pg 447

sensitization, persuasion, demonstration of positive results and sometimes when necessary coercion. The literature reviewed also shows that decentralization is not a one time action but an on-going process that constantly engages the relevant stakeholders and actors in order to produce the desired results. Finally if decentralization has to be successful it needs to be conceived as the transfer of power and authority to the people and not only to local governments. This requires innovative ways of structuring and institutionalizing the interface between the people and their local governments.

1.8 Conceptual Framework

This research is premised on the Decentralization Concept. Decentralization as a Policy aims to transfer some decision making power from higher to lower levels of Government, typically from the central government to Sub-National governments.

Decentralization can also be defined as the transfer of public authority and resources including personnel from the national to sub national jurisdictions. It can also be seen as entailing a shift of locus and control of decision making power and authority from the centre (central government) to the community with the effect that the latter exercises power to determine the path to their development destiny.

Not only does decentralization transfer more resources to institutions further from the centre, but also more people have a role in deciding how those resources are used.

Devolution in Kenya has been identified as one of the typologies of decentralization. This is basically a political arrangement whereby power; political, administrative and fiscal, is distributed to territorial units. Devolution, entails creation of semi- autonomous local level decision- making centres, which by and large are more accountable to their constituents rather than to the central government. Devolution, unlike de-concentration, entails transfer of political and administrative decision making powers and authority to sub national entities. It is a vehicle for involving lower level units into policy and decision – making processes on matters that affect them. To that extent it empowers local level units and their constituents to participate in the development of the nation state.

1.9 Definition of concepts

This research is concerned with exploring the challenges and opportunities of decentralized political systems and lessons learnt from India and Nigeria. Hence the major concepts here are definition of a political system, decentralization and its typologies such as devolution, deconcentration, delegation, and delocalization.

Political System

Gabriel A. Almond defines a political system as ‘a particular kind of social system, namely one involved in the making of authoritative public decisions with complete set of institutions, interest groups (such as political parties, trade unions and lobby groups) and the relationships between these institutions and the political norms and rules that govern their functions.’²⁰ Hence, a political system is composed of the members of a social organization (group) who are in power. A political system is a system that necessarily has two properties, a set of inter-dependent components and boundaries toward the environment with which it interacts.

Decentralization, Devolution, Deconcentration, delegation, and delocalization

This research is premised on analysis of decentralized political systems. The term decentralization embodies several concepts including devolution, deconcentration, delegation, and delocalization. In many instances a decentralization policy that promises success will most likely include dozens of these.

Decentralization is defined as the transfer of public authority and resources including personnel from the national to sub national jurisdictions. It can also be seen as entailing a shift of locus and

²⁰ Gabriel A. Almond et al. *Comparative politics Today: A World view*. Longman, NewYork, 2003.

control of decision making power and authority from the centre (central government) to the community with the effect that the latter exercises power to determine the path to their development destiny.

Decentralization is a generic term which covers a number of modes such as the following:

- (i) Deconcentration which refers to the process of administrative decentralization whereby the central government designs a structure that enables its agents to work close to the local people in field units / agencies of central government,
- (ii) delegation which is the transfer of responsibilities from central government to semi-autonomous bodies that are directly accountable to the central government,
- (iii) Devolution which is the process of transferring decision making and implementation powers, functions, responsibilities and resources to legally constituted local governments. This is basically a political arrangement whereby power; political, administrative and fiscal, is distributed to territorial units. Devolution, entails creation of semi- autonomous local level decision- making centers, which by and large are more accountable to their constituents rather than to the central government. Devolution, unlike de-concentration, entails transfer of political and administrative decision making powers and authority to sub national entities. It is a vehicle for involving lower level units into policy and decision – making processes on matter that affect them.

- (iv) Delocalization is the spartial distribution of central government social-economic development facilities and activities such as schools, hospitals, etc in peripheral regions.²¹

Panchayats

India elected bodies at the village, District, and state levels that have development and Administrative responsibilities.

Lok Sabha

The lower house of parliament in India, where all major legislations pass before becoming law.

²¹ John Mary Kauzya (2003) “*Strengthening Local Governance Capacity for participation*” in Dennis A. Rondinelli and Shabbir Cheema: *Reinventing Government for the twenty-first century: State capacity in a globalizing Society*, Kumarian Press, inc, Bloomfield, CT, USA (2003)

1.10 Hypothesis:

- Kenyas devolved political system has beneficial opportunities and challenges
- Implementating Kenya's devolved political structures successfully are a function of the degree to which it learns best practices from India and Nigeria.
- Lessons learnt from India and Nigeria can form the basis for recommendations on how to overcome devolution challenges in kenya

1.11 Research methodology

This research used qualitative study approach. It relied on secondary data from books, journals, newspapers, online sources and other publications. Primary data was obtained from live television and radio interviews of county and national government officers and other stakeholders and citizen views on the current devolution challenges and gains.

1.12 Scope and Limitations

This research suffered lack of sufficient time for more research on the topic. Decentralization is a huge area of study requiring a lot of time. Due to the vigorous nature of the studies at the National Defence College balancing all activities was a big challenge. However the researcher has utilized and maximized on available time sometimes even dedicating long hours at night to research on the topic. Finally the Finance to carry out this research was limited since it was wholly financed by the researcher with no external assistance.

CHAPTER TWO:

DEVOLUTION IN KENYA

2.0 Historical Overview of Devolution in Kenya

Kenya's highly centralized government bureaucracy adopted after independence has been the cause for the clamour for decentralization and devolution of government services from the centre to the periphery²². At independence, Kenya was constitutionally a devolved state, whereby significant power was devolved to regions as entrenched in the independent constitution which was commonly referred to as the Majimbo constitution. Regions were allowed fiscal and financial powers, as well as legislative and executive authorities. The independence constitution also allowed for a local government system with each region being divided into local authority councils.

However, devolution of power in post-independent Kenya did not take off. This is because shortly after independence, the country returned to a unitary state from the hitherto constitutionally provided for regionalism.

The Constitutional amendments between 1964 and 1969 more or less dismantled the regional devolved system in Kenya. The first amendment in 1964 removed most power of regional assemblies as well as making it less rigid to alter them. In 1965, most executive powers of regional assemblies were removed and the assemblies renamed provincial councils. In 1968, further changes were made merging the two houses of parliament and senate, districts were

²² Chitere P, and Mwonya J (1988) *Decentralizing for Development: The case for District focus Approach*. University of Nairobi press- Nairobi

transformed into constituencies and the safeguards for erratic alteration of district boundaries were removed.

Mitullah (2003) contends that abolishing the regional constitution and the restoration of the provincial administration as an instrument of the central government control at the grassroots level resulted in the emasculation of local regional government councils and this killed the majimbo constitution.²³

This was done through the transfer of critical functions to the central government; curtailing the autonomy of the councils by granting of overwhelming supervisory powers to the minister of local government; financially crippling local authorities by closing critical sources of revenue; and allowing district commissioners overwhelming control over local governments.

To a large extent, this was the starting point of the problems that dogged local authorities in Kenya over the years rendering them ineffective and unable to render services to Kenyans and contributing to a clamour for constitutional changes to devolve power and equal distribution of resources. In the subsequent years after dismantling of the Majimbo constitution, Kenya over the years attempted to decentralize development processes, but not political leadership.

The poverty reduction strategy paper and the 5 year Kenya national development plans identified decentralization and stronger local governance as important mechanisms for improving public sector management, governance and poverty alleviation. Kenya adopted the District focus for rural development strategy (DFRDs) in 1984 whose hallmark was to enhance popular participation in development through a process of decentralization (Gok1984).²⁴ This structure

²³ Mitullah W(2003) Local level Governance in Kenya: in Burja A. etal. *Kenya's Democratic Transition: Challenges and Opportunities* . NAIROBI, African centre for Economic growth.

²⁴ Government of Kenya: *District Focus for Rural Development strategy paper 1983*

became officially operational in July 1983. Operationally, this typology fitted the de-concentration typology of decentralization. Its objectives were to broaden the base of rural development by moving most decisions on planning and management of district specific projects closer to the point of implementation and the people who would be affected by these decisions; encourage local participation in order to improve problem identification; resource mobilization and utilization; project design and implementation; accelerated development in the districts where majority of the people live; promote greater equity in the allocation of resources thereby bringing about balanced development; removing delays in decision making and speed up project implementation , arrest rural urban migration; increase co-ordination and sharing of development resources; promote sharing of costs of development projects between local people, Government and donor agencies; increase employment opportunities in rural areas; and enhance utilization of local resources.²⁵ As per the blue book the policy document entitled district focus for rural development strategy for rural development (DFRDS) issued on 10th June 1983, coordination of the strategy was to be undertaken under the executive guidance of the district commissioners in respective districts while the district development committees were charged with considering, approving plans, budgets and resource mobilization.

Membership to these development committees included all government departmental heads, Mps, chairmen of the county and town councils, representatives of divisional development and locations. The district development committee was thus designed to be the foundation of the strategy. District development plans were drawn to guide district level development while treasuries were started to facilitate financing of development at the district level. Various government personnel were posted to the districts to give effect to the strategy. Ministries issued

²⁵ GOK, District focus for Rural Development strategy, Government printer (1983)

authority to incur expenditure (aie) directly to the district level staff and district tender boards were strengthened to facilitate resource procurement.

It is important to appreciate that the strategy was successful in certain ways. Chitere and ireri (2004) have documented some of the achievements which include: enhancement of capacity to prepare district based plans; sensitization of personnel involved through courses and seminars; posting of personnel to the districts and local levels; and the institutionalization of decision making through DDCs and other development committees. As a result of district decentralized structure many district headquarters became centres of local growth and development.

Despite all these moves, there was a feeling that the strategy was not effective in the decentralization of development programs. According to chitere and ireri (2004) some of the reasons for this state of affairs include: district treasuries often received funds late; lack of effective planning forums; while local people were not trained.²⁶

The other weaknesses included domination of decision making by civil servants, who often being from outside the district did not have a good understanding of the local issues.

One may also add that the strategy was weakened by lack of transfer of political power, to facilitate mobilization of development resources. This is because though the then provincial administration played a major role in planning, implementation and coordination of development, this was overridden by their authoritative law and order maintenance role, thus rendering decision making a centralized practice. The District commissioner's twin role of coordination of security and development overburdened them. Also lack of control of

²⁶ Chitere P and Ireri (2004) *Decentralization of decision making processes and resources: A case study of district focus for rural development strategy – Discussion paper No. 046/2004*. Institute of policy analysis and research: Nairobi.

development funds of departments coming to the districts despite chairing and overlooking of DDC Proposals by line ministries in Nairobi rendered the DDCCS obsolete.

Chitere and Ileri (2004) further note that since DDCs were required to vet all development projects, including those of local authorities this sometimes led to conflicts between the committee and these authorities.

District focus for rural development failed to meet their objectives mainly due to either their defective design or lack of political will from the centre for their implementation (Oyugi and Omiya; 2000)

DFRDs needed to be rejuvenated to make them more relevant to the rural development, meet local needs and rural transformation. The apathy created by half baked decentralized strategies led to the clamour by citizens for more autonomy to shape their future destiny. Hence, the clamour for the change of the constitution was in order to achieve the new demands, aspirations and was to accommodate new emerging realities and perhaps a protest for failure of the DDCCS to effectively bring development to the grassroots and non-involvement of the locals.

Though the poverty reduction strategy and the national development plans clearly saw rural areas as having enormous untapped capacity and potential to deal with rural and urban poverty, the catch was how to make them more accountable and devolution has been found to be the answer, as one of the major areas that raised considerable concern and debate during the constitution of Kenya review process was that of determining the form of governance structure Kenya was to adopt. As the CKRC report notes, the then unitary system has had its failures as indicated by calls for the decentralization of government and functions. Problems of marginalization of

minority groups and inadequate distribution and management of resources were key devolution drives.²⁷

As Oloo (2008) notes, the new quest for devolution in Kenya is a reaction to the failures of the centralized post-colonial state and its unfair and irrational resource distribution mechanism. Skewed development of the country and ethnization of development to certain select regions despite payment of taxes by all led to a lot of resentment of the Kenyan state apparatus by the marginalised public.

2.1 Constitution of Kenya 2010

Recognizing the urgent need to achieve high economic growth, reduce income disparities, restore public confidence in government, cure historical injustices and other poverty-related inequalities, Kenyans pushed for enhanced decentralization of development initiatives through the adoption of the Constitution of Kenya 2010 that favours devolution. There are many positive aspects of the new system of government as envisaged by the Constitution, but there are also major issues with certain design features, and the country faces considerable implementation challenges. First, proper institutional mechanisms as by law established should be fully embraced to facilitate the smooth transitioning for proper decentralization. Second, is that in spite of all the precautionary measures, risk factors still are bound and need deeper reflections. Devolution is a multi-dimensional approach that organizes governance and manages state power along multiple lines. It defines, distributes and constrains the use of state power along multiple lines by combining both vertical and horizontal dimensions. In essence, devolution forms the foundation for federal systems and structures of government and is founded upon the concept of

²⁷ GOK, Constitution of Kenya Review Commission Report, Government Printer(2002) pg 171

decentralization and devolution of power. It may similarly be seen as a system of governance that devolves power from the centre to smaller sub government units at the local level in order to ensure that all citizens equally enjoy the national cake. It can actually be described as the statutory granting of powers from the central government of a state to government at a sub-national level, such as a regional, local or county level. More significantly, Kenya's reform moves beyond the typical approach of devolving new functions and resources; it recognizes the broader political and developmental role of county governments. The approach to devolution is explicitly integrated, incorporating strong administrative, fiscal and political elements in the reform process. By its provisions, the Constitution of Kenya 2010 seeks to reverse the centralized non-participatory governance paradigm by institutionalizing an embracing governance and leadership system based on integrity. It does this primarily by establishing an enabling normative framework. It provides for relevant governance institutions; checks and balances on the exercise of executive power; facilitative legislation; enhancing public participation in governance as a bulwark against abuse of power and tightening the process of recruitment, and retention of critical public officers.

2.2 Rationale and Principles of Devolved Government in Kenya

One of the objects and principles of a devolved government in accordance to the Constitution of Kenya 2010 in Article 174 is to recognize the right of communities to manage their own affairs and further their development.²⁸ This will give the people a sense of identity and self empowerment. With this system of government, communities will feel recognized in their contribution to the growth of their own county and the country at large. The other principle is to promote protection and promotion of the interests and rights of minorities and marginalized

²⁸ The constitution of kenya (2010) Government of kenya printer chapter Eleven pg113

communities. Hence the minorities will not feel sidelined. This will promote a sense of unity as they will not feel as though their needs have been ignored.

Article 174 therefore creates a new level of local government that marginalizes traditional provincial and district administration and effectively replaces the current structure of local governments that functions through municipalities and town councils, and replaces that with a well defined, structured and directed county government system enshrined in the Constitution, as the supreme law.

Article 174 of the Constitution of Kenya identifies the objects of devolved government as the promotion of democratic and accountable exercise of power; fostering of national unity by recognizing diversity; giving of powers of self governance to the people and enhancing of the participation of the people in the exercise of the powers of the state and in making decisions affecting them; recognition of the right of communities to manage their own affairs and to further their development; protection and promotion of the interests and rights of minorities and marginalized communities; promotion of social and economic development and the provision of proximate, easily accessible services throughout Kenya; ensuring of equitable sharing of national and local resources throughout Kenya; the facilitation of the decentralization of state organs, their functions and services, from the capital of Kenya; and enhancement of checks and balances and the separation of powers. It is clear that the devolved system therefore not only brings government and resources closer to the people, but also gives powers and responsibilities to the people and leaders at the county level in decision making and determining the direction they want to go in development and politics.

As Nyanjom argues in his policy paper “Devolution in Kenya’s New Constitution (part of the SID series of publications, 2011), decentralization will most likely bring efficiency. This is predicated on the expectation that decentralizing functions to the lowest feasible level of decision making and implementation will optimize information flows and reduce transaction costs. Thus, a decision to devolve is often based on the failure of central government to deliver, such as in revenue collection or in service delivery; decentralization too will ensure equitable distribution of resources. According to Nyanjom, there shall be greater and impactful decision-making and involvement of the people in decision making, and revenue collected in each county shall be used to develop the same county.

2.3The Transition Authority

The transitional Authority created by the constitution is responsible to facilitate the development of the budget for county governments during the first phase of the transition period and also assess the capacity needs of national and county governments. Therefore, the effectiveness, efficiency and recommendations of the Transitional Authority shall highly be depended upon to ensure the smooth transitioning from the central to the devolved system, with minimal hiccups.

The defining feature of devolution is the transfer of political powers and autonomy to sub-national units which are in turn politically accountable to the local communities as opposed to the centre. In Kenya since independence, power has been concentrated at the executive, where the decision making was done, and distribution of resources was majorly determined by the wishes and political inclination of the president. Essentially, these new devolved features define forms of government such as in federalism where sub-national units exercise some form of self-rule and shared rule based on some arrangements.

The new two-tier system of government introduces a new threshold for investment through counties and consequently enhances economic growth and service delivery to the citizens. Counties will be entitled to a minimum of 15 per cent of national revenue and the Division of Revenue Act will establish a “Chinese wall” between county and national government finances. While this is greatly expected, it goes without saying that the success of the devolved system will strongly depend on positive collaboration between the county governments and the central government, the proper and incorruptible use of allocated revenue, proper internal checks and balances within counties, and the skills of the respective county leaders.

The functional county governments should be based on democratic principles and separation of power; availability of reliable sources of revenue to enable them to govern and deliver services effectively; and must ensure that each of the genders have at least a third of the members of representative bodies in the county, (Article 175). Proper implementation of the county government framework in accordance with the broad principles in the constitution will enhance accountability, and intergovernmental relations between the county units and central government should be seen for the strength they have and not the weaknesses.

The political consciousness of the people at the county level still requires support through proper civic education to secure the effective public involvement in decision making in the affairs of the county, and the people need also to understand the Constitution which gives them the right to participate in governance issues and decision making processes. In spite of the contention that the devolution process and transitioning is enshrined in law, the effective and functional devolution success goes beyond the hems of the law. The legislation must be complimented by political good will, popular support, people’s participation which should come

from a clear and comprehensive understanding of the essence of Kenya's unique form of devolution and its attendant challenges.

It is imperative that the implementation of the devolved system of government creates and strengthens a system of government where dignity, human rights, transparency, accountability, social justice, gender, rule of law, equity and meritocracy reign supreme at all levels of government. For instance, the County Executive Committee, County Assembly and other necessary structures that shall be put in place possibly at the village levels, should be able to monitor and question spending, resource distribution, social welfare systems and processes, respect for human rights, access to medical care and that all appointments at the county level should be based on merit and not clannish or political affiliations and friendships. Chapter 12 of the Constitution on Public Finance provides that there shall be openness and accountability, which, in fact, shall guide counties on financial matters and governance matters. The hope is that Kenya will become a more equal and economically balanced country, but making that hope a reality will take time, particularly given the current economic uncertainty.

2.4 How the Devolved Government System works in Kenya

Of the total revenue raised the national government will be allocated 84.5 per cent; the 47 counties will be shared using a formula approved by the National Assembly: population 45 per cent, basic equal share 25 per cent; poverty 20 percent, land area 8 percent, and fiscal responsibility 2 percent.

The national government is structured through the constitution with administrative, and policy making powers, which are distributed to the three arms of government: the executive, Legislature, and judiciary. Additional functions as per the constitution are: Foreign Affairs,

foreign policy and international trade; The use of international water and water resources
Immigration and citizenship; National Defence Police services, criminal law, correctional
services and Courts; National Economic policy and Planning; Monetary Policy, currency,
banking (including central banking); Education Policy, Standards, Curricula, Examinations and
the granting of university charters, Universities, Tertiary Education Institutions Education
Institutions, and other Institutions of Research and Higher Learning and primary schools, and
Special Education Institutions; Transport and Communications including Road Traffic, National
Trunk Roads, Railways, Pipelines, Marine Navigation, Civil Aviation, Space Travel, Postal
Services, Telecommunications and Radio Television Broadcasting; National Public Works,
Housing Policy, General principles and Land Planning by the Counties; Protection of
Environment and natural Resources; National Referral Health Facilities and Health Policy;
Disaster Management; Agriculture Policy; and Energy Policy

The devolved government is designed to involve people in governance and allow better
supervision and implementation of policies at the grassroots level. The county government is
made up of the county Assembly and County Executive.

The responsibilities of the county Assembly are: Exercising the powers of enacting laws at the
county level; Acting as an oversight instrument on the County Executive; Approval of Plans and
Policies for Smooth operation and management of resources and County institutions.

The County Executive on the other hand, is charged with the responsibility of exercising
executive power at the County level, implementing laws for administration of the County as well
as carrying out other executive functions of the county. The county executive gives the people

an opportunity to be more actively involved in law making. The County Executive is led by a Governor who is directly elected by the people at the county level.

The appointment of the County Executive members is placed under the mandate of the Governor and the approval is subject to the County Assembly.

2.5 Functions and Powers of County Governments:

- Agriculture including crop and animal husbandry, plant and disease control and fisheries;
- County health facilities and pharmacies, promotion of primary health care, licensing and control of businesses that sell food to the public, cemeteries, funeral parlours and crematoria;

- Refuse removal, refuse dumps and solid waste disposal;

Outdoor advertising, cultural activities, public entertainment;

- Liquor licensing, museums, sports and cultural activities beaches and recreational facilities;
- County transport, street lighting, traffic and parking, public road transport and ferries;

Animal control and welfare;

- Trade development and regulations, local tourism and co-operative societies;

County planning and development, land survey and mapping, boundaries and fencing, housing and electricity;

- Pre-primary education, village polytechnics, home craft centres and child care facilities;

County public works and services including storm water management systems in built up areas, water and sanitation services, fire stations services;

- Ensuring and co-ordinating the participation of communities and locations in governance at the local level and developing the administration capacity for the effective exercise of the functions and powers and participation in governance at local level.²⁹

2.6 Challenges and Opportunities³⁰

The process of transition to devolution has had its successes and shortcomings. Firstly, the establishment of county governments was achieved without disruption. This is especially when one considers the magnitude of the shift from a central system of government to a devolved structure with six levels of representation achieved in one electoral cycle, a remarkable achievement by any standards. Most county governments began operations on the first day following election of representatives, which achievement was facilitated by various transition mechanisms, as well as sustained national government support for budget allocation, office infrastructure and human resource capacity.

The legal framework to support devolution is broadly in place and a national capacity building framework for county governments is being rolled out. The transfer of functions was carried out and budgets allocated and transferred. The process of budget making rigorously tested the new legislative and institutional structures and processes to support financing for devolution. These include the national Assembly and the Senate, Commission for Revenue Allocation, National

²⁹ Constitution of Kenya 2010, *GOK Printer*

³⁰ *Excerpts from the cabinet secretary devolution: celebrating one year of devolution in Kenya State of the counties on 3rd April 2014*

Treasury and the ultimate enactment of the division of Revenue and County Revenue Allocation laws, the Pioneer legislative frameworks for devolution financing.

County integrated development plans were developed through rigorous consultative processes and aligned to the national development policies as contained in the second medium term plan of vision 2030. Comprehensive county fiscal strategy papers have been developed to guide the implementation of the CIDPS.

Institutions to manage intergovernmental relations have also been established, and a framework for robust consultations put into place. These include the National and County Government Coordination Summit, The Council of governors, Inter-governmental Budget and Economic Council among others.

Conclusion

The ability of the new counties to create wealth and enhance welfare outcomes of their citizens will depend on how they are able to leverage the endowments, natural and otherwise, within the national, regional and global operating contexts.

CHAPTER THREE:

DECENTRALIZATION IN NIGERIA AND INDIA

3.0 Nigeria

Nigeria with 130 million people inhabiting 356,669 square miles ranks as the most populous nation in Africa and among the ten largest in the world. It is a centre of West African trade, culture and military strength.

Nigeria was a British colony from 1914 until its independence on October 1, 1960, although foreign domination of much of the territory had begun in the mid 19th century. The British ruled northern and southern Nigeria as two separate colonies until 1914, when it amalgamated both territories. Nigeria was an arbitrary creation reflecting British colonial interests. The consequences of this forced union of myriad African cultures and ruling entities under one political roof remain a central feature of Nigerian political life today. Nigeria's location in West Africa, its size, and its oil producing status have made it a hub of regional activity.

3. I Federalism and decentralization in Nigeria

Nigeria is one of the most decentralized countries in Africa coming fifth after South Africa, Uganda, Kenya and Ghana³¹. It is estimated to have 64 percent of her population living in the rural areas (United Nations, 2007). Decentralization and local good governance aims at accelerated rural service delivery at the local level. However, access to and use of rural services is said to only have marginal impacts on the rural population (Okojie, 2009). Rural households continue to face poor access to social services in spite of decentralization. These gaps in rural

³¹ Ndegwa, S. N. *Decentralization in Africa: A stock taking survey, African Regional working paper series no. 40* – The world Bank 2002

service need to be closed in order to enable the countryside to mobilize its development potential.

Nigeria operates a federal system of government, with a central government, 36 state governments and 774 local government councils. In this multi-level system, fiscal responsibilities are vested in the federal, state and local governments.

Nigeria's federal system is recognized in the constitution, which broadly spells out the functions to be performed by each tier of government. All three levels perform fiscal functions. The constitution makes provisions to generate financial resources for providing public goods and services and to ensure some form of equitable arrangement for the distribution of resources or sharing of revenue among the government tiers. At independence in 1960, Nigeria had only a central government and three regional governments. The need to bring governance closer to the people led to the creation of a fourth region in 1963. Nigeria changed from a two-tiered federal arrangement to a three-tiered federal system of a central government, states and local government councils with a variation in the number of states and local government councils over the years. The current system comprises a central government, 36 states, a Federal Capital Territory, and 774 local government councils. Regions were in existence until the twelve-state structure in 1967. The Buhari military administration abolished Local Government Agencies created by the Shagari administration and reverted to the 301 Local Government Agencies listed in the 1979 Constitution.³²

³² Source: CBN 2000, *The Changing Structure of the Nigerian Economy and Implication for Development*

In May 1967, the government broke the four regions into a twelve-state structure to check the power wielded by the Eastern Region. In 1996, the number of states increased to 36 to enhance the unity of Nigeria's diverse ethnic groups. Although there have been local governments since independence, local government councils were not explicitly treated as autonomous, interdependent entities. Instead, they were treated largely as subordinate to the state governments. The regions/states were supposed to take care of the interests of local governments under the portfolios of a Commissioner for Local Government. It was in the 1979 Constitution that local governments were allocated explicit functions. The fourth Schedule, section 7 (part 1) of Nigeria's constitution articulates the mandatory and concurrent functions which local governments must perform and each expenditure assignments of each level of government. In the National Government Expenditure Category are Defense and foreign affairs and in the states: shipping; federal trunk roads; aviation, railways and postal service; police and other security services; regulation of labor; interstate commerce and telecommunication; immigration, citizenship and naturalization rights; mines and minerals, nuclear energy; social security, insurance; national statistical system; guidelines and basis for minimum education; business registration; price control. Federal-State (shared) Health and social welfare; education (post primary/technology); culture; antiquities; monuments; archives; statistics; stamp duties; commerce; industry; electricity(generation, transmission, distribution); research surveys. State only Residual powers, i.e. any subject not assigned to federal or local government level by the constitution Local Government Economic planning and development; health services; land use; control and regulation of advertisement; pets; small businesses; markets; public conveniences; social welfare; sewage and refuse disposal; marriages, registration of births, and deaths; primary; adult and vocational education; development of agriculture and natural resources.

It has been observed that the creation of state as well as local governments has made Nigeria unique in Africa and indeed the world. Under normal circumstances, federations are derived from the coming together of formerly independent units or states to form a federal state. This was how the united states of America, for example was formed. But the Nigeria federation is a direct opposite of such pattern. The country was united into one indivisible entity by the British through a series of amalgamations, but it became clear to the British that Nigeria could not really live together as one indivisible entity, but still it was not enough as the people agitated for more regions to be created for them. The colonizers stylishly avoided this responsibility, shifting it to indigenous government upon their departure.

The multiplicity of states in the federation over the years came up as a response to marginalization by a long standing and well articulated ethnic groups in the country which resulted to majority of small tribes being subjected to different and unequal treatment in the allocation of resources. They have also suffered from discrimination, oppression, marginalization and social deprivation in the hands of the three major ethnic groups in Nigeria, which are Hausa Fulani, Yoruba, and Igbo who then controlled the northern, western, and eastern regional government as well as dominating the problems, minority ethnic groups agitated to form more states.

One major benefit that was derived from the creation of states at the initial stage of existence is that it helped to prevent succession of Igbo's and save the country from disintegration. It also established a solid foundation for a strong united and indivisible nation among the various ethnic and linguistic groups that existed within the country.

Federalism as has been adopted in Nigeria found its way into the political arena during the colonial era. Jinadu (1979:15) asserts that Nigeria's federalism was built as a form of government and constitutional structure deliberately designed by political architects to cope with the different task of maintaining unity while preserving diversity³³. It emphasizes partnership among parties of equal claims to legitimacy who seek a common social order.

Speaking of Nigerian federalism two schools of thought emerged on its evaluation. The first school comprising of nationalists believed that British imposed federalism on Nigeria in order to maintain the neo-colonial control of the country after the lowering of their mantle.

Chief Obajemi Awolowo (1968:69), a convinced federalist described the British imposed federal structure as an abominable destructive and divisive British heritage. They also believed that the colonial power made sure that there was enough structured imperfection left behind to bedevil, inter-ethnic relations after independence³⁴. However, this view of imposition held by this school is not exactly objective as Nigerians involved gave consent for the country to become a federal state.

The second school of thought is of the opinion that historical and geographical factors determine the political evolution of Nigerian federalism. Akinyemi (1979:91) asserts that Nigeria being a large and culturally variegated country could not have been governed for a long time from one centre. This view is not quite correct as it is time that factors of history and geography more than anything else determined the constitutional evolution of Nigeria. Ethnicity is one concept that cannot be overlooked on the discussion of the structure of Nigerian federalism and challenges of national integration as a whole.

³³ Jinandu A. *A note on the theory of Federalism*, Lagos; NIIA 1979

³⁴ Awolowo O. *The peoples Republic*. Ibadan : OAU Press 1968

Emu Awa (1976) has noted that federalism involves co-operation between the two levels of government and such cooperation increases in scope and quantity as the federation matures. Bargaining also assumes more importance as the federation becomes more highly developed. As he further explains there are always some conflicts in the relation between the regions and federal government and among the regions themselves.

Revenue allocation has been a big challenge of federalism in Nigeria. The control of funds or a reasonable part of it, due to a federation is a big source of conflict among levels of government in a federation especially during Obasanjo's administration. The need of resource control in a federation is due to the need to perform effectively the government assigned constitutional mandate. The agitation for resource control has been prompted by enduring years of exploitation, deprivation and marginalization of communities for tapping their resources and subjecting them to health and environmental dilapidation and deprivation.

In Nigeria it's important to note that social amenities through the use of state power are concentrated in non-oil producing areas. This fact laid confidence to Nnolis (1980) assertion that African politics is characterized by the belief that having one's own people in government means getting much of the resources under government control.

Against this background, according to Awololo (2000) the agitation of Niger Delta communities for resource control often resulted in the destruction of oil installations and government properties as well as the kidnapping of the expatriate workers of oil companies from whom they sometimes demand ransom as their own share of the national cake. Because of this the government deployed soldiers to such places, as the case of Odi, Bayelsa state in late 1990s. This did not however stop the unrest. In fact in October 1998 to June 1999, there was scarcely a

time when there was no protest of some sort in Niger Delta from trying to frustrate the shore of the export of liquefied natural gas from Bonny. Thus the numerous cases of violent conflict within Nigeria have their rot in deprivation and mass poverty.

On the other hand the issue of resource allocations has been a re-occurring theme in Nigeria's fiscal federalism. There is the problem of how to allocate resources to the different tiers of government in relation to the constitutionally assigned functions.

3.2 Northern domination and the Bogey of power sharing

The real and imaginary fears of Northern domination and hegemony have created the bogey of power sharing as the solution to northern and other forms of ethno- regional domination/power tends to accentuate the oligarchic theory and practice.

The notion of power sharing in Nigeria's federalism has the potential of doing more than harm than good to the polity by further complicating the search for good government, national integration and democracy. The failure of power sharing and domination to facilitate and support democratic governance in Nigeria makes it redundant as a principle of political leadership. This was what led to the concept of rotational presidency, perceived as an arrow head for ensuring real access and balancing in institutional representation. Undemocratic as the idea is, rotational presidency has been construed as a major, if not the last pragmatic plant to ensure unity and stability in Nigeria. The idea was nurtured by deep seated ethno regional scheme and the hegemonic disposition of geo political equation.

3.3 Inequality created by ethnicity

Two of Nigeria's soldier writers' General Madiebo and Major Ademoyeya hold colonial masters responsible for ethnic inequalities in Nigeria, arguing that they made no serious efforts to hold together the various ethnic groups they brought together into a united nation. Years have elapsed since Nigeria attained political independence from Britain, during which bitter civil wars have been fought, yet national integration has eluded the nation. National integration would not be possible with the kind of ethnic loyalty and sentiments Nigeria has.

Today's Nigerian state encompasses various ethnic groups with diverse cultural backgrounds, and religious differences. These various groups are often antagonistic to each other, since the country attained her independence in 1960. This being the case, past civilian and military governments had fashioned out one policy measure or the other to unite and integrate the people into one nation state, (JS Coleman, 1958). These are: the national youth service corps, the federal character scheme, the creation of states, Unity schools, and the national rebirth programme.³⁵

The above named integration measures have been seriously undermined by the love of the sharia by some Muslims governors of the north who have greatly polarised the Nigerian nation along religious divide. These sharia laws that are being implemented in some northern state pose as real threat to national integration and unity.

Nigeria's ethnic map can be divided into six inexact areas or zones. The northwest or core north is dominated by Nigeria's single ethnic group, the Hausa- Fulani, two formerly separate groups, that over the first century have largely merged. The north-East is a minority region, the largest of whom are the Kanuri. Both the regions in the north are predominantly Muslim. The western

³⁵ Cohen J.M Upholf N. T. *Participants place in Rural Development. World Development* Vol.18, pg 213-235.

region is dominated by the country's second largest ethnic group, the Yoruba, who are approximately 40 per cent Muslim and 50 per cent Christians. The south east is the Igbo homeland, Nigeria's third largest group, who are primarily Christians, and where protestant evangelical movements have become popular.

Nigeria's recent history reflects influences from the pre-colonial period, the crucial changes brought by British colonialism, the post colonial alternation of military and civilian rule, and the economic collapse from 1980 to 2000, precipitated by Nigeria's political corruption and its over-reliance on the petroleum industry, which has been reinforced by the post 2003 oil boom. Pre-colonial period trade across the Sahara desert with northern Africa brought material benefits as well as Arabic education, and Islam which gradually replaced traditional spiritual, political and social practices.

3.4 Colonial rule and its impact

Competition for trade and empire drove the European imperial powers further into Africa after 1860. Colonialism left its imprint on all aspects of Nigeria's existence bequeathing political and economic structures that have left enduring imprints on development and governance. Where centralized monarchies existed in north, the British ruled through a policy known as indirect rule, which allowed traditional structures to persist as subordinates to the British governor and a small administrative apparatus. Colonialism strengthened the collective identities of Nigeria's multiple ethnic groups by fostering political competition among them, primarily among the three largest ethnic groups: the Hausa- Fulani, Yoruba and Igbo.

At independent, the semblance of unity that had existed among the anti colonial leaders evaporated and intergroup political competition became increasingly fierce. Nigerian leaders

quickly turned to ethnicity as the preferred vehicle to pursue competition and mobilize public support. By pitting ethnic groups against each other for purposes of divide and rule and by structuring the administrative units of Nigeria based on ethnic groups, the British ensured that ethnicity would be the primary element in political identification and mobilization.

Recognizing the multi ethnic character of their colony, the British divided Nigeria into a federation of three regions with an elected government in 1954. Each of the three regions soon fell under the domination of one of the major ethnic groups and their respective parties.

The northern region came under the control of the Northern people congress (NPC) dominated by the Hausa Fulani elites. In the southern half of the country, the western region was controlled by the Action group (AG), which was controlled by Yoruba elites. The Igbo, the numerically dominant group in the eastern region, were closely associated with the NCNC, which became the ruling party then. Thus ethnic and regional distinctions of modern Nigeria were reinforced in divisive ways during the transition to independence.

3.5 Governance and policy making

After almost five decades, as an independent nation, Nigerians are still debating the basic political structures of the country, which will rule and how, and in some quarters, if the country should ever remain united. They call this a fundamental governance issue the ‘national question.’ How is the country to be governed given its great diversity? What should be the institutional form of the government? How can all sections of the country work in harmony and none feel excluded or dominated by the others?

Since independence, Nigeria has stumbled between democracy and constitutionalism, on the one hand and military domination on the other. Since the amalgamation of northern and southern

Nigeria in 1914, the country has drafted nine constitutions- five under colonial rule (in 1922, 1946, 1951, 1954, and 1960) and four after colonial rule: the 1963 republican constitution, the 1979 constitution of the second republic, the 1989 constitution intended for the third republic, and the current 1999 constitution of the fourth republic, which essentially amended the 1979 version.

Nigeria's constitution has suffered with little respect from military or civilian leaders, who have often been unwilling to observe legal and constitutional constraints. Governance and policy making in this context are conducted within fragile institutions that are swamped by personal and partisan considerations.

3.6 Federalism and state structure

Nigeria's first republic experimented with the British style parliamentary model, in which the executive (the prime minister) is derived directly from the legislative ranks. The first republic was relatively decentralized, with the locus of political power in the three federal units: the northern, eastern, and western regions. The second republic constitution which went into effect in 1979, adopted a US style presidential model. The fourth republic continues with the presidential model: a system with a strong executive who is constrained by a system of formal checks and balances or authority, a bicameral legislature, and an independent judicial branch charged with matters of law and constitutional interpretation.

Like the United States, Nigeria also features a federal structure comprising 36 states and 774 local government units empowered, within limits, to enact their own laws. Together these units constitute a single national entity with three levels of government. The judicial system also resembles that of the United States, with a network of local and appellant courts as well as state-

level courts. Unlike the United States, however, Nigeria also allows customary law courts to function alongside the secular state, including shari'a courts in Muslim communities.

In practice, however, so many years of military rule left a pattern of governance- a political culture – that retains many authoritarian strains despite the formal democratization of state structures. The control of oil wealth by this centralized command structure has further cemented economic and political control in the centre, resulting in a skewed federalism in which states enjoy nominal powers, but in reality are nearly totally dependent on the central government.

Another aspect of federalism in Nigeria has been the effort to arrive at some form of elite communication to moderate some of the more divisive aspects of cultural pluralism.

The domination of federal governments from 1960, to 1999 by northern Nigerians led southern Nigerians particularly Yoruba leaders, to demand a power shift of the presidency to the south in 1999, leading to the election of Olesegun Obasanjo. Northerners then demanded a shift back to the north, in 2007, propelling Umaru Yar'Adua a northern governor, into office, and southerners expect a return back by 2015, but to a different southern ethnic group than Obasanjo's. This ethnic rotation principle is not formerly found in the constitution, but all the major political parties recognize it as a necessity so that Nigeria's many ethnic communities can feel that they have a stake in the federal government. Moreover, the parties practice ethnic rotation at the state and local levels as well, rotating those offices among local ethnic groups and subgroups in a similar fashion.

The federal structure in Nigeria endures increasing strain. Attempts to include clauses on the right to secede in the constitutions of 1979 were roundly condemned by the drafting committees. Many assumed that the question of national unity had been finally settled. Attempts to include

clauses on the right to secede in the constitutions of 1979 and 1989 were roundly rejected by the drafting committees. Yet the most recent transition period featured a number of public debates about partition, particularly among the Yoruba and more recently in the Niger Delta, while other groups have continually lamented their political marginalization. Questions have also been raised as to whether Nigeria will continue to be a secular state and persist as a federation if it is to accommodate the country's ethnic cultural and religious heterogeneity.

The establishment of the ethnic rotation principle a "power shift" by the end of the Obasanjo years however was a tremendously positive development in moving toward addressing the national question. Some critics have argued that a power shift is anti-democratic, meaning that it is anti-majoritarian and encourages elite accommodation and introduces greater predictability in the system, reducing the perception that control of political offices is a zero-sum game.

In the second republic, the earlier parliamentary system was replaced by a presidential system based on the American model. The president was chosen directly by the electorate rather than indirectly by the legislature, based on a widespread belief that a popularly elected president could serve as a symbol of national unity. The framers of the second republics constitution believed that placing the election of the president in the hands of the electorate, rather than parliament, would mitigate a lack of party discipline in the selection of the executive.

3.3 The bureaucracy

The bureaucracy touches upon all aspects of Nigerian government. The colonial system relied on an expanding bureaucracy to govern Nigeria. As government was increasingly "Africanized" the bureaucracy became a way to reward individuals in the patrimonial system.

Bureaucratic growth was no longer determined by function and need; increasingly individuals were appointed on the basis of patronage, ethnic group, and regional origin rather than merit. It is conservatively estimated that federal and state government personnel increased from a modest 72000 at independence to well over 1 million by the mid-1980s. The salaries of these bureaucrats presently consume roughly half of government expenditures, which leave less for other responsibilities of government, from education and health care to building the roads. Success in correcting these anomalies by successive governments has been fought by the bureaucracy at every turn.

3.4 State and local judiciaries

In Nigeria, some of the states in the northern part of the country with large Muslim population maintain a parallel court system based on the Islamic shari'a (religious law). Similarly some states in the middle Belt and southern part of the country have subsidiary courts based on customary law. Each of these maintains an appellant division. Otherwise all courts of record in the country are based on the English common law tradition, and all courts are ultimately bound by the decisions handed down by the Supreme Court.

How to handle the shari'a has been a source of continuing debate in Nigerian politics. For several years, some northern groups have participated in a movement to expand the application of shari'a law in predominantly Muslim areas in Nigeria, and some have even advocated that it be made the supreme law of the land. Prior to the establishment of the fourth republic, shari'a courts had jurisdiction only among Muslims in civil proceedings and in questions of Islamic personal law.

In November 1999, however the northern state of Zamfara instituted a version of the sharia criminal code that included cutting off hands for stealing, and stoning to death for those (especially women) who committed adultery. Eleven other northern states adopted the criminal code by 2001, prompting fears among minorities in these states that the code might be applied to them and creating a divisive national issue. Two thousand people lost their lives in Kaduna in 2000 when the state installed the sharia criminal code despite a population that is half Christian.

3.5 State and local Government

State governments are generally weak and dependent on federally controlled revenues. Nigeria's centralization of oil revenues has fostered intense competition among local communities and states for access to national patronage. Most of them would be insolvent and unable to sustain themselves without substantial support from the central government because of the states weak resources and tax base. About 90 percent of the state incomes are received directly from the federal government, which includes lump sum based on the oil revenues. Plus a percentage of oil income based on population.

The states and local governments however must generate more resources of their own to increase the efficiency of both their administrations and private economic sectors. In all likelihood, only the states of Lagos, Rivers, and Kano could survive without federal subsidies.

Major reforms in 1998 sought to strengthen the local government system and foster their independence from state governments. In practice however, the federal government disburses state and local government funds directly to the state governors to dole to loyalists, such that for the most part, they do little to address their governance responsibilities.

The federal state and local governments have the constitutional and legal powers to raise funds through taxes. However, Nigerians share an understandable unwillingness, especially those in self-employment, trade, and other informal sector activities, to pay taxes and fees to a government with such a poor record of delivering basic services. The result is a vicious cycle: government is sapped of resources and legitimacy and cannot adequately serve the people. Communities in turn are compelled to resort to self help measures to protect these operations and thus withdraw further from the reach of the state. Because very few individuals and organizations pay taxes, even the most basic government functions are starved of resources and the states become more dependent upon federal oil wealth in order to function.

The return of democratic rule has meant the return of conflict between the state and national governments. A number of governors have turned to armed militias and vigilante groups to provide security in their states and to intimidate political opponents. Many of these groups were initially local responses to the corrupt and ineffective police force, or enforcers of the new sharia codes in the north, but the governors have sensed the larger political usefulness of these groups. Consequently political assassinations and violence increased as the 2003 and 2007 elections approached. Some of these militias in the Niger Delta or political thugs in other parts of the country have grown independent and turned on their former masters, raising the spectre of local warlords that have ruined other African nations.

On the other hand, legislatures at the state level face a similar imbalance of power with the governors, who control large local bureaucracies and control the funds received from the federally shared revenues.

3.6 The party system and elections

An unfortunate legacy of the party and electoral system after independence was that political parties were associated with particular ethnic groups. The three –regions federation created by the British, with one region for each of the three biggest ethnic groups (Hausa-Fulani, Yoruba, and Igbo), created strong incentives for three parties one dominated by each group to form. This in turn fostered a strong perception of politics as an ethnically zero sum (or winner takes all) struggle for access to scarce state resources, which encouraged the political and social fragmentation that ultimately destroyed the first republic and undermined the second republic. Unlike Ghana, Cote D’ivoire, Mexico, and to some extent India, Nigeria did not develop an authoritarian dominant party system after independence, which might have transcended some of these social cleavages. Instead multiple ethnic-based parties deepened existing social divisions.

The rise of multi-ethnic political parties is one of the most significant developments of the fourth republic in Nigeria. In multiethnic parties, there is a strong incentive for politicians to bargain and bridge their ethnic differences within the party, so that they may then compete with the other parties in the system, which would preferably be multiethnic as well. In Nigeria ethnic divisions, supported by pre-bendal networks still dominate national politics, but the multiethnic parties have at least done fairly well at bridging these many divides during election periods and at fostering a climate of compromise during particularly divisive national debates like preferential treatment in access to public offices, government contracts, and the corrupt spoils of oil wealth. In short multiethnic parties have widened the circle of corruption, allowing the biggest politicians to build vast patronage networks across ethnic lines and diluting but not erasing the ethnocentric aspects of the prebendal system. Lower ethnic tensions came at the price of greater elite corruption, which may be seen as progress if compared to the ethnically charged political

climate that led to the 1967-1970 civil war but which must transition to more accountable party politics if the 92 percent of Nigerians who live on less than 2 dollar per day are to share in the nation's wealth.

3.6 Political challenges

The military in Nigeria periodically made promises for democratic transition as a ploy to stabilize and legitimize their governments. General Abubakar dutifully handed power to the civilians in 1999, but only after ensuring that the military's interests would be protected under civilian rule and creating an overly powerful executive that reinforces patri-monialism, a system of power in which authority is maintained through patronage.

The military's rapid transition program produced a tenuous, conflicted democratic government that faces daunting tasks of restoring key institutions, securing social stability, and reforming the economy. The continuing strength and influence of collective identities, defined on the basis of religion or ethnicity are often more binding than national allegiances. The parasitic nature of the Nigerian economy is a further source of instability. Rent-seeking and other unproductive, often corrupt business activities remain accepted norms of wealth accumulation. Many people now recognize that the military apart from its contributions to national security is incapable of promoting economic and social progress in Nigeria. The project of building a coherent nation-state out of competing nationalities remains unfinished.

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In conclusion, it can be observed that Nigeria politics must change in fundamental ways for democracy to become more stable and legitimate. First and foremost, the nation must turn from a system of politics dominated by 'Big Men' for all intents and purposes, a competitive oligarchy to a more representative mode of politics that addresses the fundamental interests of the public. Second Nigerians must conclusively settle the national question and commit to political arrangements that accommodate the nation's diversity. In short, Nigerians forth republic must find ways of moving beyond prebendal politics and develop a truly national political process in which mobilization and conflicts along ethnic, regional, and religious lines gradually diminish, and which can address Nigeria's true national crisis: poverty and underdevelopment. The constitution of Nigeria needs amendment and the role of the federal government is crucial in the decentralization processes.

INDIA

3.1.0 Introduction

The republic of India is a populous and geographically and culturally diverse country. Its capital city is New Delhi. It has a population of approximately 1.1 billion people, the second largest population in the world, after its neighbour china. Its large size approximately 3,287,590 sq.kms is rivalled in Asia only by china, and is slightly more than one-third the size of the United States. India's rich geographical setting includes three diverse topographic zones (the mountainous northern zone, the basin formed by the Ganges River and the Peninsula of southern India and a variety of climates. Along with its neighbours Pakistan and Bangladesh, the region is physically isolated from the rest of Asia by the Himalayas to the north, and the Indian Ocean to the east, south and west.³⁶

India is the world's largest democracy and the oldest democracy among the developing countries of Asia, Africa, and Latin America. It has functioned as a democracy with full adult suffrage since 1947, when it emerged as a sovereign nation-state, following the end of British colonial rule.

3.0.1 Governance and policy making

India is a democratic country with a parliamentary and federal system of government. The constitution adopted in 1950 created this system, and although there have been many profound changes since then in the distribution and use of power, the basic character of India's political system has remained unchanged. For much of this period, India has been a stable, democratic country with universal suffrage and periodic elections at local, state, and national levels. Indian

³⁶ Chatterjee, Partha E .D State Politics in India. New Delhi: Oxford University Press, 1997

democracy has proved so resilient because its political institutions, while always under pressure, have been able to accommodate many new power challenges and to repress the most difficult ones.

Indian constitution directs the government to promote social and economic equality and justice. Second, the Indian constitution, like the US, Constitution provides for freedom of religion and defines India as a secular state. And third, the constitution allows for the temporary suspension of many democratic rights under emergency conditions.

India's political system is relatively centralized. The central government controls the most essential government functions such as defence, foreign policy, taxation, public expenditures, economic planning, especially industrial planning. State governments formerly control such policy areas as Agriculture, Education, and law and order within the states.

Because they are heavily dependent on the central government for funds in these policy areas, the power of the state is limited. India is a parliamentary democracy designed on the British model. The Indian parliament, known as the Lok Sabha, or house of the people, the lower chamber of parliament, is the most significant political institution. The leader of the political party with most seats in the Lok Sabha becomes the prime minister, who nominates a cabinet, mostly from the ranks of other members of parliament belonging to the ruling coalition. The prime minister and the cabinet, along with permanent civil servants, control most of the governments daily functioning. By contrast the office of the president is largely ceremonial. In periodic national elections, 554 members of the Lok Sabha, the lower house of the bicameral parliament, are elected. The Lok Sabha is much more politically significant than the Rajya Sabha, the upper house. The prime minister governs with the help of the cabinet, which periodically

meets to discuss important issues including new legislation that is likely to be initiated. Cabinet members are the heads of various ministries.

The president is the official head of the state and is elected indirectly every five years by an electoral college composed of elected representatives from the national and state governments.

3.1.2 Sub-national government

Under India's parliamentary and federal system, the balance of power between the central and state governments varies by time and place. In general the more powerful and popular the central government and prime minister, the less likely the states can pursue an independent course. During the rule of Nehru and especially under Indira Gandhi, the states were often quite constrained. By contrast, weaker central governments, like the BJP-led alliance that took office in 1999, or the congress led alliance that took office in 2004, enlarged room for state governments to manoeuvre.

When state governments are run by political parties other than the national ruling party and this is often true in contemporary India, there is considerable scope for centre- state conflict. While the political parties at the national and state levels may differ, the formal structure of the twenty eight state governments parallels that of the national government. The chief minister of each state heads the state government. The chief minister is the leader of the majority party (or the party with most seats) in the lower house of the state legislature. The chief minister appoints cabinet ministers who head various ministries staffed by state level, permanent bureaucracy. The quality of government below the national level is often poor, contributing to regional and ethnic conflicts.

In lieu of a president, each state has a governor appointed by the national president. The governors, like the president, are supposed to serve on the advice of the chief minister, but in practice, they often become independently powerful, especially in states where the national government is at odds with the state government or where the state governments are unstable. Governors can dismiss elected state governments and proclaim temporary presidential rule if they determine state governments to be ineffective. When this happens the elected government is dissolved, and the state is governed from New Delhi until fresh elections are called and a new government is elected. Although this provision is intended to be a sensible constitutional option, an intrusive national government has often used it for partisan purposes.

The power struggle between the central government and the state is ongoing. With many Indian states inhabited by people with distinctive traditions and cultures, including language, and with conflicting political parties in power at the national and state levels, central- state relations can be fuelled by substantial political and ethnic conflicts.

India's politics has become increasingly regionalized in recent years. Three new states were formed in 2000 out of existing states. Furthermore, states have become increasingly autonomous economically and politically. As a result of economic liberalization, states have acquired rights and opportunities to seek out investors independent of the national government. one consequence is that regional inequalities are widening as states like Haryana, Punjab, Maharashtra, Gujarat, Andhra Pradesh, Karnataka, and Tamil Nadu, have aggressively sought investments while some of the largest and poorest states in the North and East such as Bihar and U. P, have fallen behind.

The twenty eight states of India's federal system have also come to play an increasingly important role in national governance. In each of the national elections, since 1989, parties based

in a single state have been key to the success of coalition governments. Since 1989, every coalition government has depended on regional parties for its survival. This development has double edged implications for democracy. On the one hand, governing coalitions that are established by disparate parties with little ideological or programmatic cohesion are likely to be unstable. On the other hand, national governments are less likely than they were in the past to seek the dismissal of state governments because national governments are likely to be composed of regional political parties.

The Panchayats which function at the local, district, and state levels, represent the most important attempts at the devolution of power. The panchayats were responsible in the precolonial era for adjudicating conflicts and presiding over community affairs in the rural areas. In 1959, the Indian government introduced a three- tier model of panchayats, linked together by indirect elections. However, it gave the panchayats meager resources, for members of parliament and the legislative assembly saw them as potential rivals to their authority. By the mid 60s the panchayats were stagnating and declining.

Some states revived the panchayats on their own initiative. In 1978, the communist government of west Bengal overhauled the panchayat system by providing for direct elections and giving them additional resources and responsibilities. Other states followed suit. In 1992, the national government amended the constitution to enable all states to strengthen the panchayats, although states were free to create their own models. It envisaged the panchayats primary role as implementing development programs and encouraging greater local involvement in government. The resources and planning capabilities of the panchayats remain relatively limited. State legislatures determine how much power and authority the panchayats can wield. Most panchayats are responsible for implementing rural development schemes but not devising them.

Policy is made at the national and state levels. Although considerable resources pass through them, local governments have little discretion over how they are allocated. Local political elites, bureaucrats, and influential citizens often siphon off a large share of public funds and determine where projects will be located, who gets a contract, and who is hired on public projects. Thus, many local governments in India tend to be corrupt, ineffective, and wasteful. City streets are not kept clean, potholes are not repaired, irrigation canals are not properly maintained, and rural schools are so poorly built that they leak as soon as the monsoons start.

Major policies are made by the National government but leave refinement of these policies, as well as their implementation to state governments. The process of implementation has been quite decentralized and relatively ineffective. Sound policy ideas and positive intentions do not reach fruition because policies are diluted at the state and local levels and because of lacklustre implementation. The prime minister and cabinet ministers are generally responsible for initiating policies.

The democratic idea is so deeply rooted in India that today thousands of nongovernmental organizations function in the country representing causes ranging from welfare issues, to the environment, to human rights. Some social movements have transformed themselves into political parties, while others militantly oppose the established political system.

The Indian parliament is bicameral, consisting of the Rajya Sabha and the Lok Sabha. The outcome of parliamentary elections determines which party coalition will control the government.

The Rajya sabha, the upper house is not a powerful chamber as it generally approves bills passed by the lok sabha. Most members are elected indirectly by state legislatures. After any final

modifications by the Rajya bills return to the lok sabha for a third reading after which they are finally voted on in both houses and forwarded to the president for approval.

One of the pillars of Indian democracy is its system of open and honest elections.

3.1.3 Political culture, citizenship and identity

The only generalization that can be made about Indian political culture is that in such a large and culturally diverse country, no single set of cultural traits is shared by the entire population. Nevertheless, three important tendencies are worth noting. These political cultural traits reflect India's hybrid political style, as a rigid, hierarchical, and village oriented old civilization adapts itself to modern socioeconomic changes, especially to democratic politics.

One important tendency is that India's political and public sphere are not sharply divided from personal and private spheres of activity. The idea that public office is not a legitimate means for personal enrichment or for furthering the interests of family members or personal associates is not yet fully accepted in India. As a result, there is fairly widespread misuse of public resources for personal gain that is widespread corruption in political life. The positive aspect of this tendency is the high level of political involvement by the citizenry in public life.

Second, the Indian elite are extremely factionalized. The roots of such behaviour are complex, reflecting Indians fragmented social structure. Although some important exceptions exist, generally the personal political ambitions of Indian leaders prevent them from pursuing such collective goals as forming cohesive political parties, running a stable government, or focusing on problems of national development. In contrast to many East Asian countries, where the norms of consensus are powerful and political negotiation is often conducted behind closed

doors, politics in India veers toward the other extreme and open disagreements and conflicts are the norm.

The third and possibly most important tendency concerns the fragmentation of political life in India. Indian society is highly segmented. Different regions have different languages and cultures; within regions, villages are poorly connected with each other; and within villages different castes often live in isolation from one another. Politics is often fragmented along caste lines, but even caste grievances tend to remain local rather than becoming national or even regional. Some observers of India find this segmented quality of Indian politics a blessing because it localizes problems, facilitating political stability, but others find it a curse because it stymies the possibility of national reforms to improve the lot of the poorest members of society.

The political unrest in Kashmir and Punjab and sub-nationalist movements in the North East have led to a duality about Indian's political structure, causing it to emerge both as a threat to the integrity of the nation and also as an opportunity to reconstitute the state in a manner that reflects the multicultural composition of the nation.

Some see in the issue of federalism a reminder of the fear of 'balkanization' that so concerned the leaders who lived through India's bloody partition. They see demands for states' rights the thin end of the wedge that will eventually dismember India.

3.1.4 The rise of the Panchayati Raj in post-colonial India

Decentralization of governance structures in India is manifested by the Panchayati Raj system. Panchayati raj as a concrete form of democratic decentralization in rural India is a creation of the colonial rulers. The birth of PRIs (Panchayati Raj Institutions) in independent India, however, owes its origin to the Balvantrai Mehta Committee Report. The Committee stressed the need to

develop a network of three-tiered elective institutions known as the panchayati raj and gave birth to what can be called the first generation panchayati raj in India.³⁷ Outlining the concept, the report observes that PRIs would be representative bodies and vigorous democratic institutions in order to take charge of all aspects of development work in the villages. The committee proposed a model of panchayati raj with three tiers – Gram Panchayat at the base, Panchayat Samiti at the intermediate block level and Zilla Parishad at the apex.

The first generation PRIs encountered potent and widespread distrust from their very inception. The bureaucracy could not agree to share power with people but had to accept the panchayati raj system because of the existing political support for it. The process of bureaucratization gained considerable ground in the 1960s and more focus was given to production oriented programmes to meet the increasing demand for food which increased the hold of the bureaucracy and in the process, the PRIs were bypassed.

Added to this, was a growing centralization of the Indian polity which reached its culmination during the days of emergency. The lack of constitutional sanction and conceptual clarity about the role of PRIs made it possible for policy makers to accept it either as an agent of government or as institutions of self-government. This paved the road towards the slow decline of the system and by the end of the 1960s, the PR (Panchayati Raj) system was moribund throughout the country.

The Asok Mehta Committee, which examined the issue in 1978, prepared a blue print for the second generation panchayats. Having departed from the constitutional model, the second Mehta Committee conceptualized PRIs as instruments of rural development. It regarded the revenue district as the first point of decentralization below the state level and recommended two- tiered

³⁷ Prabhat Datta (1998) Major Issues in the Development Debate, New Delhi: Kanishka pg 14-19

PRIs. Only four states namely, Andhra Pradesh, Karnataka, Kerala and West Bengal, began to try out the system but political changes in all the states except West Bengal stood in the way.

The progress was so slow that the Indian State had to amend the Constitution in 1992 to revitalize the system of Panchayati Raj. Political exigencies seemed to have played a major role when Prime Minister Rajiv Gandhi started taking about the regeneration of Panchayati Raj. In the 1970s and 1980s the nation witnessed a series of movements across the country (e.g. militant movements in Punjab, the Prabhat Datta Gorkhaland movement in West Bengal, the Jharkhand movement etc.) based on primordial loyalties like religion, ethnicity, and language. It was difficult for the state governments to handle the issues efficiently, bringing the republic under great stress. It was then realised that power had to be shared with local communities. The autonomous local level of self-government was considered to be a safety valve, capable of preventing the recurrence of such incidents. The Constitution was therefore amended in 1992 to lay the foundation stone of the third generation of the Panchayati Raj in India.

3.1.5 The Third Generation Panchayats in India

The 1992 Constitutional amendment seeks to give panchayats a new meaning and a fresh lease of life. The basic features of the amendment are as follows:

- Article 243G defines panchayats as institutions of self-government meaning that they have the autonomy and power to govern in an exclusive area of jurisdiction.
- The amendment defines the role of panchayats as instruments of economic development and social justice. Incidentally, earlier there was confusion about the role of panchayats. Thus this clarification through constitutional amendment is significant.

- The amendment requires States to hold panchayat elections through the State Election Commission at regular intervals of five years. If a State Government dissolves a panchayat before the expiry of its full term, it is mandatory on the part of the State Government concerned, to hold election within six months from the date of dissolution.
- The Act provides for the reservation of one-third seats and posts of chairpersons for women and weaker sections, i.e., Scheduled Castes and Scheduled Tribes.

3.1.6 Challenges to the Third Generation Panchayati raj in India

The MP Local Area Development (MPLAD) Scheme

Under this scheme a sum of Rs. 1,580 crores per year is placed at the disposal of the MPs. The MPs are allowed to spend the money to undertake local area development schemes outside the purview of panchayats and municipalities. In this way the constitutionally mandated local government institutions are by-passed. Under the scheme each MP can suggest to the District Collector works worth up to Rs. 2 crores in a year. The Ministry releases the funds directly to the Collectors who get the works done on the advice of the concerned MP.

The Report of the Comptroller and Auditor General (2001) showed that the scheme was plagued not only by the inadequacy of funds but also by the increasing underutilization, misuse and diversion of money earmarked for the project. Most of the plans undertaken form part of the amendments to the Constitution, which clearly refers to the functions that are to be transferred to the local bodies. The Report noted that out of Rs. 5018 crores only Rs. 3221 i.e. 64 per cent of the released amount could be spent. Also, the release of funds was not linked to their end-use, with utilization certificates being received for only 29.78% of the projects taken up and completed by the implementing agency. While during 1993- 97, 89% of the work sanctioned by

the collector was taken up, only 56.13% of it could actually be completed. The corresponding percentages further declined to 86.41% and 39.42% respectively during 1997- 2000.³⁸ This was due to the fact that the Ministry often released funds without any co-relation with the end use and it did not insist on the utilization certificates from the implementing agencies.

Similarly, the findings of the sample study of audit in 106 constituencies found that out of total expenditure of Rs.265 crores reported by the Collectors, a sum of Rs. 82 crores, that is, 31 per cent of the total money was, in fact, not spent at all. The guidelines seem to have been observed more in their breach. In Nagaland, for example, the money was spent for building roads connecting the Church, in Orissa temples were built, in Madhya Pradesh money was spent for building housing complex for the police officials.³⁹

The Centre for Budget and Governance (CBGA) 2004 in its report titled *The Rhetoric and Reality of MPLADS* reviews the working of the said scheme in seven constituencies spread across six Indian states- Rajasthan, Madhya Pradesh, Gujarat, Uttar Pradesh, Jharkhand and Orissa. The report holds the members of both the houses of Indian Parliament responsible for the underutilization of funds. While Lok Sabha members (till 2003) have used only 77% of their total entitlement, the amount used by the Rajya Sabha members has not exceeded 50%. The report also studied the schemes beneficiaries across six states. The overall picture that emerges is that a lion's share of the MPLAD funds is spent in a top- down manner without taking into

³⁸ *Report of the Task Force on Devolution of Powers and Functions upon the Panchayati Raj Institutions*, Department of Rural development (Panchayati Raj Division), Ministry of Rural Development, GoI, 2001

³⁹ Era Sezhiyan (2002) *Development Directions, Frontline*, March, 15.

consideration peoples actual needs. Beneficiaries also alleged that they were paid much less than the specified minimum wages in employment. Works under the scheme and an overwhelming number (62%) agreed that the quality of assets created was either bad or very bad.

Even in the face of widespread public criticism of the administrative and financial mismanagement of funds under MPLADS, continued recommendations for the abolition of MPLADS even by the Administrative Reforms Committee in its successive reports have failed to produce any positive impact. As most of the MPs openly expressed their unwillingness on the floor of the Parliament to give up the scheme, it was finally decided to continue the scheme but with new and stringent safeguards. As a result, a set of new guidelines was framed in the middle of November 2005. Several legal and constitutional experts have dubbed the new Guidelines as ‘unconstitutional’ on the ground that they defy and distort some of the basic features of the constitution such as public audit. For instance, the attempt to do away with a Comptroller and Auditor General of the scheme accounts, as stated in the guidelines, was actually an attempt to dis-empower the Parliament in exercising control over public expenditure. Moreover, the list of permissible works under the scheme still contains items such as roads, sanitation, drinking water, education and public health that form a part of the Eleventh and Twelfth schedules of the constitution meant for the PRIs.⁴⁰

⁴⁰ Era Sezhiyan (2006) New Guidelines worsen MPLAD Scheme, *Mainstream*, April 14- 20, 2006

3.1.7 Legislative Inadequacies and Absence of Enabling Rules and Orders

Although the Seventy Third Amendment of the constitution aims primarily at offering certainty, continuity and strength to the panchayats, inadequacies in the drafting of legislation have created only a set of paper laws for them. In most of the cases the laws fail to reflect the spirit of the Constitutional Amendment Act (CAA) and even where they do, they cannot be effectively implemented for want of enabling rules and orders. The main lacuna of the CAA, however, was that instead of clearly specifying the powers and functions of the panchayats, it has left it to the whim of state governments. It is clearly evident in Article 243(G) which states that the state legislature may, by law, endow panchayats with such powers and authority as may be necessary to enable them to function as institutions of self government. The repeated usage of the word 'may' in the article fails to make it mandatory on the part of the state government to implement these provisions, thus leaving power-sharing with the state government solely at the disposal of the political leadership at the state level. This explains the varying degrees in the performance of panchayats across different states.

It is pertinent to note here that the constitution spells out the functions of the PRIs in very broad terms - in most cases covering the entire possible expanse of a subject without clearly indicating specific items of responsibility, activities or sub- activities under the broad functions. In line with the irregularities in the Central Act, the statutes governing PRIs in the states while devolving functions to the panchayats continue to word them generally without detailing out functional responsibilities of each tier of panchayats for each of the subjects. Mere legal enactments are not enough unless they are backed by enabling rules and orders. Even in states where conformity legislation has been enacted rules and by-laws for their day today functioning are yet to be formulated. In the absence of necessary operational laws, the states are often found to

misinterpret the provisions of delegated legislation as a device for deferring legislation. In Rajasthan, for example, the whole range of powers and functions that have been legally assigned to the PRIs are either made subject to such rules as may be prescribed or to the extent and in the manner as may be prescribed and since then no rules have been framed or orders/ guidelines issued to this effect.

3.1.8 Centrally sponsored schemes

The creation of a large number of programmes (more than 200 schemes currently) called centrally sponsored schemes (CSSs) sponsored by the Union Ministries has posed a serious challenge to democratic decentralization by distorting the multi-level planning process and inter governmental transfer arrangements within the federal set up. This is mainly because many of the subjects they deal with are either included in the State list or the local list mentioned in the 11th and 12th schedules. The share of the CSSs in the plan budget of the federal government has shot up to 70 per cent against less than 30 per cent in the early 1980s. Besides, the CSSs there are also 26 sectoral programmes falling under the 29 subjects of the 11th Schedule which the central ministries handle. The schemes are drawn up at the centre and implemented at the local level. The association of local bodies with the implementation processes does not really serve the purpose because the implementing bodies only implement according to the rules laid down elsewhere. The local government has to accept them because the centre has financial clout.

3.1.9 Undermining Elections

Attempts to undermine elections for panchayats continue. Some of the states have taken years to hold elections. Postponing elections under one pretext or another has become a routine matter.

The elections to panchayats have been completed in almost all the states after a series of legal battles and interventions by civil society organizations. The case of Orissa is interesting. Elections to PRIs were due to be held before February 2002. The legislation had promptly intimated that the state government prepares to conduct elections on time and suggested a delimitation of wards and reservation of seats beforehand, if required. The district magistrates had in fact done the work and the state government had ordered a limited delimitation of seats in consonance with the Orissa Gram Panchayat Act, 1964. To cause further delay in this regard the state government brought a bill in the monsoon session for the reservation of seats in favour of the OBCs. The SEC chose to file a case in the High Court. At this stage the state government decided to hold elections.⁴¹

Gujarat has recently set a unique example. The State Government has announced incentives to the extent of Rs. 1 lakh to those panchayats, which would be able to hold elections on the basis of consensus. The scheme called samras gram (harmonious village) is clearly anti-democratic and is regarded as a recipe for reward-induced guided democracy.

Interestingly, what is happening in some states in the name of achieving unanimity is a cause of serious concern. During the panchayat elections in Karnataka in 2000 some of the seats were auctioned. The Electoral Commission could not interfere on the ground that if the voters made an arrangement among themselves to ensure unanimous election it was beyond the legal competence of the Commission to intervene. In order to augment the resources some of the seats were put up for bidding in Andhra Pradesh state in 2001. Even the reserved seats were not spared. The highest amount for the post of the Sarpanch in Velpur village under Guntur district was ten lakh. Seats are auctioned in Madhya Pradesh and Rajasthan.

⁴¹ *Panchayati Raj Update*, August, 2003

In 2005, auctions were held for the post of Sarpanch in at least two gram panchayats .In Rajasthan it was the caste factor which mattered most. The panchayat dominated by Gujjars was reserved for the SCs. Disturbed by the sudden loss of power, some of the influential Gujjar leaders decided to extract a price for the post. An announcement for open sale was made at the village Chaupal assuring unanimous election of the highest bidder. The auction took place two weeks before the day of polling. The reserved price was fixed at Rs.50, 000. One person offered Rs.2.7 lakh and the seat was allotted to him. However, the effort proved to be abortive due to intervention by the District Collector who got three of them arrested.⁴²

There was large scale distribution of gifts and allurements offered by candidates in the UP elections held in 2005, some of them financed by non-resident Indian relatives. There was a free flow of money and liquor in many villages. Hand pumps were installed outside each house in one of the villages and voters in one of the villages received silver rings and glasses. A candidate in one village called Pratapgarh promised gold rings to each woman in the GP if he won. In several constituencies whisky bottles were distributed liberally. There was hardly any serious candidate who did not exceed the expenditure ceiling fixed by the legislation. The local newspapers were splashed with advertisements by the well-to-do candidates.⁴³

⁴² *Panchayati Raj Update*, Jan.2005

⁴³ Government of India (2002) *The Report of the Working Group on Decentralised Planning and Panchayati Raj Institutions for the Tenth Five Year Plan (2002-2007)* Planning Commission, New Delhi,⁴³

It is interesting to note that the holding of elections at regular intervals can bring about significant change in the socio-political profile of rural India. Studies have shown that the caste system in Tamil Nadu has weakened following the elections.

3.2.0 Devolution in the Conformity Legislations

The 73rd Amendment of the Constitution of India stipulates the transfer of powers and functions to panchayati raj institutions (PRIs) as a part of the decentralization process. The State Governments were supposed to transfer 29 subjects listed in the Eleventh Schedule of the Constitution. While the states like Kerala, Karnataka and West Bengal have carved out a clear path of devolution to PRIs, other states like Rajasthan, Maharashtra, Gujarat and Bihar have variations in their initiatives in this regard. States like Haryana, Uttar Pradesh have still to set the ball rolling. As per the information available in November 2006, only eight states and one Union territory have formally transferred all the 29 functions or subjects to PRIs. The Working Group on the Decentralised Planning observes: items listed as responsibilities in the states are couched in vague terms. A glance at the variety of these items reveals that they are a shopping list of sectors and sub-sectors, specific responsibilities under a broad activity, with no role clarity.... In some states the line departments still exercise the powers of supervision and control over the scheme of subjects transferred to the panchayats. The Parliamentary Committee in its 37th report submitted in 2003 has expressed concern over the pace at which states are working in this direction. The Report of the Task Force on the Devolution of Powers and Functions to the PRIs brought out by the Ministry of Rural Development has admitted that the mandatory provisions of the 73rd Amendment Act are yet to be implemented in letter and spirit by most of the states,

eight years after the said Act came into force in April, 1993. The conformity legislations of most of the States have not significantly altered the functional domain of gram panchayats.

The studies emphasize the need for a uniform accounting system and a uniform grant structure to ensure transparency in the functional transfers to the rural local bodies. Even in the face of widespread public criticism of the administrative and financial mismanagement of funds under MPLADS, continued recommendations for the abolition of MPLADS even by the Administrative Reforms Committee (ARC) in its successive reports have failed to produce any positive impact. As most of the MPs openly expressed their unwillingness on the floor of the Parliament to give up the scheme, it was finally decided to continue the scheme but with new and stringent safeguards. As a result, a set of new guidelines was framed in the middle of November, 2005. Several legal and constitutional experts have dubbed the new Guidelines as 'unconstitutional' on the ground that they defy and distort some of the basic features of the constitution such as public audit. For instance, the attempt to do away with a CAG (Comptroller and Auditor General) audit of the scheme accounts, as stated in the guidelines, is actually an attempt to disempower Parliament to exercise control over public expenditure. Moreover, the list of permissible works under the scheme still contains items such as roads, sanitation, drinking water, education and public health that form a part of the Eleventh and Twelfth schedules of the constitution meant for the PRIs.

3.2.1 Legislative Inadequacies and Absence of Enabling Rules and Orders

Although the Seventy Third Amendment of the constitution aims primarily at offering certainty, continuity and strength to the panchayats, inadequacies in the drafting of legislation have created only a set of paper laws for them. In most of the cases the laws fail to reflect the spirit of the

CAA and cannot be effectively implemented for want of enabling rules and orders. The main lacuna of the CAA, however, is that it has left it to the whim of state governments. It is clearly evident in Article 243(G) which states that the state legislature may, by law, endow panchayats with such powers and authority as may be necessary to enable them to function as institutions of self government.

The repeated usage of the word 'may' in the article fails to make it mandatory on the part of the state government to implement these provisions, thus leaving power-sharing with the state government solely at the disposal of the political leadership at the state level. This explains the varying degrees in the performance of panchayats across different states.

It is pertinent to note here that the constitution spells out the functions of the PRIs in very broad terms - in most cases covering the entire possible expanse of a subject without clearly indicating specific items of responsibility, activities or sub- activities under the broad functions. In line with the irregularities in the Central Act, the statutes governing PRIs in the states while devolving functions to the panchayats continue to word them generally without detailing out functional responsibilities of each tier of panchayats for each of the subjects.

Mere legal enactments are not enough unless they are backed by enabling and by-laws for their day to day functioning are yet to be formulated. In the absence of necessary operational laws, the states are often found to misinterpret the provisions of delegated legislation as a device for deferring legislation. In Rajasthan, for example, the whole range of powers and functions that have been legally assigned to the PRIs are either made subject to such rules as may be prescribed or to the extent and in the manner as may be prescribed and since then no rules have been framed or orders/ guidelines issued to this effect.

3.2.2 Transfer of Funds

The transfer of functions without corresponding transfer of funds does not make sense but this has nevertheless, happened. Mahi Pal rightly says that before listing the functions to be performed by the panchayats, the states have introduced certain qualifying clauses.⁴⁴ In Andhra Pradesh, Haryana and Tamil Nadu it is “within the limits of its funds”. In Punjab “it is to the extent its funds allow to perform”.⁴⁵ In Madhya Pradesh and Himachal Pradesh, it is “as far as the gram panchayat funds at its disposal”⁴⁶

A close examination of the provisions in the Acts of the different states regarding tax assignments, tax sharing, non- tax revenues makes it very clear that the PRIs at the level of the samiti and parishad do not have independent taxing powers. Most of the taxes are assigned at the GP levels. A provision for independent budgeting by the three tiers is another prime requisite to ensure autonomy. In some states like Andhra Pradesh and Orissa for PS, Punjab for ZP, Rajasthan for PS and ZP, Tamil Nadu for all tiers, the preparation and presentation of budgets is left to the executive authority rather than to elected representatives.

The Constitution provides for setting up of the State Finance Commission (SFCs). By mid – 1990s the first SFCs had submitted their reports. Referring to the role of the SFCs the mid-term appraisal of the Ninth Plan pointed out, “more buoyant taxes like sales tax and excise are kept out of the purview of the PRIs. All SFCs have put great emphasis on internal revenue mobilisation but none has suggested any effective mechanism for PRIs to generate their

⁴⁴ Mahi Pal (2004) *Panchayati Raj and Rural Governance*, EPW, Vol. XXXIX, January 10.

⁴⁵ Nilkanta Rath (2004) „Twelfth Finance Commission and Minimum Needs“, *EPW*, June 4

⁴⁶ *The Status of PR Finances in India*, PRIA New Delhi, 1999

revenue..... Indeed, the absence of attention to the elementary principle, that expenditure assignment must precede any tax or revenue assignment, has made most of the SFC's recommendations suspect"⁴⁷ The State Governments have also been slow and hesitant in accepting the recommendations where they are useful in terms of improving the revenue generation capacity of the local bodies. Only two states – Karnataka and Sikkim – have devolved funds to the panchayats for the 29 subjects.

In some states several of the basic services which traditionally belonged to the panchayats like street lighting, provision of drinking water supply, sanitation and drainage, primary health care etc. have not been entrusted to the GPs. For example, in Haryana, GPs practically deal with only drinking water and construction and maintenance of roads to the exclusion of all other basic services.

The balance sheets of panchayats reflect either financial scarcity or a lack of control over budgeted finance. Except for a few states where the panchayats have access to some funds, the financial position of the PRIs is in a bad shape. Panchayat finances are fragile in most states where the total receipts of tax revenue is only 3.5 per cent from 1997-98 in the 15 select states. It is about 5 per cent in Orissa, Punjab, Andhra Pradesh, Madhya Pradesh, Gujarat and Haryana and between 10 per cent and 20 per cent in Assam, Goa and Kerala.

PRIs across the states do not have any control over their own physical and human resources. The SFCs have recommended the transfer of those powers, which are less effective, although there has been emphasis on internal resource mobilisation. This is a matter of concern because embedded in the question of financial viability is the issue of self - reliance. The financial autonomy ratio Prabhat Datta

⁴⁷ Ibid.....

(FAR) for the selected Gram Panchayats (GPs) is below 1 per cent, indicating almost total dependence on the grants from the higher-level governments. Even in the states like Andhra Pradesh, Gujarat, Kerala, Karnataka and Maharashtra, the FAR of the selected GPs is not more than 50 per cent. In Kerala perhaps the best performing state in terms devolution to local bodies, the own revenue of an average GP is only 33 per cent.

A study of 15 select states, namely, Andhra Pradesh, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu, Orissa, Punjab, Haryana, Assam. where middle or top tiers have been constituted, states have not endowed them with adequate functional responsibility. Most states have granted a plethora of functional responsibilities but no executive follow up of granting adequate powers, staff and financial resources. Except for four major states where the intermediate and apex bodies have adequate staff, in most other states, either the staff is not directly relevant or inadequate. A study of panchayats in 15 states done by the National Institute of Rural Development, Hyderabad, shows that the political parties are reluctant to devolve powers. Jean Dreze has shown that in most States the main responsibility of a sarpanch is to oversee the implementation of development programmes.⁴⁸

The Kolkata conference of ministers in-charge of the departments of panchayats and rural developments in different states, held in July 2004, reaffirmed its commitment to the best traditions of fiscal federalism in which the Union and the states would co-operate to strengthen local government finances. It was agreed to develop a framework of co-operation between Union Government and the state government and to devise a mechanism, but nothing significant has emerged so far.

⁴⁸ Cited by Richard Mahapatra (2003) „Toothless at 10“, *Down to Earth*, January

3.2.3 Transfer of Functionaries

To function effectively as institutions of self government the PRIs need to have the power to recruit and control staff required for managing its functions. Staff is a resource that an organization must possess to perform its activities. Strangely, Part IX and IXA of the Indian constitution remain silent on this vital aspect of institutional autonomy. Viewed from this perspective the state panchayat legislations too present a gloomy picture. The state governments still have retained for themselves the power for inspection, inquiring into the affairs of the panchayats, the suspension of panchayat resolutions and issuing directions. Besides in most states the key functionaries, namely, the secretaries and executive officers at all the three levels of panchayats are state government employees who are appointed, transferred and controlled by the state government. Being under the direct control of the state administrative hierarchy they are often reluctant to work under the administrative control of the elected panchayats. Moreover, provisions for the deputation of officials from the state government to the panchayats have been made in the state panchayat acts without consultation with the panchayats. The tenure, transfer and the promotion of deputationists are also decided by the state government without consulting the panchayats⁴⁹.

Kerala is the only state which has completely transferred the control of functionaries to panchayats. More than 100 officials of different line departments have been devolved to district panchayat which exercise supervisory and administrative control over these functionaries. Only two states – Karnataka and Prabhath Datta Sikkim – have transferred functionaries pertaining to all the 29 subjects to the panchayats. But in Karnataka too the panchayats have no power of recruitment, transfer and discipline over their staff. Here, the zilla parishads and the taluka panchayats are filled with state government officials resulting in dual loyalties and needless

⁴⁹ Datta Prabhat “ *The second generation panchayats in India*” Kolkata Book House, Kolkata 1992

friction in the day-to-day functioning of the panchayats. Although in a few states the GPs have been given the power to recruit and control their own staff, this power remains largely unutilized due to the weak financial position of the GPs. States like Arunachal Pradesh, Assam, Bihar, Jharkhand, Goa, Gujarat, Haryana, Punjab, Rajasthan, Tamil Nadu, Tripura, Andaman and Nicobar Islands, Chandigarh and Pondicherry have not transferred any functionaries to the panchayats. The rest of the states and Union Territories have transferred functionaries of some departments/ subjects to the panchayats ranging from 2 in Andhra Pradesh and 18 in Maharashtra. But even in states where the process has just been initiated the efforts seem to be half-hearted. In Maharashtra, for instance, this has led to role confusion as the transfer has not been made for the entire staff of respective departments.

Instead, they are being shared between the line departments and the panchayats. Nilkant Rath has pointed out that this has complicated the role of the Twelfth Finance Commission which has been asked to recommend measures for the augmentation of the resources of the local bodies in light of the recommendations of the SFCs.

3.2.4 Administrative Autonomy of the PRIs

In addition to what has been stated above relating to the lack of control by the PRIs over their staff, most state Acts arm themselves with omnibus clauses and penal provisions which make administrative autonomy of the PRIs a mockery. For example, it has been laid down in the Rajasthan act that the state government shall be the chief superintendent and controlling authority in respect of all matters to PRIs. Interestingly, according to the provisions of the Act if a panchayat fails to perform its duty, it will be given time to do so and, if it fails again the work will be given to an agency at the cost of the panchayat. In Orissa the collector can direct any

officer to attend any meeting of the GP. If the collector is of the opinion that the GP is unable to discharge its functions, he may direct the PS to function on behalf of the GP.

3.2.5 People's Participation: The Gram Sabhas

As an institution of direct democracy, it may be recalled that Rajni Kothari has visualized the role of the Gram Sabhas in the following words: "Representative bodies have their inherent dynamics of power politics and willy-nilly end up vesting effective authority in the politician-bureaucracy nexus. The only way of making this nexus responsible and accountable is to provide larger citizen involvement in new variants of old institutions like the Gram Sabha which can combine older forms of informal consensus-making mechanisms with the more formal, institutionalized and legal forms decreed by legislations. With the new awakening in rural areas these bodies have the potential to oversee the working of elected bodies and over time, with the the Ashok Mehta committee observed that "the gram sabha has an important role in activating the democratic process at the grassroot level, in inculcating community spirit, in increasing political awareness and enabling the weaker sections to progressively assert their point of view" Gram sabha is useful not only as vigilance mechanism in the hands of the people but also as a tool to restore the lost credibility of the panchayat in India.

Gram Sabha literally means village meeting – a meeting of the villagers to discuss their common problems. In many ways, it is comparable to a citizens forum, a forum of direct democracy, like the one which existed in Greek city states.

While the constitution makes it mandatory to establish Gram Sabha at the village level, it does not stipulate any details regarding the structure, powers, and functions of this institution. In terms of Article 243G these details are to be spelt out in the panchayati raj legislations passed in each

state in compliance with the 73rd amendment of the Constitution. Accordingly, all the state governments have provided for the institution of gram sabha in their respective panchayat legislations. There are variations across the states with regard to composition, functions and other matters. In Andhra Pradesh and Karnataka the Gram Sabha has been defined in relation to revenue village, whereas in Maharashtra and Rajasthan the unit is much larger and coterminous with the village panchayat. In Kerala there is Gram Sabha for every ward.

None of the State Acts empowers the GS to have control over the GP and to take final decisions in matters of village development. Its role is only advisory. The accountability of the GP to this body has also not been clearly spelt out in most of the state legislations. In Kerala, however, it is obligatory on the part of the head of the GP to explain to the GS why a particular decision or a set of decisions could not be implemented.

In most of the states the functional domain of the GS is limited to discussions of annual statement of accounts, administration report, and selection of beneficiaries for anti-poverty programmes. Only in a few states like Haryana, Punjab and Tamil Nadu the GSs enjoy the powers to approve budgets. The Gram Sabhas are yet to take off in almost all the states. Reports from the states indicate that Gram Sabha meetings are not being held regularly. The Institute of Social Sciences team found in a village in Madhya Pradesh (MP) that by December 1995, only three meetings were held as against the legal requirement of six meetings.

Nirmala Buch conducted a study of Gram Sabhas in 11 Gram Panchayats in MP in December 1997 and found that far from an adequate number of GS members attending the meetings not even all the panchs were present. To cap it all, there was no quorum of more than 50 per cent in the GS meetings. There is a provision for mandatory attendance of one-tenth members in the Gram Sabha

A study conducted in two Panchayats in Kerala has shown that the people are in favour of expanding the role of the Gram Sabhas. They want the Gram Sabhas to give the final seal of approval to the activities of the Gram Panchayat. The people interviewed have suggested that the Gram Sabha will perform its duties in time provided people are made aware of its role in development activities. Once their felt needs are taken into consideration, they will automatically attend the meetings in large numbers and participate effectively in the activities of the Gram Panchayats. Women find it difficult to attend as the timing is sometime in the afternoon i.e. between 11 a.m. and 1 p.m. Most of the women are not aware even of the rudiments of the Gram Sabha. The issues discussed do not seem to interest a large number of the villagers and hence, except careful and knowledgeable stakeholders, others shy away from the Gram Sabha.

In some of the States Gram Sabha meetings are generating a new atmosphere in the countryside. Social auditing at the Gram Sabha meetings has also started yielding desirable results. The Gram Sabha meeting in Karnataka successfully combated the time-honoured Devdasi system, which prevailed in 167 villages of Belgaun district. The UMA Research team of Bangalore had witnessed a Gram Sabha meeting at Indore Gram Panchayat in Uttar Kanada district. The Sabha witnessed uproarious scene when the people demanded an explanation from the secretary about the activities. Only a handful of members were familiar with the Act. The presence of the women members was very insignificant and those who did come were passive observers. Many were hesitant to confront the elected representatives. Most of the questions were raised by the youth. The elders hardly opened their lips.

The Participatory Research in Asia team studied the working of the Gram Sabhas in Gujarat, Haryana, Himachal Pradesh, Kerala and Uttar Pradesh and noticed that although meetings were being held almost regularly, a quorum is hardly achieved. Surprisingly, despite the lack of

quorum, the proceedings are prepared. The team is generally of the opinion that there is a lack of awareness on the part of the members not only about the time and venue of the meetings but also about the usefulness of such meetings.

The team points out that except in Kerala and Madhya Pradesh, the advice and suggestions of the Gram Sabha are not even binding to the Gram Panchayat. In reality, Gram Sabha meetings do not serve the purpose of either establishing village priorities and overall policy framework for Gram Panchayat or regular monitoring and accountability of the resources and the decisions of the Gram Panchayats. The scholars observe that most of the heads of the panchayats lack skills in conducting meetings in a manner that could promote wider participation and discussion of the issues affecting the village. Issues of social justice and internal dynamics of the village have rarely been agenda items in the Gram Sabha meetings.

An authoritative survey of panchayati raj by NIRD reports follows: almost all the State Acts have provided for Gram Sabha but its functions have not been spelt out in detail. Consequently, these institutions by and large continue to function ineffectively, though the meetings are generally held as prescribed.

The purpose is hardly served in the absence of a clear and direct mandate. More often, there is a tendency to conduct the meetings in a formal manner and finalize the proceedings in haste. The prescribed quorum is also not given due importance. The absence of women folk in the meetings has been a common feature. The participation of the people belonging to the weaker section has been marginal.

In West Bengal, the Gram Sabha created by an amendment of the West Bengal Panchayat Act in 1992, started working well. Webster's research demonstrated that apart from the compulsory meetings of the Gram Sabha, the informal mighty discussions in some localities, regular public

meetings were other forms of participation. Lieten remarked that although the boktrita culture was not altogether absent in the Gram Sabha meetings, participation used to take place. In other words although the leaders used to deliver long speeches, they did not stand in the way of active participation of the villagers in the meetings. Around one- fourth of the males he spoke to stated that they had participated in meetings.⁵⁰

In West Bengal, there is another body called Gram Sansad the geographical location of which is the electoral constituency of the members of the GP. According to the available information and the findings of the studies the Gram Sansad meetings are attended by people of all age groups. In most of the meetings, the Gram Panchayats publish the reports. There had been many occasions when the meetings generated lot of heat. The author himself witnessed a situation where a group of members walked out when the Pradhan refused to concede their demand. The formation of the beneficiary committee had been more often than not an issue of debate and discussion. This body is now replaced by the Gram Unnayan samity.

There is still a lack of awareness on the part of the Pradhan and the members about the legal provisions relating to the Gram Sansad and Gram Sabha meetings. This has been the finding of another study done in Gujarat. The officials present in the meeting have to correct them.

The study done reveals that more than one third of the villagers are not aware of the Gram Sansad. The reactions of the respondents tend to show that

⁵⁰ Webster (1992) *Panchayati Raj and Decentralisation of Development Planning in West Bengal*,

Calcutta : K.P. Bagchi p.99.

that there are three reasons for the low attendance of the members in the meetings, namely, lack of time, the general impression that the decisions are not taken in the meetings and the reluctance on the part of a section of the Gram Panchayat members to listen to the suggestions generated during the meetings. The studies done by the author indicate that the meetings have been more successful in places where the GPs and the parties have taken an initiative in synchronising them with the cultural programmes in tune with local traditions. It is clear from the experience of functioning of the Gram Sansads that the modern institutional assemblies like Gram Sabhas and Gram Sansads in traditional societies like India need to be tuned with the natural rhythm of the rural life.

A study of the functioning of Gram Sansad in a cross-section of 20 villages in May 1999 brings out certain important issues. The study shows that in analysing the occupational category of the voters who attended the meetings, the largest single category was agricultural labourers followed by farmers with less than two acres of land. Those with more land or with non-farming sources of income constituted about 16 per cent of those present. The analysis of the study findings tends to show that the meetings were centred upon very practical and concrete problems within the village or cluster of villages. For example in Proposals for a road repair, questions of where should a tube well be installed and who should receive a loan are the common issues as opposed to broader themes which political parties, trade unions or peasant organizations in West Bengal are concerned with, such as, economic liberalization and the privatisation of the public sector. In quite a few meetings, though not in all, the accounts of the previous year and the budgets for the next year for the entire Gram Sansad area were also placed. The researchers have noticed that the participants actively voice demands for new projects, suggest how allocated funds should be spent and debate how projects should be designed. The Pradhans and the local representatives

are not spared. They have to answer a lot of questions and often face allegations about the misuse of funds and selection of beneficiaries. The responses of the panchayat leaders to the criticisms indicate that they could not take the voters present in the meetings for granted. There had been occasions when they had to make frank admission about their errors.

3.2.6 Women Empowerment

The women Pradhans have been able to establish linkages with the block level government functionaries as well as the Panchayat Samiti. Initially they had some problems due to lack of proper exposure. Later on, their confidence increased as they continued to interact with them. Several significant facts have emerged from a national-wide study on elected women representatives conducted by ORG-Marg for the union ministry of panchayati raj. It was found that elected women members are generally younger than their male counterparts. Educationally women lag behind their men. Reservations have been found to be an important motivator for contesting the first elections. 43 per cent of the representatives did not receive any training. Interaction with local bureaucracy, officials in the line departments and police was found to be less in order to add a new dimension to the process of democratic decentralization, namely gender justice. The constitution provides for the reservation of seats and the posts of chairpersons for women. All the state acts have incorporated this provision and elections are being held accordingly. But the studies indicate that women elected to PRIs are yet to play their roles properly. Conceptually it indicates a shift of attitude of the state towards women. Earlier women were generally viewed as objects of development. The amendment seeks to make women actors in developmentsome states elect more women than the one third mandated by the amendment.

A sizeable section of the female representatives perceive enhancement in their self-esteem, confidence and decision-making ability. Becoming a member or Pradhan earns respect within the four walls of families as well as in the community at large. They also report an increased voice in decisions on economic matters as well as other issues in their families.⁵¹

Nirmala Buch did a study on women's experience in Panchayats in three states, namely, Madhya Pradesh, Rajasthan and Uttar Pradesh. The study has indicated that the level of participation of women is very high, though not similar to that of men. Women's attendance in the panchayat meetings ranged from 55.5 per cent to 74.4 per cent as against the men's average attendance range of 68.7 per cent. A majority of the respondents showed good level of awareness and knowledge about the working of the Panchayats. In order to argue their case in the meetings many of them take others into confidence and hold informal discussions.

Empirical studies bring out both "narratives of courage" and "narratives of dislocation" that disrupt the presumed outcomes of women's political representation in PRIs. A field study in the five districts of MP covering 94 out of 188 sarpanches belonging to SC from the districts of Ujjain, Dewas, Ratlam, Shajahanpur and Manduar show that women were elected from families who were opinion leaders and continued to play their roles from behind the scenes. SC members face both caste domination and male domination.

It has been argued by Kumud Sharma that that the language of state politics, procedures of political parties for recruitment and nominations and political socialization of men and women reflect a conflictual relationship between women's representation and political leadership. Most

⁵¹ Nirmala Buch, *Women's Experience in New Panchayats: The Emerging Leadership of Rural Women*, "Occasional Paper no. 35, Centre for Women's Development Studies, New Delhi, 2000.

of the political parties remain institutionalized sites of patriarchal power. Women have to adjust themselves to the imperatives of party structures if they are to survive and in doing so some of them get co-opted in the process rather than influencing party structures and processes.

The issues get further complicated when they are understood within the framework of identity politics. Women come in with their social and economic disadvantages, poverty, illiteracy and dependence on wage labour. Women sarpanches are prevented from completing their terms in office by using no-confidence motions. Sarkar says that whereas there are rules as to how no – confidence motions have to be handled; there is no requirement that the reasons for seeking a no-confidence motion have to be stated in clear terms.

3.2.7 Decentralised Planning: the District Planning Committees

Another important area where the State Governments have shown scant regard for constitutional provision is the area of district planning. The Constitutional Amendment requires State Governments to constitute District Planning Committees (DPCs) in order to facilitate decentralised planning. A decade has passed and progress is alarmingly slow. Broadly speaking, the functions performed by the parallel bodies can be classified as ensuring user/beneficiary participation, convergence of programmes and promoting/ ensuring efficiency. While these are the basic functions of the PRIs, matters like irrigation, watershed management and development and minor forest produce come under the purview of the Eleventh Schedule which lays down the functions of the PRIs. The Gram Vikas Samity in Haryana and the Vigilance Committee in Himachal Pradesh encroach upon the statutory functions of the panchayat bodies as spelt out in the Panchayat Acts of the respective states. The Janmabhoomi (JB) programme tends to mobilize local people, the entire state administrative machinery and draws upon all existing central and

state government schemes as resource for development work, thus substituting the functions of the Gram Panchayat. Although the Sarpanch is to preside over the JB Gram Sabha, the real player is the officer which has created another problem. The Gram Sabha meetings convened by the Gram Panchayat have become less important because of the realization on the part of the people that fewer benefits are available through panchayats.

There is another set of parallel bodies in states like Maharashtra where traditional panchayats exist with different legitimising sources. In Maharashtra, for example, there exist village “collectives” called “Gavki”. The 'Gavki' is constituted by the elite upper castes, the rich and undoubtedly, only the patriarchs of the village, women are excluded. Before the amendment of the constitution these bodies functioned alongside the elected panchayats. Unfortunately, they continue till today. Most of the time the 'Gavki' defies the panchayat. The 'Gavki' has been found to be more effective in areas where women or dalits are in power. Thus “reservations which intended to empower both these marginalised sections in rural governance are being made ineffective by the established powers in the rural areas”⁵²

The general reaction against the parallel bodies is that they represent processes external to the constitutionally mandated role of panchayats and enable bureaucracies to override democratic bodies. Thus they pose serious threats to the effective functioning of local self-governing institutions.

⁵² Medha kotwal Lele, “Local Government, Conflict of Interests and Issues of Legitimation” *EPW*, December, 22, 2001

3.2.8 Transparency: Right to Information

One of the objectives of democratic decentralization is to make governance transparent. For that purpose a few state governments like Rajasthan and Madhya Pradesh have taken legal initiatives, such as, granting the right to information. What is happening in the field is a matter of really grave concern. The Majdoor Kishan Shakti Sanghatan (MKSS) in Rajasthan led by Ms. Aruna Roy sought all records pertaining to the five year development activities in the Janpad Panchayat in February, 2002. The Gram Sevak refused to give information for 10 months. Later on, the Gram Sabha passed a resolution that the information asked for could not be provided because it would create tension in the area. The district officials took the plea of the resolution and expressed their helplessness. It was argued that the panchayat is a constitutional body. It is, therefore, not possible for officials to intervene in order to compel the panchayat to furnish information. The MKSS met the Chief Minister and the Panchayati Raj Minister without any effective results

Concluding Observations

It has been observed that Democratic decentralization in rural India today faces a lot of challenges from within and without. These are strong enough to derail the engine of rural decentralization, if suitable steps are not taken in time by the central government and the union parliament, the state government and the legislature, the bureaucracy and the social structure.⁵³ Given this background, one has reasons to express doubts about the future of constitutionally ordained PR bodies as institutions of self-government and instruments of economic development and social justice.

⁵³ Mathew G. (2000) 'Threats to Grassroots Democracy' *The Hindu* ; Feb.17 2003

There is nevertheless a certain silver lining. It has been realized by the Indian State that another round of Constitutional amendment is necessary to strengthen PRIs and for this purpose a high-powered committee consisting of selected Chief Ministers was constituted.

Second, there was an increasing interest of the people and the press in panchayati raj institutions.

Third, civil society organizations across the country have started taking an active interest in the promotion of democratic decentralization. These silver linings offer a ray of hope and, if they work well, one may envisage PRIs emerging as institutions of democratic power and governance with some strength and vigor in the days to come. The failure of decentralized institutions has a lot of lessons for Kenyas' decentralized devolved units.

CHAPTER FOUR:

DATA PRESENTATION AND INTERPRETATION

4.1 Introduction:

The central aim of this study was to find out the challenges and opportunities of decentralized political systems, and lessons that Kenya can learn from India and Nigeria.

This chapter will present and analyze devolution challenges in Kenya, perceived opportunities and lessons learned from India and Nigeria.

4.2 key devolution Challenges and opportunities in Kenya

One year since the new devolved political structures started functioning in Kenya and especially after the March 4th 2013 general election which kicked off National and County government structures as laid out by the constitution of Kenya 2010 (new) many challenges and teething problems have been experienced in their implementation. By the time of this research, it has been just over a year since Kenya formed a centralized form of government, devolving into 47 county governments accompanied by central government. The rationale behind devolution was to transfer the power and responsibility from central to local governments in the spirit of empowering citizens and local leaders with the responsibility, resources, and capacity to advance political democratization and promote economic and political growth at the grassroots which hitherto could not have been realized under the former highly centralized system.

The ministry of planning and devolution recent report released by the cabinet secretary clearly states that indeed the process of devolution was on course has been facing many challenges. The first major challenge faced is information deficit. The report points out that there had been no

structured engagement between between the county governments, relevant stakeholders as well as the citizens. The process of transforming a central government into 47 decentralized one is a huge task. Mistrust between National and Local tiers of government has been also a major challenge.

On the other hand Members of the National assembly have been accusing governors of being greedy and having skewed priorities particularly when it comes to managing county budgets. A number of county governors have also come under fire for setting aside huge funds for entertainment, travel, and building lavish residences while neglecting urgent development concerns and other local development priorities.

The Ethics and Anti-Corruption Commission (EACC) has confirmed receiving complaints against 30 governors over abuse of Office and mis-use of public funds.

One of the key challenges is the Power struggle between national and county governments. The posting and redesignation of the former powerful provincial Administration officials as County commissioners, Deputy county commissioners (former DCs), and Assistant county commissioners former (D.O.s) has been seriously objected by Governors and other stakeholders as intended to waterdown the power of governors and county governments and devolution in general. This has exposed the challenge of misunderstanding of roles of each tier of government. Power struggles between governors and county commissioners on one hand and with senators and mps on the other has also been cited. The fight for power has been behind senators' war with governors and members of parliament. During various interviews documented in both print and electronic media, Governors said they were being fought by senators and mps because of the billions of shillings placed in their hands and their accompanying power attached to their offices

at the county level. However, senators have been arguing that governors were misinterpreting their roles to usurp powers they did not have and insisted that governors must be held accountable for their funds allocated to county governments. The governors allege that senators and MPS were fighting for relevance with the voters who now do not feel their presence on the ground. The governors allege that on the ground now since the coming up of the county governments, people have no idea what mps do. They used to think that constituency development fund was money but counties are doing real things on the ground. On the other hand senators fear that they are worse off than mps and if they don't work with governors someone will soon question their relevance. Some section of Kenyans and mps have actually been calling for the disbandment of the senate and branded it a waste of taxpayers money with no relevance and duplicating work of County Assemblies and National Assembly.

Abuse of office and lack of transparency by county officers has also been cited and especially employment of political cronies and outright nepotism. Failure to follow procurement and disposal rules⁵⁴ has also been cited as a big challenge and this has led to impeachment of governors and other county executive by various county assemblies i.e Embu, Kericho, Makeni, and threats by many others by the time of conclusion of this research. The confusion especially in Makeni County which led to serious chaos to the point of shootout between county assembly cronies and those allied to the governor attests to the confusion generated in implementation of devolved structures in Kenya.

High unemployment among the youth in Kenya is also a big challenge as all look upon the counties for employment opportunities which have not been forthcoming as anticipated.

⁵⁴ *Already one governor has been impeached by county assembly and senate in the month of July 2014*

In the first year of devolution in Kenya, many counties have been cited as having failed to involve other stakeholders and citizens in prioritizing development needs and projects. Projects have been cited to be prioritized by few county cronies in put in politically correct areas marginalizing opposition areas or those which did not vote for Governors, Senators and County Assembly members following the path of former centralized government structures.

There has been lack of prioritization of development projects leading to duplication of roles and projects in most counties. Lack of centralized development committees has led to duplication of National, county, and constituency projects spearheaded by Mps.

Lack of capacity and efficiency at local level has also been cited as a big impediment to the progress of devolution. Many counties without qualified professionals have employed mediocre and unqualified staff and refused to source qualified staff in other areas. In a recent study carried out by the transition Authority nearly half of all staff in counties are certificate holders. The first ever Audit of workers in the counties unearthed a major staffing crisis in the regions. It shows that 46% of the staff working in the 47 counties have no degrees. The counties human resource audit report shows that most counties were engaged in irregular recruitment of staff. In some regions staff who had reached the retirement age of 60 was still in employment. Majority of the staff audited lie in age groups of 40 to 60 years and a smaller proportion below the age of 30 years. Only eight out of the 47 counties have at least one staff with Phd qualifications. On staff with masters degree qualification, Meru county takes the lead with 98 staff, followed by machacos and Uasin Gishu at 63 members of staff each. Other counties with significant number of staff with master's degree are Nyeri (60), Kisumu (57), Nyamira (57), Nyamira (52) and Nairobi (50). The other counties surveyed had only one or two of their employees with a Masters qualification. The report also reveals that most of the county staff have primary level

qualification while a number have no qualification at all. Another key finding in the report is that the counties are devoid of professional staff to run key sectors in the sub-counties. In all counties that have been analyzed there are some serious shortages of key professionals. These professionals include engineers, physical planners, Architects and Land Economists. However Agricultural officers and Clerical Officers are in surplus in most counties.

In Isiolo County, more than 60% of the staff do not have basic formal education and only four employees have a bachelors degree. In this county more than 80% of the employees do not have any professional qualification.

In many counties anticipated development has become a mirage since recurrent expenses has exceeded development budgets⁵⁵

Most counties have marginalized and victimized minority communities and failed to adhere to affirmative action anticipated by the constitution. Protests and demonstrations by marginalized communities recently by Ogieks in Nakuru and Bomet counties, the Boni and Kikuyu communities in Lamu, the Njemps and Pokot communities in Baringo and many others attest to the gravity of this matter.

Impassable roads and poor infrastructure in schools, hospitals, and other rural amenities and marginalization of many rural areas by former regimes has led to a big clamour for devolution of more resources and finance. Most governors have been recently clamouring for 45% allocation of national budget to counties. Calls for a referendum to push for the same has divided the country in the middle between ruling jubilee coalition, opposition cord alliance and tge council of governors.

⁵⁵GOK Auditor generals report 2013/14 half yearly financial report

The agriculture potential and upscaling anticipated by the rural masses has been undermined by small and unproductive parcels of land due to high population growth in majority of the counties.

Disease prevalence and especially Hiv/Aids and malaria has been a major impediment cited as crippling rural growth and development as resources and the most productive labour force has succumbed to the same.

Lack of electricity in most areas has also been cited as hampering the development of rural industries in the counties. Some counties like Turkana, Mandera, Marsabit, Wajir are not connected to the national grid and rely on diesel generators. It will take a long time for these counties to catch up with the well connected ones.

Insecurity and lack of viable security infrastructures was also cited as big impediment to realization of devolution gains in counties⁵⁶

4.3 Data Analysis and interpretation on challenges

There has been a lot of debate surrounding devolution in Kenya and especially the implementation challenges currently being experienced with accusations and counter accusations by various political players on how various stakeholders are frustrating its full implementation. The central government machinery has been accused of lacking commitment to devolution. Different political competitors have raised the alarm on how devolution is under threat.

An analysis of Kenya's devolution challenges reveals the following:

⁵⁶ Personal interviews from BBC Sema Kenya, Meru County Forum live debate 4th Dec. 2013

First is the Lack of Political Will which many leaders and citizens interviewed attribute and accuse the national government of lacking; Despite pronouncements to the contrary, central governments often do not want to devolve power to the local level. As noted in the case of India and Nigeria, National political leaders and civil servants may resist decentralization for a number of reasons starting from the narrow, parochial interest of retaining power to the broader concern of maintaining national oversight in the interest of uniformity.

Second is the Management Challenge: many county governments have limited financial, human resource and governance capacity to fulfill the mandate thrust upon them. Many counties also lack necessary institutional capacity to manage their rapidly growing populations. As central administration shifts to untested county governments responsibility for instance, public health, education, shelter, waste management, and so on, few of them are equipped with the technical and managerial expertise needed to take on these new responsibilities. The crisis in the health sector after devolving of this service led to general strike by health personnel exodus and mass protest by doctors and other health point out to how unprepared some county governments are to handle specialized responsibilities.

Fundamentally, the success of devolution will require enormous resources, public awareness, capacity building initiatives and a highly committed personnel and credible institutions. The essence of devolution is that at the local level the people are allowed a certain flexibility within which they can make decisions that are unique to themselves and their locality.

One major administrative problem that many counties face is their inability to realize fully the revenue that shall be due to them. As provided for in Chapter 12 of the Constitution on Public Finance, Article 201(b) provides that the public finance system to be put in place should actually

promote an equitable society, and that the burden of taxation shall be shared fairly. Thus, the ratio between what will be reported and projected revenues shall potentially and significantly differ both between counties and between areas within the counties. The explanation for this is poor administrative capacity to enforce the taxes; explicit and intentional tax evasion and corrupt practices.

National and county governance are vital in enhancing the effectiveness of this two-tier government system and especially harmonization of taxes and collection at both levels. This includes the fact that the Constitution of Kenya 2010 does not devolve all public functions to the counties, so how both governments operate at the local level to meet their respective obligations is important. There is no gainsaying of the fact that under the Constitution of Kenya 2010, the former Provincial Administration which used to coordinate all government functions now has to share responsibility with the elected county governments. The national government will be required to play complex and indispensable administrative roles than ever before. It shall coordinate inter-ministerial duties, manage the relationship between the national and county governments, and monitor the implementation of national policies and utilization of funds. This is what breeds the fear, as to how the national government officers at the county level will discharge their duties without causing many hiccups as to the order and structures of devolution established in the county which shall be run by the governor and county assemblies elected by the people. It is proper that there should not be conflicting or overlapping mandate; rather, the public officers should handle their obligations complimenting each other's capacity for the common good. At present, there exists conflicting debate as to whether the governors and county commissioners shall have conflicting roles. The strength of the Kenyan devolution system is that the counties are autonomous. The way the challenge of execution of national government

mandate at counties and the interrelationship with the county mandates executed by the governor is handled leading to harmony of execution of duty will be a big factor which will largely determine the success of devolution in Kenya.

4.4 Fiscal Functions of the Central Government with respect to Counties

The Constitution is not clear how counties will generate their wealth to ensure sustainability of their operations. Article 209(3) states that county governments have powers to impose property taxes, entertainment taxes and any other tax that parliament may authorize them to impose⁵⁷. Given this provision, one would say that the spirit in the establishment of Counties appear more focused on distribution rather than creation of wealth.

A critical review of the county government needs for local development and operational costs indicate that the 15% allocation may compel most county governments to function on lean budgets. This is premised on the fact that all counties do not have equal resource capacity or endowment, and not all can strongly raise their own taxes that can satisfactorily satisfy them. Further, the nature of the revenue sharing formula has raised heated debate and legitimate discontent among stakeholders and leaders from various counties, thereby casting aspersions as to the suitability of the formula proposed by CRA. Busia County leaders, for instance, have faulted the CRA for the limited funds allocated to it using inaccurate population figures that vary from the 2009 census results. Other discontents arise from the paltry amount allocated to the very small counties, which can barely sustain operations.

⁵⁷ The Constitution of Kenya 2010, Government printer

4.5 Change management

The constitution of Kenya (2010) completely altered governance and political structures in Kenya. Hence the 47 devolved county governments face diverse situations due to the different socio-economic conditions and cultural setups including great and diverse expectations by the citizens. Citizens also expect to be included in the decision making process of how the counties are run and managed. It shall be instrumental for the civil society organizations to continue building linkages and oversight partnerships with governments, development partners, the judiciary and legislature, to ensure that systematic change management takes place.

4.6 Transition:

Kenya's devolution is a massive transition and requires taking stock of the current situation and making decisions about staffing counties and appropriately phasing in functions/resources; but there has been very little attention to strategy. The Commission on the Implementation of the Constitution (CIC) cannot deal with the details of devolution, and there is much debate over how to handle this. In this connection a transition authority has been established, but much debate over details of how it shall execute its mandate. Among other responsibilities, the Transitional Authority is mandated to establish the status of ongoing processes, development programmes and projects and make recommendations on the co-ordinate management, reallocation or transfer to either level of government during the transition period; ensure successful transition to devolved system of government as well as provide mechanism for the transfer of assets which may include vetting the transfer of assets during the transition period. Granted such mandate, the authority therefore is well placed to midwife and oversee the transition process, and how assets may be transferred to counties to facilitate effective functioning and smooth running. However

after one year in office the county governments have now fully asserted themselves and especially after all devolved functions were devolved to counties, the transitional authority now has no mandate. It needs to be disbanded as its mandate has been overtaken by events and other bodies like the ministry of devolution and planning, inter-governmental coordination committees Council of governors and the governors' summit.

4.7 Devolution risks:

The risks affecting the implementation of devolution in Kenya could be categorized as strategic, operational, institutional and funding. Strategic risks are perceived to be those that adversely affect the future shape and form of devolution in Kenya, especially in terms of their effect on the anticipated outcomes, in relation to the provisions of the constitution. These include misinterpretation of the COK 2010 provisions in relation to devolution, political posturing and the electioneering processes as well as inadequate stakeholder understanding of the provisions and implications on devolution. On the other hand, operational risks relate to those that impact on the efficacy of the implementation of identified provisions in relation to the devolution processes. These include lack of capacity, poor public communication and sensitization and poor networks amongst key stakeholders.

There is undoubtedly room for greater or progressive tax administration at the county level for the national Kenya Revenue Authority. However, before considering the issue of capacity a more fundamental issue has to be considered, this has to do with the rationale to squeeze additional revenues from poorly designed taxes by the counties. As has been reflected by the Institute of Economic Affairs, the efficiency of a devolved system of government is efficient when the intergovernmental fiscal framework is welfare enhancing, incorporates incentives to encourage

prudent fiscal/financial management at the government levels and responsibilities to tax at the sub-national levels is accompanied by effective political authority.

The lack of effective and stringent controls may also by default facilitate embezzlement of county funds. In principle, financial controls through internal and external audits and stiffer penalties for culprits of corruption may functionally help to reduce the major risk factors.

Other difficult issues related to decentralization concern the ability of local councils to raise their own taxes and to borrow. However, there are concerns that if local governments start to borrow funds this will hamper the central government's ability to control the money supply and inflation. There are also worries that local governments may be reluctant to invest in social services, seeing these as simply adding to their costs while not producing net revenue. On top of this, there are questions of capacity and coordination-whether the councils will be able to manage their responsibilities.

On the other hand resources accruing to county governments may be so small that there is little for provision of public services.

4.8 Opportunities or benefits of devolution

Decentralization is believed to bring service delivery to citizens and improve the control of the governments' responsiveness to public demands. These improvements are supposed to reduce poverty, improve efficiency and quality of public services and empower grassroots units to feel more involved and in control of their destiny.

It is for this reason that there are great expectations and optimism by Kenyans on massive rural transformation after devolution. They see devolution as a savior to hitherto years of neglect by the centre and upsurge of rural development activities.

The anticipated upsurge of rural services like access to markets, health care, roads, credit facilities, agricultural infrastructure, education, water, electricity and other rural services infrastructure is likely to be a big challenge to county governments. Rural services, including economic and social services are the necessary foundation for the growth and development of any country as they enhance living standards and, by extension, motivate the productive capacity of the people. The availability and access to these services tend to contribute to the productivity of rural citizens. Such access is regarded by the poor as a major way to alleviate poverty. It is expected that infrastructural benefits accruing from devolution will trickle down to individuals to pull them out of the vicious cycle of poverty. The benefits expected are reduction in the cost of doing business, improvements in the health, education, and welfare of the poor. The flow of the benefits depends on the services available to beneficiaries. Road improvements can ease the transport burden on the rural poor. For example, new or rehabilitated roads can allow vehicles to reach the village level, allowing the transportation of farm inputs into villages and farm outputs from the villages directly to market centers. The farm incomes generated by this interaction of villages with market centers are known to have led to investment in education, which in turn raises rural incomes

Transportation opportunities are highly envisaged as currently rural roads are in a deplorable state. Some parts of the country almost entirely cut off, and many rural villages are isolated without proper link roads to the rest of the country. While the urban roads are fit for cars, many in the rural areas, especially feeder roads are not. Some of the rural roads get flooded or

waterlogged, especially during the rainy season. This hinders the evacuation of farm produce and hence reduces rural productivity, mobility and incomes. Trekking thus becomes a dominant mode of transportation in the rural areas. Its predominance as a mode of transportation among rural dwellers is dictated by their poor income and the poor roads. Devolution is surely envisaged to bring massive rural transformation and curb rural –urban migration.

The objectives and principles of devolved governments in Kenya clearly show the paradigm shift expected. First devolution is envisaged to promote democratic and accountable exercise of power; next its expected to foster national unity by recognising diversity and giving power of self governance to the people by enhancing the participation of the people in the exercise of the power of the state and in making decisions affecting them; its also expected to recognise the right of communities to manage their own affairs and to further their development; to protect and promote the interests and rights of minorities and marginalized communities; to promote social and economic development and the provision of proximate, easily accessible services throughout the country; ensure equitable sharing of national and local resources; facilitate the decentralization of state organs, their functions, and services from the capital Kenya and finally to enhance checks and balances and the separation of powers.

The constitution further stipulates that county governments shall be based on democratic principles and the separation of powers and shall have reliable sources of revenue to enable them govern and deliver services effectively⁵⁸.

The devolved county structures aims to transform counties into engines of economic growth and improve rural living conditions and quality of life of all citizens. The research found out that the

⁵⁸ Constitution of Kenya 2010: Government Printer

devolved structures presents an opportunity to the counties to pursue ambitious aspirations for national growth and development. The country has just enormous potential for development which needs to be tapped by the resources and devolved political power. The following are the anticipated growth sectors:

county governments should commit themselves to agriculture reforms and increase resource allocation to improve performance of this sector. In isiolo county land reforms, combating insecurity and conflict, tourism, livestock and youth empowerment will be key to uplifting status of the county.⁵⁹

It was also found out that most counties have diverse physical features, which are a major source of tourist attraction. These include : vast plains which are home to world famous game parks and reserves; the great rift valley, which runs north to south and whose floor has provided potential for geo-thermal power generation; mount Kenya, the second highest mountain in Africa which is about 5,199m above sea level; lake Victoria, the largest freshwater lake on the continent and which supports the fishing industry in the east African region; lake nakuru, another tourist attraction because of its flamingos; lake Magadi, famous for its soda ash; and a number of major rivers, including Tana and Athi, Sondu- Miriu, which generate the hydropower resources of the country; Yala, Nzoia, and Mara, the major feeders into lake Victoria.

Key business and investment opportunities in the Kenyan counties enumerated by this research from data collected during the governor's summit include: tourism, agriculture, manufacturing, communications, energy, bulding and construction and pharmaceuticals sector. Specific areas of interest to business are eco-tourism, power generation equipment, agricultural inputs, food

⁵⁹ *Daily standard of 26th Nov. 2013 interview with the governor on Focus on Isiolo county*

processing and packaging equipment, agricultural inputs, food processing and packaging equipment, road construction, cement production, motor vehicle parts among others.

3.9 devolved governments emerging issues

The governor's summit held in Naivasha on 20th January 2014 was held to explore the progress of the devolution and its prospects in the 47 counties⁶⁰. The high level meeting discussed issues of leadership, capacity building and resource mobilization, how counties can position themselves to thrive economically and generally how to make devolution work. The meeting also explored public private partnership model of development. Delegates were also poised to discuss the conflict between the central government and the devolved units. Discussions also touched on whether the county government's present activities are aligned to the counties long term benefits and impacts, and whether the various programmes of counties are in line with central governments development agenda. The various sessions were geared towards enriching devolution in the country. The discussions were also supposed to see whether or not counties have been strategic enough, and whether they have come up with appealing programmes and plans for their counties. Discussions also looked into how the various visions of the county governments blend in with vision 2030, the national, economic, political and social development blue-print. The thorny issue of the county finances was also examined, with discussions focusing on the county financial management system to ensure sound and transparent use of public resources.

⁶⁰ *Governor's summit on 20th January 2014 at Naivasha, Kenya*

The county leadership was also presented with an opportunity to reflect on the economic strengths of their various governments and whether they have been able to strategise on how to fully exploit the same.

Questions forming the basis of the discussions revolved around whether the county governments have identified the capabilities required to specialize in their competitive sectors, and whether the regions had developed policies and plans for building the institutional capacity required to enhance their economic positioning. The meeting further looked into whether county leaders had tapped into both local talent in their regions and in the Diaspora, and whether they are engaging with other regions in exploiting economic opportunities. The aspect of innovation to boost the regional economy was also discussed. Other aspects which informed the discussion included the effectiveness of county governments in mobilising resources and providing services, as well as whether county governments have positioned themselves to attract, motivate, and retain the right skills.

The relationship and engagement between the county leadership and its electorate was also discussed. The talk was whether they have helped people in their regions to understand devolution and benefits, and whether they have shared their plans and visions with the people.

It was also to be seen whether county governments were engaging the central government to stimulate economic growth in their regions or not.

Governors were also expected to reflect on how their governments are dealing with emerging global trends such as urbanisation, globalization, demographic changes, rising unemployment, technological advancement, security, emerging public service delivery models, among others.

The summit was held to measure the progress of devolution and learn from other countries with a similar form of government. The summit also was an opportunity to look at how far the devolved governments have come and what change they have brought.

Among the challenges is a report by the controller of budget which indicated that very little money had been used in development projects across the counties in the first quarter of the financial year. Governors have also faced criticism from the public with business owners and other investors protesting increases in taxes and levies charged by county governments even against small businesses. This points out that there has not been enough public participation and the public still has the right to present petitions whenever they feel uncomfortable with certain aspects of their governments. Besides auditor- general's report, governors also have a problem with the distribution of money to counties. There is need to charge uniform levies across all counties and a bill on the same should be passed by senate and the national assembly. Treasury had released 66.5 billion to the counties since they were set up after the March 4 general elections last year.

Governors identified constant wrangles with politicians and national institutions as the biggest threats to the success of devolution.

They were called upon to rally the people behind their goals for them to succeed.

County government is unhappy with senate for passing the county development bill, which created county development boards chaired by senators. The board are meant to guide development of counties but governors complain that they will end up relegating governors to the equivalents of secretaries, acting on decisions that they were not involved in making.

Effective devolution requires the county to be given both autonomy and capacity to deliver their mandate, and also seek support from national government, civil society and private sector. The national government and county governments must engage in frank dialogue to resolve rising issues, and working together is the only way national growth can be achieved.

3.10 Progress reports

A number of key steps have been taken as part of the constitutionally prescribed roll out plan for a devolved government. These include passage in 2012 of key development related legislation reforms followed by the general election held in March 2013 that established a new governance structure. The 47 county Governments have full prerogatives that allow them to manage and develop their own affairs while fostering social, economic and political development. Their powers extend to include key sectors of Agriculture, healthcare, transport, trade development and regulation, planning and development and pre-primary education. Besides the central executive, the March poll saw the election of governors, county assemblies, senators who represent counties at the senate and national level, as well as county woman representatives to the national Assembly. And in a bid to ensure that counties have adequate resources to kick start development, the senate passed several legislations for the allocation of revenue to county governments which now enjoy adequate funding.

3.11 Lessons from Nigeria

As found out in chapter three, Nigeria is one of the most decentralized countries in Africa coming fifth after south Africa, Uganda, Kenya and Ghana (Ndegwa, 2002). Its long history of federalism and decentralization of power can derive serious lessons for Kenya's nascent devolved structures.

Nigeria's history reflects influences from pre- colonial period, the crucial changes wrought by British colonialism, the post-colonial alternation of military and civilian rule and the economic collapse from 1980 to 2000 precipitated by the country's political corruption. Colonialism strengthened the collective identities of Nigeria's multiple ethnic groups, by fostering political competition among the three largest ethnic groups, the Hausa, Yoruba, and the Igbo. By pitting ethnic groups against each other for purposes of divide and rule, and by structuring the administrative units of Nigeria based on ethnic groups, the British ensured that ethnicity would be the primary element in political identification and mobilization. Each of the three regions soon fell under the domination of one of the major ethnic groups and their respective parties.

Nigeria's constitutions have suffered under little respect from military or civilian leaders who have often been unwilling to observe legal and constitutional constraints. Governance and policy making in this context are concluded within fragile institutions that are concluded within fragile institutions that are swamped by personal and partisan considerations.

Many years of military rule left a pattern of governance and a political culture that retains many authoritarian strains despite the formal democratization of state structures.

The control of oil wealth by this centralized command structure has further cemented economic and political control in the centre, resulting in a skewed federalism in which states enjoy nominal powers, but in reality are nearly dependent on the central Government.

Ethnic rotation principle not formerly found in the constitution but all the major political parties recognise it as necessary it as necessity so many Nigeria's many ethnic communities can feel that they have a state in the federal government. The federal structure in Nigeria endures increasing strain.

State governments in Nigeria are generally weak and dependent on federally weak and dependent on federally controlled revenues. Nigeria's centralization of oil revenues has fostered intense competition among local communities among local communities and states for access to national patronage.

There constantly occurs conflict between the state and national governments. As a result of the failure of decentralization and emergent challenges to utilize its full potential rural households continue to face poor access to social services inspite of decentralization.

The multiplicity of states in the federation over the years is the response to a long standing and well articulated ethnic groups in the country which have been subjected to different and unequal treatment in the allocation of resources. They have also suffered from discrimination, oppression, marginalization and social deprivation in the hands of the major three ethnic groups hence the minority ethnic groups agitated to form more states.

One of the major benefits that was derived from the creation of states at the initial stage of existence is that it helped to prevent succession of 1960s and save the country from disintergration. It also established a solid foundation for a strong united and indivisible nation

among the various ethnic and linguistic groups that existed within the country. It has powerful lesson on how to maintain unity while preserving diversity and emphasises partnership among parties of equal claims to legitimacy who seek a common social order.

Revenue allocation has been a big challenge of federalism in Nigeria. The control of funds has been brought out as a big source of conflict among levels of government. The numerous cases of violent conflict have their root in deprivation and mass poverty. There is also the problem of how to allocate resources to the different tiers of government in relation to the constitutionally assigned functions. National integration has eluded the Nigerian nation largely due to the kind of ethnic loyalty.

Some Muslim governors of the north have greatly polarised the Nigerian nation along religious divide by imposing sharia laws which pose real threat to national integration and unity.

Competition and mobilization of public support along ethnic lines by Nigerian leaders has been the preferred vehicle since independence. By pitting ethnic groups against each other for purposes of divide and rule and by structuring the administrative units based on ethnic groups, the British ensured that ethnicity would be the primary element in political identification and mobilization. The control of oil wealth by this centralized command structure has further cemented economic and political control in the centre resulting in a skewed federalism in which states enjoy nominal powers but in reality are nearly totally dependent on the central government.

Kenya should avoid the pitfalls which have characterized Nigerian states and also guard against extreme independence tendencies which can alienate the state and lead to disintegration of the state.

3.12 Lessons from India

India is the world's largest democracy and the oldest among the developing countries of Asia, Africa and Latin America. The first lesson to learn from Decentralization in India is that countries with large sizes can only be effectively administered through decentralized units. India has exerbated continuity and democratic stability for much of the period with universal suffrage and periodic elections at local, state and national levels which is remarkable and something to be emulated among developing nations. Indian democracy has proved so resilient because its political institutions, while always under pressure have been able to accommodate many new power challenges and to repress the most difficult ones.

Power of states is limited in India because they are heavily dependent on central government for funds. It has been noted that the more powerful and popular the central government and prime minister, the less likely the states are able to pursue an independent course.

It has also been noted that when state governments are run by political parties other than the national ruling party and this is often true of contemporary India, there is considerable scope for centre state conflict.

In India the quality of the government below the national level is often poor, contributing to regional and ethnic conflicts. This has great lesson for Kenya in that what is needed are strong county governments. If we have weak county governments which cannot unify and rally its people to common cause then it may lead to chaos and disorder.

In India each state has a governor appointed by the national government. The governors are supposed to serve on the advice of the chief minister but in practice they often become independently powerful especially in states where the national government is at odds with the state government where the state governments are unstable. Governors can dismiss elected state

governments and proclaim temporary presidential rule if they determine state governments to be ineffective. When this happens the elected government is dissolved by the national state until fresh elections are called and a new government is elected. Although this provision is intended to be a sensible constitutional option an intrusive national government has often used it for partisan purposes. It is important for Kenya to learn from this in that if a county government is dissolved, national government Administrators are poised to take over just as in India until fresh elections are conducted. This can be a possible scenario taking into consideration the recent executive order which has strengthened the role of national government administration in the counties. The national government commissioners at counties are especially important in counties dominated by opposition governors to brief the government on what is happening in counties and coordination of national government mandate.

Just like in Kenya today, Indian decentralization has also been characterised by the power struggle between the central government and the states which has been ongoing. With many Indian states inhabited by people of distinctive traditions and cultures, including language and with conflicting political parties in power at the national and state levels, central state relations can be fuelled by substantial political and ethnic conflicts.

Indias decentralized units has made Indian politics become increasingly regionalized in recent years. Three new states were formed in 2000 out of the existing states. States in India have also become increasingly autonomous economically and politically. As a result of economic liberalization, states have acquired rights and opportunities to seek out investors independent of the national government government. One consequence is that regional inequalities are widening.

It is important to note that the Panchayats which function at the local, district and state levels in India represent the most important attempts at the devolution of power. However Panchayats have been given meager resources from members of parliament and the legislative assembly saw them as potential rivals to their authority. This is currently also a major fear in Kenya as the rivalries currently being experienced between senators, governors, mps, and county assembly members and between county and national government can easily starve counties of funds to operate.

In India it has been found out that the panchayats primary role is implementing development programs and encouraging greater local involvement in government. The Panchayats elections are held every five years and a provision has been made for reserving 33 per cent of the seats for women and seats proportional to the population for scheduled castes and tribes. This affirmative action is also an important feature of Kenya's devolved system where at least a quarter of all institutional representation is the threshold. The resource and planning capabilities of of Indian panchayats remain relatively limited. State legislatures determine how much power and authority they can wield. Most are responsible for implementing rural development schemes but not devising them. Most of the policies in India are made at the national and state levels. Although considerable resources pass through them local governments have little discretion over what they are allocated. Local political elites, bureaucrats and influential citizens often siphon off a large share of public funds and determine where projects will be located, who gets a contract and who is hired on public projects. Thus it has been found out that many local governments in India just like in Kenya tend to be corrupt, ineffective and wasteful. The first year audit of county governments' financial use as analyzed in this research and in comparison with audit of Indias

decentralized units point to common similarity and a major challenge of decentralized political systems.

It has also been found out that major policies in decentralized systems are made by the national government but leave refinement of these policies as well as their implementation to state governments. The process of implementation has been quite decentralized and relatively ineffective.

Indian case also shows that the upper house is not a powerful chamber as it generally approves bills passed by the lok sabha or the lower chamber.

One of the pillars of Indian democracy is its system of open, honest, elections. The electoral commission in India is a constitutionally mandated body that functions independently of the executive. Just like in Kenya, there is widespread misuse of public resources for personal gain and widespread corruption in political life.

One of the negative aspects of devolution in India is the fragmentation of political life which is highly rampant. Politics is often fragmented along caste lines and even caste grievances tend to remain local rather than national or even regional. Some observers of India find this segmented quality of Indian politics a blessing because it localises problems, facilitating political stability, but others find it a curse because it stymies the possibility of national reforms to improve the poorest member of society.

However, in conclusion, the Indian political system has developed a distinct pattern of cooperation between the centre and the states, helped by rapid economic growth in some cases and the assertion of cultural identity and autonomy in others. Liberalization and the growing financial autonomy of states have further accelerated this process. It has also developed a political system where the norms of democracy are widely shared by all major political parties.

CHAPTER FIVE

CRITICAL ANALYSIS AND DISCUSSIONS OF THE RESEARCH FINDINGS

This chapter critically analyzes data gathered and it starts by analyzing the challenges and opportunities of the Devolved system in Kenya derived from analyzes the current scenario and implementation challenges being experienced and lessons that can be learnt from India and Nigeria.

5.0 Challenges, opportunities and lessons

The nascent devolution in Kenya despite inherent opportunities and benefits to the entire country has faced various implementation challenges and misunderstandings. The lessons from decentralized political systems in India and Nigeria will go a long way to give an insight on how to manage the devolved units and their relationship with the National government in Kenya.

It has been clearly observed that Decentralisation all over the world has not been smooth and the experience of India and Nigeria shows that despite the inherent massive benefits a lot of challenges have been experienced by decentralized units both from within and by central government bureaucracies. As observed from this study, Decentralized governments have been cautious transferring real power or decision making authority to sub-national units. The current devolution challenges being experienced in Kenya has been found out to be common phenomena all over the world as attested by the case study of India and Nigeria which are still grappling with devolution challenges.

5.1 Devolution challenges in Kenya

The transition to the devolved system of governance in Kenya has proved to be not an easy task. The road to devolution has been bumpy right from the start. It has been a learning experience that has presented both exciting and frustrating moments for all actors.

The idea of devolution in Kenya was to bring about self-governance, make access to government services closer to the people and to ensure more participation by the people in the exercise of state power and making decisions affecting them. The intention was to have some sort of smaller quasi-autonomous political units and make County levels distinct and independent, conducting their mutual relations on the basis of consultation and cooperation.

As the country enters the second year of implementation, in 2014 the tough question remains whether county governments are taking the right steps and whether their demands to take on all devolved functions at once are realistic. There has been apprehension from various concerned quarters, and it has been genuine. Concerns that have been advanced include whether the 47 county governments have the capacity to absorb the weight of all the devolved services and functions at once and be able to deliver without interfering with the public service delivery system. There have been concerns on the ability of counties to absorb all devolved functions at once and especially the chaotic manner in which they have handled the health services and agitation for them to handle primary education and the Road construction sector.

Chapter eleven of the constitution outlines the principles and objects of devolution, outlining in detail the structures, powers and functions of the devolved units which include the county assemblies and county executives. It also touches on the relationship between the two levels of government and the role of parliament in supporting the effective implementation of the county

system. In section 187, it says a function or power of government at one level may be transferred to a government at the other level by agreement between the governments if it would be more effectively performed or exercised by the receiving government. It goes further to state that if that is done, arrangements shall be put in place to ensure that the resources necessary for the performance of the same are available. At the centre of confusion and disputes has been the Transition Authority, the body charged with ensuring a smooth transition. The body has withstood pressure from governors on what should and should not be devolved.

An outcry by governors that functions supposed to be discharged by the county governments had not been devolved together with adequate funds also threatened operations at the county level.

Staff deployment at the counties has also been an issue with governors insisting that they have to recruit without interference from the national office. Workers in the counties were asked to re-apply for available positions at the counties, if they were interested in them.

Supremacy wars between members of the national Assembly and senators pose a challenge to the success of devolution. The two houses spent valuable time engaging on who among them was superior to the other. The threat by members of the National Assembly to scrap the senate claiming that they were a burden to the tax payer is a serious matter to be looked into and may threaten the future of devolution.

Huge public wage bill at both the national government and counties in comparison with development vote is also a major challenge to the future of devolution because the aspirations of rapid development may not be achieved at the grassroots.

Devolution of health care is also facing resistance. Medical practitioners are insisting on remaining under the national government until such a time when proper structures are put into

place to enable them smoothly discharge their services under the county governments. The constitution is explicitly clear on this and the faster the issue is sorted out the better for devolution. Indeed the taking over of their entire mandate can be an advantage in disguise as the faster counties start grappling with challenges the better since after some time and few years most will have smoothed the challenges rather than waiting.

5.2 Opportunities

As clearly found out in this study devolution and decentralization is the wish of the people. This is the main reason for the recent wave of decentralization around the world in the last decade. Not only does decentralization transfer more resources to institutions further from the centre, but also more people have a role in deciding how these resources are used.

The reasons for the demand of devolution in Kenya were part of a response to the highly centralized nature of the state which brought about resentment and inequality. In the former centralized system the combination of an executive president with enormous powers and a unitary system led to lack of accountability, patronage politics, arbitrariness and the ethnicization of the state. Devolution which is an avenue to disperse state powers throughout the country is a way to break out of this vicious cycle. Not all political competition will be focused on one office which is inherently unhealthy. There will be sites of power for parties and communities which were formerly excluded from the presidency. This will not only empower communities and regions and give them important powers to self government but will also balance the enormous powers which the current constitution vests in the president. Devolution will increase democracy and participation at the lower level and enhance democracy.

Devolution also will certainly open up opportunities for public participation in state affairs. There will also be more debates about the purposes for which power should be exercised at the local level. People in urban and rural areas will be able to decide for themselves (or influence decisions) on numerous matters of local concern and to participate in greater number of debates and elections. Government officials at closer proximity to them will probably become more responsive and be compelled to be more accountable. Only in this way will we be able to inculcate the practices and habits of democracy and participation.

5.3 Promotion of economic and social development

With county governments spread throughout the country there will be greater incentives and opportunities for economic and social development outside Nairobi, as these governments take their responsibility for the welfare and development of their constituents. There are opportunities for the emergence new centers of growth, in which people will have opportunities for investment and employment.

5.5 Promoting equitable distribution of resources

There has been much debate whether devolution will lead to a more equitable distribution of resources throughout the country. It might be argued that the centralized, unitary state is more suited to equitable distribution and even development than a regional system, as the former collects and can distribute revenue and resources without the encumbrance of regional powers, politics, and institutions. The practice at least in Kenya, with the dominance of ethnic politics and of elites who benefit on state resources, does not bear this out. Centralization has led to the concentration of economic activity in and around the capital city. A huge proportion of the GDP

is produced in Nairobi, and a disproportionate expenditure and the consumption of goods take place there, certainly greater than the rest of the country put together.

There has been little re-distribution to the poorer parts of the country. Nairobi continues to be the magnet which draws investors and the unemployed alike. In the current constitution great attention has been given to mechanisms of equitable distribution of and even development, the enunciation of the principles of equalization and the design and functions of the fiscal commission with the primary responsibility for distribution. This scheme places constitutional and legal obligations on the government to re-distribute state resources. The county governments would exert pressure on the central government to pay more attention to the concern and aspirations of people outside Nairobi.

The re-distribution that the scheme for devolution would promote is necessary not only in the interests of social justice but also for the promotion of a sense of nationalism. Nationalism is inevitably weakened or challenged if there are gross regional disparities. Regional policies through devolution can integrate its people socially, economically, and politically with the rest of the country.

5.6. The Challenges of devolution

The break- up of the state

A major criticism of devolution is that it can lead to the disintegration of the country. This has been a major fear among many citizens and central -state bureaucrats. Some people are worried that it will be the first step towards succession, as devolution would provide disaffected communities with resources and structures of government for collective action which would be focussed on a breakaway. The opposite view is that it is the refusal of the central authorities or

the dominant community to accept autonomy for others that imposes severe strains on national unity and territorial integrity (there are many contemporary examples of this: Sri-Lanka, Indonesia, until recently Sudan, the Philippines, and Russia/Chechnya). This view holds that the grant of autonomy brings secessionists' claims to an end and strengthens the hands of moderates. There are several examples where the recognition of diversity and the grant of autonomy have strengthened national unity. Outstanding examples are India, Spain, Papua New Guinea, South Africa, and Canada.

The Sudanese experience shows that the sense of unity among its people increases with the grant of respect for devolution and plummets seriously when that devolution is removed or threatened.

In a curious way, the establishment of devolution can reduce the political salience of ethnicity, so long as a community feels excluded from power at the centre and there are no institutions at the local level where it can exercise power or influence. The community remains united by its opposition to the dominant community and most issues are analyzed in ethnic terms. Intra-community differences are put under the carpet or at least hidden from the public view.

Once a community finds that it has outlets for its politics and policies at the local level, intra-community differences come to the surface and become the points of contention in the political process at the local level, represented and fought through the competing regional parties.

Less attention needs to be given to what happens at the centre. In this way animosity towards the centre or the dominant community subsides and partnerships and coalitions with other forces at the centre bring in forms of political integration (which usually strengthens national unity).

Both these consequences are evident in the evolution of devolution on linguistic and cultural basis in India (when one compares the politics of India in the 1950s when the congress party was resisting demands of linguistically based devolution, and after the concession to those demands)

To some extent the prospects of unity with autonomy or devolution depend on the way autonomy arrangements are structured, particularly the participation of regions at the national level, the security that autonomous communities feel through autonomy, and the deliberate cultivation of national symbols and unity.

Schemes of federalism or devolution are based on two principal ideas; that at the local level, communities will exercise self-government over matters of local concern, and at the national level, communities will share in the power that are necessarily best exercised at that level (and thus are based on a combination of self rule and shared rule)

An important way to ensure national unity and integrity is by providing an important role for the state or regions at the national level, through the second chambers representing regions, forms of power sharing in the central government, and joint planning and coordinating bodies which increase political and administrative bonds between different parts of the country.

Responsibility for the defence of the country and the maintenance of its integrity lies primarily with the central authorities. The Army is under national control while states may have their own police forces. However in Kenya the police and the defence forces are under the mandate of the national government hence surveillance and control of the counties is mandatory. In addition the constitution has granted the national government special powers in emergencies that threaten national security or unity.

How this combination of self –rule and shared rule is negotiated and provided for in terms of structures and powers at different levels of government will have a major impact on the success of the constitutional arrangement and the unity of the country.

Weakening central authority

This research found out that there is fear among some quarters that devolution weakens national authorities and thus threatens the achievement of national objectives, such as economic development, and law and order which require a strong national government. It is often assumed that a strong government is one which is centralized and in which extensive powers are vested preferably in one person with limited accountability. The issue of granting too much freedom at the grassroots leading to reckless actions, abuse of freedom, erosion of national unity and integrity has been under contention. It has also been aluded that for Africa and other developing countries to develop it would require focessed leadership to spur and spearhead the much needed economic take-off.

A government is strong when it is able to develop and implement state policies, when it is able to protect the rights of citizens particularly those of physical, emotional and psychological security, the freedom of expression and association, and a life in dignity when it has effective machinery able to provide services and administrate throughout the country; maintain law and order; and above all command the loyalty and obedience of the people.

A government which has to rely on coercion rather than persuasion to direct and control the people cannot be said to enjoy public legitimacy and is seldom effective in bringing about real development or change.

The authority of the national and county governments will depend on at least two factors: its formal power and its moral status and ability to develop a consensus. One advantage of autonomous or devolved systems is that they enjoy a fair measure of legitimacy, or acceptance among the community.

A system of devolution provides not only great opportunities for the people to participate in public affairs but also compels leaders at the regional and national level to negotiate and reach compromises. Institutions and procedures for negotiation and cooperation are often built into the structure of a devolved state. The enhanced possibilities of public participation and the negotiations and cooperation between different levels of government will provide a kind of equilibrium or balance in the exercise of public power.

For example the Indian government is able to achieve more in the way of national policies now, in cooperation with the federal states, than when it tried to run the country from one point in the capital city New Delhi. The Indian constitution was made at a time when the country had been divided into two (India and Pakistan) and there was much concern about unity and integrity and the ability of the central government to hold the country together. As a result the central government was given highly unusual powers for a federation to intervene in the affairs of the states. The exercise of these powers produced resentment among states, and now a new balance has been struck. India has thus discovered that one way to strengthen national unity and administrative efficiency is through consultation and cooperation with state governments which should be emulated by Kenya.

Lack of capacity and efficiency at local levels

For the critics of devolution, the counterpart of a strong and effective central government is an inefficient, corrupt and incompetent government at local levels, with little capacity or resources to carry out their responsibilities. We cannot assume that governments at the local levels will not reproduce the selfishness, corruption, and inefficiency that characterise the national government in Kenya. There were fears that County governments will probably be under less media scrutiny and corruption at that level may receive less attention but the opposite is now the scenario. Massive expose of the rot in county systems and corruption and financial scandals have been exposed one year of devolution in Kenya. The impeachment of two Governors and other county executives by county assemblies and grilling by senate shows that devolution is at stake.

Financial capability

There has been fears as to whether the national government will be able to finance the many devolved structures and other newly created constitutional bodies.

The downsizing of the central ministries and bureaucracies consistent with the transfer of functions to other levels should result in considerable savings which would provide finance and personnel to devolved governments. We should not look upon the cost of government as a zero sum game. The rationale of devolution is that it would lead to greater economic growth and the generation of increased revenue. If this rationale is justified, our national wealth would grow and we would be able to more than absorb the extra costs that might be entailed in the establishment and running of devolution.

Victimization of minorities

A matter of great concern when a county moves to a federal or devolved system is that minorities within the devolved areas may suffer discrimination or oppression, especially when the devolved area comes under the dominance of one ethnic group.

A paradox of devolution, established for the protection of a national minority, is that it can put other groups in the devolved area under risk (as has sometimes been the experience in Nigeria and Bosnia – Herzegovina). Ethnization of devolution is more likely to occur if the devolved units are based on ethnic affiliation as in some countries but which was carefully avoided by the ANC in South Africa. It would also depend on the size of the units.

CHAPTER SIX:

6.0 SUMMARY, CONCLUSION AND RECOMMENDATIONS

This study set out to examine the challenges and opportunities of decentralized political systems and lessons learnt for Kenya from India and Nigeria.

Chapter one analyzed the literature review which showed that the past two decades have seen far reaching decentralization of state functions in many if not most countries of the world. There has been real demand from the local level for local democratic control and autonomy as a reaction to the failures of the centralized state over the previous four decades. But whether these trends truly reflect prevailing public opinion at the local level, rather than the interests of certain local elites who perceived political opportunities for themselves is open to question. Decentralization has also been showed to be adopted by national level elites as a strategy for mobilizing and maintaining regional power bases. Added to this is the pressure from international agencies like the IMF and the World Bank. These agencies concerned at the failure of central governments to deliver services efficiently and to address poverty, have endorsed the economic arguments for decentralization, which tend to coincide with the neo-liberal agenda of reducing the role of the central state.

In the above discourse there are many valid economic and administrative arguments for decentralization but in reality the process in most countries has generally been driven by local and national political realities at the centre and and by external pressures rather than by local level democratic demand.

It has been found out that a highly centralized administrative structure stifles local initiatives, encourages misappropriation of revenues from local populations, promotes inefficiency in the

utilization of resources and ineffectiveness in the delivery of services to local populations and provides a fertile ground for the survival of dictatorship.

The main objectives of devolution as one form of decentralization found out by this study include:

- The transfer of real power to the sub-national governments and thus reduction of the work load on the national government
- To bring under the local control political, managerial and administrative machineries in order to improve their effectiveness and accountability, and to promote a sense of people's ownership of government programs and projects
- To free managers at the lower government levels from constraints of central authorities and allow them to develop organizational structures that are tailored to local conditions
- Improve financial accountability and responsible use of resources by establishing a clear link between the payment of taxes and the provision of the services they finance and
- Improve the capacity of counties to plan, finance, and manage the delivery of services to their constituents.

From the above objectives, it is evident that Kenya's devolution policy aims at the empowerment of local populations through democratization, participation, accountability, responsibility, efficiency, and effectiveness. The best outcome for devolution for Kenyans can only be their political, economic, and managerial empowerment.

The lessons learnt from India and Nigeria showed that challenges are common phenomenon associated with implementation of decentralization and does not mean the fall of the goals and spirit of devolution. However the failure of fully fledged decentralized entities in both india and

Nigeria should be an eye opener to Kenya and perhaps it is hoped that the success of devolved structures in Kenya can be a mirror to be emulated by the entire world and a case study of the success of devolved governments in the developing countries and the world.

decentralization should no longer be a struggle between National and county governments but rather a reform process geared towards redesigning the profile of the state to enable it exercise its essential functions while letting sub-national governments deliver services to local populations effectively, efficiently and economically.

A successful decentralization policy should seek to strike the balance between absolute centralization and extreme decentralization (which may be called disintegration) which can lead to sucession as has been experienced in Nigeria and India.

The research also shows that the amount of power, resources, and functions that are devolved to local counties to manage their local affairs are the determinants of the level of decentralization. Decentralization should also guarantee the existence and proper functioning of elected local leadership.

On the other hand devolution is a process that depending on its objectives on the way it is implemented and the prevailing environment, may lead to the installation of politico-administrative framework for good governance. It serves as a tool of empowerment and, therefore, enhances democracy and good governance if local county governments and institutions at lower levels as well as the people at the grassroots level are invested not only with responsibilities but also with the legal authority to decide and commit allocated resources in discharging their responsibilities.

This study shows that Devolution is likely to be irreversible in Kenya and unlike in the past when it had not been entrenched in the constitution, Devolution today is one of the pillars of the new constitutional order and the governments at both levels have no other alternative than to fully support it. It is also important to note that now that the county governments have tasted power, they will vigorously resist any attempt to reverse the process of Devolution and that generally most of the political forces in Kenya support the devolution of power. However, as shown misappropriation of funds and abuse of power and corrupt practices should never be tolerated in the country. The recent wave of impeachment of governors who misuse their mandate and close monitoring by constitutional bodies like the controller and Auditor general, county assemblies and senate will guarantee the survival of the counties.

One of the lessons learnt and especially from Nigeria is that a democratic regime will promote decentralization while a dictatorial, autocratic one will fight it. This is so because dictators cannot afford to decentralize and share power. By their nature dictatorships must concentrate and monopolise power. Devolution cannot make any progress in a regime without a dose of democratization. In this sense democracy in Kenya created a fertile ground for devolution. Therefore, it can be concluded that the future fortunes of democracy and decentralization is intimately linked. If democracy continues to gain ground then the survival of devolution will be assured. If on the other hand, democratization suffers a serious setback or reversal then the prospects of decentralization will hang in the balance not only in Kenya but all over the world.

Devolving financial resources to the local counties is the ultimate test for empowering the local people. Many functions and responsibilities have already been devolved to counties. However, for them to perform their functions effectively they should not only receive a higher share of government revenue but they should also enjoy powers to raise revenue through taxation and

other means. If for lack of adequate resources, county governments do not deliver services to the satisfaction of the people, devolution in Kenya may be discredited and future governments might be tempted to abandon or reverse it.

It can also be noted that Devolved governments will improve accountability only if local populations are knowledgeable and are aware of their constitutional rights and obligations. This means that a lot of effort must be geared towards creating awareness amongst the local people to ensure that they know the provisions of the constitution and the law concerning their rights and obligations not only as voters and tax payers but also as the disabled, children, workers etc. This will empower them to make local leaders accountable.

Kenyan counties have been structurally empowered as focal points of managing development and social service delivery. Consequently they require high calibre personnel to assess local development needs, carry out project planning and implement local development programs effectively, efficiently, and economically. There is evidence to show that the human resource capacity at counties is still low.

In addition, this research has shown that counties have not yet overcome parochialism and nepotism in the recruitment of their personnel. They still seek to recruit through tribalism hence curtailing the chances of attracting the best performers. These shortcomings must be addressed to ensure the success of devolved units' development programs and consolidate the process of devolution.

Finally this study has shown that devolution all over the world has never been smooth. Problems and challenges of implementation of devolved structures will always be experienced. The national governments have always been cautious and reluctant to transfer real power to devolved

units and this has been mainly common in Africa and other developing countries where no leader wants to share power. Today devolution could be smooth but if dictatorial regimes come to power change all the gains can be changed within a short time. All stakeholders and citizens should always be alert and jealously guard against reverting back to centralized power.

This research has shown that Devolution is the wish of the majority of the people and will always reign supreme. This is why there has been a recent wave of decentralization around the world in the last decade and the wave will continue to sweep the entire world until citizens at the lowest social unit will have full power to determine their destiny and survival.

Devolution in Kenya should be fully guarded and the few teething problems should never be allowed to reverse the positive gains so far. Kenya should fully embrace devolution and overcome current challenges and adopt a seamless transition. A seamless transition is critical for the successful implementation of the devolved structures and for ensuring that county governments have the necessary frameworks, capacity and infrastructure to undertake their functions and duties. Each level of government is supposed to perform its functions in a manner that respects the functional and institutional integrity of the government at the other level. The government at either level is supposed to assist, support and consult and as appropriate implement legislation of the other level. Formation of joint committees and joint Authorities to facilitate cooperation at both levels and also inter-county cooperation in the performance of exercise of power should be encouraged. . Structured engagements between the senators and the counties are also important in order to assure effective citizen participation.

Lastly devolved units must have enough and reliable sources of revenue to enable them govern and deliver services effectively. This is extremely important and is the single most important

determinant factor for the survival of devolved structures. On the other hand, the ability of the new counties to create wealth and enhance welfare outcomes of their citizens will depend on how well they are able to leverage the endowments, natural and otherwise, within the national, regional and global operating contexts. Given the level of inequalities between and within Kenya counties as well as close historical and cultural linkages between some of them, it is feasible to consider competitiveness and complementarities within clear cooperative and collaborative frameworks. In this respect, counties will have to develop inter-county development forums to satisfy and plan regional development needs.

The effectiveness and efficiency with which public services are provided to support inclusive growth, economic innovation and competitiveness will be key to success of the counties.

Finally the devolved governments in Kenya will not succeed unless it embraces good governance. Governance has consistently been identified as the greatest obstacle to sustainable development. Institutions such as the executive, parliament, the public service, judiciary, and political parties are the pillars of the countrys governance. Development of appropriate policy is important to ensure the emergence and sustainance of good governance and ethical leadership.

BIBLIOGRAPHY

Akinyemi A. B, Cole, P., and Ofonagoro W. (1979) Readings on Federalism, Lagos; NIIA

Angel Allan, Lowden Pamela et al. (2001) *Decentralizing Development: The Political Economy of Institutional change in Colombia and Chile*. Oxford University press Inc. New York

Awololo (1968) *The peoples Republic*. Ibadan: OAU press

Bhargava B. S. (1970) *Grassroots Leadership: A Study of Rural Leadership in Panchayati Raj* Institution, New Delhi.

Chitere P. and Ileri O.N (2004). *Decentralization of decision making processes and resources: A case study of district focus for rural development strategy Discussion paper no.046/2004*. Institute of policy analysis and research: Nairobi.

Chitere P. and Mwonya J. (1988) *Decentralizing for development: The case of Kenya district focuses Approach*. Department of sociology, university of Nairobi: Nairobi.

CKRC (2002) *The people's choice: The main Report of constitution of Kenya Review Commission*. Nairobi: Constitution of Kenya Review Commission.

Cohen J.M. and Uphoff N. T. "*Participation's place in Rural Development: Seeking Clarity through Specificity*, *World Development*, Vol. 18, pg. 213- 235.

Datta Prabhat (1992), *the Second Generation Panchayats in India*, Kolkata Book House, Kolkata,

Datta Prabhat (1997) "*Politics at Blade and Grass root*" *The Telegraph*, July, 10.

Datta Prabhat (1997) *Politicizing Rural Development: Lessons from India's West Bengal*, Asia – Pacific Journal for Rural Development, December.

Datta Prabhat (1998) *Major Issues in the Development Debate*, Kanishka, New Delhi.

Dudley, B.J (1973). *Instability and political orders; politics and crises in Nigeria*, Ibadan: University of Ibadan press

GOK (2002) *National development plan (2002-2006)* Nairobi-Government printer.

GOK 2007 *Kenyas Vision 2030*

GOK printer (2001) *Poverty Reduction Strategy paper for employment and wealth creation*

GOK printer 2011: *Final Report on Devolved Government in Kenya*.

Jinadu A (1979) *A Note on the theory of federalism*, Lagos; NIIA

Litvark J. Ahmed J. and Bird R (1998) *Rethinking decentralization in developing countries*, Washington DC: The World Bank.

Mills J S (1947) *Representative Government*: Oxford London: Oxford University press.

Mitullah W (2003) *Local level Governance in Kenya*: In Burja A. etal. *Kenya's Democratic Transition: Challenges and Opportunities*. Nairobi: African Centre for Economic Growth

Muia, D. (2005) *Devolution: Which Way for local Authorities in Kenya*, DP No. 073/2005, Ipar.

Mutabaha G.(1989) *Reforming Public Administration for Development: Experiences from Eastern Africa*, West Hart fort Connecticut: kumerian press.

Ndegwa, S. N.(2002).*Decentralization in Africa a stock taking survey, African Regional working paper series no.40* - The World Bank.

Nnoli, O (1978) *Ethnic Politics in Nigeria*. Enugu; Fourth Dimension Publishing Co. Ltd

Oloo Adams (2006) *Devolution and Democratic Governance: Options for Kenya*. IPAR Discussion Paper Series, Discussion Paper No. 077/2006.

Oyugi W (2000). *Decentralization for Good Governance and Development: The Un-ending Debate*. In *regional debate dialogue*, Nagoya: United Nations Centre for Regional Development.

Rajni Kothari (2005), *State Against Democracy: In Search of Human Governance*, Ajanta Publications, Delhi

Rondinelli, D. A. and Cheema G. S.(1993). *Decentralization and Development: Policy implementation in Developing Countries*. London: Sage publication.

Rural Women - *Occasional Paper no.35, Centre for Womens Development Studies*, New Delhi.

The Constitution of Kenya 2010

Restructuring the Kenyan State: <http://www.arrforum.org/index.php>

<http://www.cickenya.org/assessed> on 4th February 2014

<http://www.crakenya.org/> Bardha Pranab (2000) *Decentralisation of Governance and Development*,

Bookley: University of California Press.