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TABLE OF CONTENTS

CHAPTER I.....	8
1.0 INTRODUCTION.....	8
1.1 THE STRUCTURE OF THE PAPER.....	11
1.2 OVERVIEW OF THE TRANSITION ERA: 1990 –1999.....	12
1.3 CONCLUSION.....	16
CHAPTER II.....	17
CIVIL SOCIETY: THEORETICAL AND CONCEPTUAL FRAMEWORK.....	17
2.0 INTRODUCTION.....	17
2.0.1 CIVIL SOCIETY CONCEPTUALISED: THE LIBERAL THESIS.....	19
2.2 AFRICAN DEBATE.....	23
2.3 CONCLUSION.....	25
2.3.1 CULTURAL AND POLITICAL DEFINITION.....	25
2.3.2 PRIVILEGING INCORPORATION THESIS.....	27
2.3.4. SHIFT FROM ORGANIZATION FOCUS TO ACTIVITY FOCUS.....	27
2.3.4 PRIVILEGING RELATIVISM AND INVENTORY APPROACH.....	28
CHAPTER III.....	29
CIVIL SOCIETY IN KENYA: A CONTEMPORARY STUDY.....	29
3.0 INTRODUCTION.....	29
3.0.1 HISTORICAL CONTEXT.....	29
3.0.2.1 THE TRADITIONAL ASSOCIATIONAL GROUPINGS.....	31
3.0.2.2 THE DEVELOPMENTAL NGOS.....	33
3.0.2.3 DEMOCRACY AND HUMAN RIGHTS NGOS.....	33
3.0.2.4 THE CAPITALISTS- MARKET ORGANIZATIONS.....	34
3.0.2.5 THE RELIGIOUS ORGANIZATIONS.....	35
3.0.2.6 ENVIRONMENTAL ORGANIZATIONS.....	35
3.0.2.7 MAGENDO (INFORMAL) SECTOR.....	36
3.0.2.8 POLITICAL PARTIES.....	36
3.0.2.9 THE DONORS.....	37
3.1.1 STATE PATRONAGE POLITICS.....	37
3.1.2 DONOR FUNDING AND FACILITATION.....	38
3.1.3 ETHNICITY.....	40
3.1.4 PORK BARREL POLITICS.....	41
3.1.5 GEOPOLITICAL FACTORS.....	41
3.2.1.1. RISE OF THE ALTERNATIVE PRESS.....	44
3.2.1.2 POLARIZATION OF CIVIL SOCIETY.....	44
3.2.1.2. DECLINE OF CIVIL SOCIETY VIBRANCY.....	45
3.2.1.3 CIVIL SOCIETY AND OPPOSITION POLITICS.....	46
3.4 CONCLUSION.....	54
CHAPTER IV.....	55
CASE STUDY: CITIZENS COALITION FOR CONSTITUTIONAL CHANGE: THE 4CS.....	55
4.0 INTRODUCTION.....	55

4.1 HISTORICAL AND POLITICAL BACKGROUND	55
4.2.1 4Cs OBJECTIVES	58
4.2.2 APPROACHES AND STRATEGIES.....	58
4.3 4Cs AND THE CONSTITUTION REFORM AGENDA.....	60
4.4 4Cs, DEMOCRATIZATION AND GOOD GOVERNANCE PROJECT: CRITICAL ANALYSIS.....	62
4.4.1 DEMOCRATIZATION FROM THE 'MIDDLE'	62
4.4.2 4CS AND CIVIL SOCIETY THESIS IN KENYA.....	64
CHAPTER V.....	66
5.1 CIVIL SOCIETY AND MIDDLE CLASS FACTOR.....	66
5.2 CIVIL SOCIETY FORMATIONS AND OPERATIONS	68
5.3 CIVIL SOCIETY AND DONOR DEPENDENCY SYNDROME	70
5.4 CIVIL SOCIETY AS THE MIRROR OF THE STATE	71
5.5 CIVIL SOCIETY AND ACCOUNTABILITY.....	73
5.6 URBAN VS RURAL CIVIL SOCIETY SCHISM	75
5.7 CIVIL SOCIETY AS "RENT SEEKING"	76
CHAPTER VI.....	78
CONCLUSIONS AND RECOMMENDATIONS	78
6.0 INTRODUCTION.....	78
6.2.1 RECONCEPTUALIZING CIVIL SOCIETY / STATE/ DONOR RELATIONSHIP	81
6.2.2 THE MISSING LINK BETWEEN URBAN AND RURAL CIVIL SOCIETY	82
6.2.3 LINK BETWEEN 1ST AND 2ND GENERATION RIGHTS.....	83
6.2.4 CIVIL SOCIETY AS 'ALTERNATIVE' STRUCTURE OF SOCIAL - POLITICAL RELATIONS.....	84
6.2.5 COOPERATION WITH THE STATE	84
APPENDIX 1.....	86
BIBLIOGRAPHY.....	87

ABBREVIATION AND GLOSSARY

4Cs	Citizens Coalition for Constitution Change
CGD	Centre for Good Governance and Democracy
CLARION	Centre for Law and Research International
CLEAN	Centre for Legal Education and Network
COTU	Central Organizations of Trade Unions
CPJ	Catholic Peace and Justice
CRIC	Civic Resources International Centre
DANIDA	Danish International Development Assistance
DP	Democratic Party
FKE	Federation of Kenyan Employers
FORD	Forum for the Restoration on Democracy
GBM	Green Belt Movement
GEMA Gikuyu	Embu Meru Association
HIVOS	Humanist Institute for Cooperation with Developing Countries
ICJ	International Commission of Jurists
IED	Institute of Education and Democracy
IPPG	Inter Parties Parliamentary Group
KAM	Kenya Association of Manufacturers
KANU	Kenya African National Union
KBC	Kenya Broadcasting Corporation
KCCI	Kenya Chamber of Commerce and Industry
KHRC	Kenya Human Rights Commission
LSK	Law Society of Kenya
LWV	League for Women Voters
MONGOs	My Own Non Governmental Organizations
NCKK	National Council of Churches of Kenya
NCEC	National Executive Convention Committee
NCWK	National Council of Status of Women
NGDOs	Non Governmental Development Organizations
NGIs	Non Governmental Individuals
NGOs	Non Governmental Organizations
NOVIB	Netherlands Organization for International Development Cooperation
OXFAM	Oxford Committee for Famine Relief
SDP	Social Democratic Party
SIDA	Swedish International Development Agency
USAID	United States Agency for International Aid
Kituo Cha Sheria	Legal Aid Centre
Katiba Mpya	literally ' <i>New constitution</i> '.
Kenya Tuitakayo	literally ' <i>Kenya we want</i> '
Maendeleo ya Wanawake	literally ' <i>development of women</i> ' a National Women's Development Organization
Nyayo	literally ' <i>footsteps</i> ' President Moi's motto and regime's rhetoric
Muungano wa Wanavijiji	literally ' <i>Unity of villagers</i> ' a urban slum dwellers initiative in Nairobi

PREFACE

The on going transition period and democratization process in Kenya that was triggered in 1990 when the state liberalized political space requires a strong vibrant and effective civil society and subsequently an enabling environment upon which civic activities can be maximized and actualized. Achieving these requires therefore that activities of civil society in this decade be critically evaluated and analyzed as a trigger as to how civil society can effectively play its role in the social, economic and political development within politically plural and multi ethnic Nation-state.

Currently, the vibrant state of civil society witnessed in early 1990s has waned away. The civil society remains polarized, weak in institutional and organization development, frustrated by lack of fund and by the state bureaucratic machinery. Further, civil society in Kenya is characterized by conflicting interest(s), perpetrated by the three main actors viz. the state, the donors and the middle class. Today proper understanding of civil society is necessary in order to help understand its legacy, legitimacy, its roles and more compelling in the deepening in understanding the democratic trajectory of the Kenyan state.

This study in a critical angle tells the story of civil society in Kenya. It questions the origin, orientation and applicability of the theoretical frame that inform the civil society debate in Kenya. It suggests a more acceptable approach to the understanding of contemporary civil society and especially one that accounts for the unique and important role played by the traditional association groups. This study avails the delicate political environment upon which the emergent civil society operate and how this has impacted on the operations and formations of civic organizations that are contesting the association space vacated by the erstwhile power seeking state.

This is an analytical and descriptive study. It relies on the secondary material; mainly recent publications, journals, newspaper reports and also institutional reports from specific civic organization provided for case study. The main institutional source of material includes the ISS library, Nairobi University's Political science department library and materials from Non governmental organizations in Kenya and in the Netherlands. In the course of this study I spent six weeks in Kenya in which I engaged in discussions

and interviews with key actors and scholars who have published on civil society issues in Kenya.¹ This study is also based on personal experience gathered from my work as civil society activist and having been a Project Area Coordinator with the National Council of Churches of Kenya's (NCCK) peace and rehabilitation project. In this study I begin by picking up the contemporary civil society debate by reviewing selected literature, I critically examine such material and tests its relevance and applicability in Kenya. In providing my thesis I have widely consulted with persons knowledgeable in the subject. The critical analysis is undertaken as a net result of the above process and explanations offered. Inevitably some generalizations are made.

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CHAPTER I

ABSTRACT

Based on the transition period 1990 – 1999, this study purposes to critically examine the emergent civil society in Kenya. The study reveals that what passes as civil society in Kenya is narrow and therefore suggests an approach that can accommodate all its manifestations. The study tells the story about potentials and limitations of the civil society in promoting fundamental political and socio- economic changes in a transition country like Kenya. It is evident from this study that there is a narrow base of what passes as civil society in Kenya. Therefore this study in accepting that civil society is important in the deepening of democracy, tells the story of the contemporary civil society by availing factors that mitigate for the narrow basis of civil society and further conclude by suggesting possible remedies to the problem. It does appear evident from this study that there is need to narrow the gap between reality and theory in as far as civil society in concerned.

1.0 INTRODUCTION

Civil society has dominated the political and development debate in Kenya during the on going transition period triggered by the repeal of Section 2A of the constitution that allowed legalization of political opposition. The upsurge of the emergent civil society organizations derive from different quarters; first the paradigmatic shift by the donor community that began in the 1980s away from state-centered development model to a more decentralized and participatory approach occasioned the mushrooming of such organizations to fill the space vacated by the erstwhile developmental and power-seeking state. Second, donor frustration with the state's inefficiency, bad governance, repression and corruption and with the market (its failure to eradicate poverty, guarantee equitable social economic justice and prosperity) stimulated a need for alternative agency that could alleviate poverty and strengthen peoples participation by promoting grassroot development in ways beyond capability of the market and or the state. Third, and more compelling was the donor discovery of democracy and good governance as goals of development led to search of an agency to promote them. This search led to civil society to be the answer and has since been increasingly pumped with donor funding and ideology. Fourth, the simmering internal pressure from section of discontent elites, professional organizations, religious groups and emerging political activists

sustained pressure on the state to liberalize the political space and allow political opposition. With this internal political opposition from section of organized civic organization, civil society increasingly became the arena of political activism, advocacy and engagement.

The contemporary civil society debate in Kenya is heavily borrowed from the liberal conventional thesis with its western tradition. It is conceptualized along the lines of its being the analytical tool of the state and the harbinger of democratic potential. This conceptual frame only accounts for a small section of civil society². The peril of this situation is that only those groups that are organized have received attention, support, funding and attention from key actors like the state and the donor communities. The traditional associational groups with their complexity have not enjoyed moral and ideological support and its role is ignored. The civil society debate is weighed in favor of the emergent civil society³. What passes as civil society in Kenya is therefore narrow and needs to be critically exposed with a view to expand the general theory that informs the debate in Kenya.

The transition to multi party democracy system occasioned an upsurge of organized interest contesting the social space vacated by the erstwhile power seeking state and subsequently civil society emerged as a significant actor in political development in Kenya. The emergent civil society was presupposed to be progressive and play central role in democratization and promotion of good governance and human rights. Further, it undertook the role of being the reservoir participatory political activism. Top on its agenda then has been democracy, human rights, gender and development. Further it was to guarantee the participatory passage from state patrimonial despotism in to open and participatory democracy and development. Civil society was to rise above petty class and ethnic cleavages that have dominated Kenya's political praxis since independence. The transition period therefore provided the emergent civil society organization with a chance to modernize the state and change political discourse and praxis in Kenya. Subsequently, there was a steady rise in the number and activities of civil society all disengaging the political state and increasingly challenging its power basis and legitimacy.

² Mostly the organized and (semi) institutionalized civic organizations and elitist initiatives that are concerned with democracy and good governance.

³ The emergent civil society organizations are those that emerged during the on going transition era. They are elite initiative and "English – speaking" and urban located.

However, as time has progressed civil society has retreated into back stage of political process and the elitist initiative that were euphoric during the early 1990s have either failed or remain dormant. The emergent civil society remain weak in organization and institutional development and therefore its role and legitimacy questionable. Civil society has become increasingly polarized, heterogeneous and divided in terms of class, ethnicity, agenda and scope. The role of civil society during the on going transition era remains controversial and confused. Moreover, the social movements proliferation in Kenya during the period 1990-99 has signaled the emergence of elites entrenched interest in the political and economic power, control and dominance. The traditional association groups that have pre-existed the modern state have been sidelined from the civil society debate and the literatures on civil society have been pessimistic about their role and influence in Kenya. Attempts to explain the emergent civil society development, however, have not involved a critical assessment of the original theory upon which Kenya's civil society debate is hinged. The liberal conventional theory that informs the Kenyan debate have either built exclusive and implicit western traditions from where the theory originates.⁴ Despite the variety and complexity of traditional association groups and their role in society, its only the organized groups that have been treated as civil society.

Unless these presuppositions of theory and reality of civil society in Kenya are reconstructed and critically questioned, they are bound to (re) emerge from intellectual history and tradition of the yester-years and negatively affect those who seek to revise or transcend the universalistic dominant theory that do not fully account for abounding contemporary situation in Africa, and Kenya in particular in as far as civil society is concerned. The purpose of this study is to provide such a critique. I hope to show that the dominant theories do not account for the contemporary manifestation of civil society in Kenya and further that what passes, as civil society is narrow.

By providing a critique of civil society in Kenya during the period between 1990-1999, this paper will show that the universalistic theory that inform the civil society debate in Kenya are themselves problematic since they reflect the project of the proponents. This paper contends that the inability of the various theories and especially the conventional liberal thesis that heavily informs emergent civil society in Kenya to account for the

⁴ See Makoude, 1998; Ngunyi 1994, 1996, 1998, Mutunga, 1999; Maina, 1999 and Ndegwa, 1996

complex traditional association groups such as (extended) family, clan, kinship system etc can be traced easily to their dogmatic assumptions. Without ignoring the achievements of the emergent civil society in Kenya, this paper in parts hope to lay ground work for approaches that account for full manifestation of civil society in Kenya, as pointer to the fact that African civil society debaters need to free themselves from dogmatic presuppositions of the dominant theoretical constructs. In this regard, the paper provides a critical study of the contemporary civil society in Kenya in a bid to highlight the weak and narrow theoretical and conceptual basis and consequently arise the need for empirical data in the debate. By the same token, this paper hopes to highlight the dangers of borrowed standards and concepts that are unattainable. It narrows the gap between theory and practical reality.

1.1 THE STRUCTURE OF THE PAPER

Chapter 1 is the Introduction. It states the problem and the basic position of the paper and also offers an overview of Kenya's political economy of the 1990s. Chapter 2 is the theoretical review. It is devoted to critical review the civil society debate by different schools. Further, it suggests a need for an alternative approach to civil society, one that accounts the contemporary manifestations of associational and voluntary groupings in Kenya. In this mix a political economy approach that takes the form of inventory offers a richer framework for understanding the debate in Kenya. Chapter 3 offers a descriptive and analytical scope of the contemporary civil society. Chapter 4 offers a case study of a 1990s civil society organization that emerged during the during the early 1990s euphoria but has since declined in publicity, activities, relevance and legitimacy. The case study offers the level of entrenched organization interests on the part of civil society membership. It further reveals the factors like ethnic politics and class divides that as a malady to development of civil society culture. Citizens Coalition for Constitution Change (hereinafter 4Cs) offers a classic and an ideal example of a 1990s civil society organization dominated by middle class elites, exclusively donor funded, 'supply driven'⁵ and one in which entrenched power politics and ethnic divides dominate. Their constitution agenda is reviewed with aim of establishing whether they have legitimacy to claim that they speak for majority Kenyans. Chapter 5 picks up from the previous two

⁵ This phrase is used in this study to denote the character quality of emergent civil society organizations that are basically donor dependent and ones that are not informed by the demands of the societal members but are dictated by the donor funds. Such exist for as long as there is supply of donor funds.

chapters. It offers a Critique of civil society in Kenya during the transition period 1990-99. It argues that civil society is not the panacea for democracy in Kenya because it is loosely organized, narrow conceptual base with weak structural and institutional development, divided by class and ethnicity, corrupt, donor dependent and at best mirror of the state. Chapter 6 is the conclusion of the study. It highlights deductions that the study revealed and offers suggestion and recommendations on areas that need further attention and research.

1.2 OVERVIEW OF THE TRANSITION ERA: 1990 –1999

The most important milestone in Kenya's political development was the repeal of section 2(A) of the constitution that allowed for legalization of political opposition from an erstwhile de jure one party system. This transition in to multi party system led also to the increase in number of activities by the social movements and civic organizations all taking advantage of the political opportunity and shifts that were prevailing at the moment. As is the case with most African countries in transition from the authoritarian rule, political development in Kenya is currently undergoing sluggish growth explained in part by the fact that it is state driven and essentially a top-bottom system. During the 1980s the state suffered from structural problem which made it to be low- trust institution. The transition period that is on going in Kenya marked a radical shift of paradigm in the way politics is played and wealth accumulated and distributed. The passing and amendment of the Non Governmental Organizations Act of 1990 marked the beginning of mutually antagonistic relationship between elements of the civil society and state. This Act is in part a reaction by the state to the mounting opposition from the NGOs and organized groups within civil society and brought state to be a significant player and actors in the social space. The NGOs community resisted this repressive and intrusive Act (See Ndegwa, 1996:31-53).

The legalization of the political opposition led to influx in the numbers of parties formed along ethnic lines and all interested in the state control. Civil society also benefited from the on going seizing what Sidney Tarrow (1991:12-20) argued; capturing the 'distinct historical periods'. The civil society suddenly took advantage of the prevailing political opportunity and began to establish themselves and agenda albeit along the lines and specifications that were donor-fundable. A characteristic type of civil society soon emerged. This is the one dominated by the intellectuals and middle class elites, urban

based, sophisticated and whose agenda was political and constitutional reform, good governance and Human rights, gender and environment all thematic areas that donors were interested in.

During the on going transition period therefore there has been significant activities and numbers in elements of civil society agitating for political and constitution reforms. It has also been a period where a sharp division between the urban elites NGOs and rural based development NGOs has increased. The urban-based NGOs are basically concerned with civil political rights while the rural based ones are concerned with social cultural and economic rights. Another conspicuous character of the civil society during this decade is the ethnic factor in it. Kikuyus dominate most city-based NGOs that are in the democracy and good governance forum together with substantial numbers of Luos and Kambas too. Luos and Kikuyus are the largest ethnic groups in Kenya and ones dominant in political opposition.

The pre 1992 election was a period when the NGOs focussed on the area of good governance began to agitate for more reforms to allow for what was common rhetoric 'level playing field'. Civil society organizations began to emerge challenging the state for further political liberalization and its human right record. The availability of funding for these projects led to the emergence of increased number of NGOs all responding to the 'dangling carrot' availed by donors. This marked the trend where civil society began to be 'supply- driven' as opposed to demand driven. The elites most of whom had just fallen off with the state thronged in to civil society where they initiated programs fundable by the donors and linked with the liberal ideological frame of good governance, human rights, gender and environment. The opposition political parties poorly organized and ill equipped became allies with democracy and good governance NGOs where they got funding and support. This is the period where three significant actors dominated the emergent civil society viz. The donors organization; the state; the middle class elites. The donor funded civil society essentially concentrated in preparing select and mostly urban dwellers for the imminent elections. They offered civic education and were to be heavily involved in election monitoring.

Post 1992 election can be said to be the era when the civil society organizations⁶ began to agitate for radical changes in the constitution and political reform. The elites in civil society mostly lawyers and almost of them Luos and Kikuyus began to rally together with the religious associations like the (NCCCK and CPJ)⁷ and demand for constitutional reform. The opposition personalities too ganged up together in the platform hosted by NGOs to pressure government to concede to need for change. The pressure from the collective initiatives of these elements and their involvement in civic education and pressure for good governance led to state to agree to minimum 'Inter-parliamentary Parties Groups constitution package commonly known as the (IPPG)⁸. The opposition parliamentarians who erstwhile demanded a total overhaul of the constitution prior to 1997 elections soon decamped from the initiatives and coalition of NGOs like the 4Cs and National Convention Executive Committee (NCEC) from where they were all hosted. The decision by political parties to decamp soon after the KANU led minimum changes in constitution revealed what political opposition in Kenya is interested in i.e. state power and not political reforms that are meaningful.

Kenyan politics that remains patrimonial and less institutionalized. It also shows weakness on the part of civil society elites whose lack of vision and mission and concentration in building institutionalized democracy robbed of a process they had been beneficiaries of and returned that to state. As such post 1992 is a period of increased opportunistic political maneuvers by elites in civil society and political opposition. Significantly these players and actors in civil society are friends and colleagues either in professional world or they came from same ethnic community. Hence civil society became the proto opposition political party. The elites in political opposition were hosted in civil society where money was available for programs biased towards their agenda could be realized. Some parties like SAFINA emerged from caucus of civil society.

Post 1992 elections was characterized by the increased polarization between the rural based mostly developmental NGOs and the urban based elite dominated and donor

⁶ Especially the elitist "English-speaking" initiatives concerned with the agenda of democracy and good governance.

⁷ National Council of Churches of Kenya (NCCCK) and Catholic Peace and Justice (CPJ)

⁸ IPPG (Inter Parliamentary Parties Group) was a package of minimum constitution and administrative reforms negotiated by section of opposition parties and ruling party prior 1997 multi party elections. IPPG amendment was due to sustained pressure from the coalition of likeminded democracy and human rights NGOs together with the religious organizations.

funded democracy and good governance counterparts. Another conspicuous characteristic of the civil society during this time revealed the entrenched donor interests in the constitution review process and reduction on government involvement in economic and social sphere. Further and equally mostly important was the conspicuous presence and dominance by the Kikuyus and the Luos and Kambas elites in civil society. Luos and Kikuyus having been defeated in the elections reverted to civil society where they engaged in opposing the state from 'safe' platform and where funding was not a problem. The post 1992 election is therefore a time of bonding for NGOs in democracy and good governance sector under the facilitation of the donors and united under the agenda of constitution review.

Prior to 1997 elections however the emergent elite dominated NGOs increased their consultation with each other and organized regular meetings, workshop and gatherings committed to one agenda that of constitution review process. The regular consultation amongst the NGOs and political opposition led to the creation of such NGOs like Citizens Coalition for Constitutional Change (4Cs) and National Convention Executive Committee (NCEC) all which remain committed to constitutional review process. Under 4Cs and NCEC the drive was maximum overhaul of the constitution to which they called 'people driven' process. The political opposition supported all activities and actions including civil disobedience and street riots that were targeted at forcing the state to accept the demands of these coalitions.

The coalition of these NGOs coupled by pressure, street demonstration and civil disobedience especially in the months preceding election led KANU government to agree to minimum facilitative reforms which it brokered with few opposition parties member of parliament. This constitution amendment is commonly known as the Inter Parties Parliamentary Group (IPPG package). The IPPG package was a tactful move by the KANU government. As soon as the changes were effected and implemented the political opposition walked out of the coalition and agreed to go to the election abandoning their earlier hawkish stand and call for total constitutional overhaul. The presence of opposition elites working in team with the elites in urban-based NGOs brought a lot of funding and media attention and support for these initiatives. Soon after they left coalition everything crumbled. This move reveals to important points. One, the political opposition élites have been opportunistic and had narrow agenda which is

removing President Moi and KANU from power at all cost and not addressing the deeper structural and managerial problems facing Kenya. Secondly, elites in NGOs engaged in democracy and human rights have entrenched interest in state power and their coalition with political opposition was strategic in that should opposition have won the 1997 election they would have immensely benefited. These NGOs however did not invest in getting connection with the people and practiced exclusivity and lacked rural connectivity. Abandoned by the political opposition, who vacated with their supporters, these coalitions crumbled and with it the funding diminished. Today for instance NCEC and 4Cs are less significant and inconsequential. Little is reported about them and their intermittent press release or activities least bother the state. The donor funding has since 1997 election diminished.

What the 1990-99 period tells at a macro level about Kenya is that Multi party system has not changed nothing structural and fundamentally in Kenya. If anything the state is firmly entrenched in power and the political opposition weaker and fragmented. Civil society has been the advantage of the transition. They have benefited in attention and funding. They are however fragmented according to ethnicity, agendas and location. Further the constitutional reform agenda advanced by the emergent civil society is in state of near collapse. This is mainly because its not the agenda of Kenyans but what the political elites want. They only wish to change those areas they facilitate their stay in power or capture of state power. The NGOs involved in constitutional reform are all the same highly elitist and interested parties. Once gain the transition process is a top-down process dominated by ruling elites and whose lead beneficiary has been civil society.

1.3 CONCLUSION

Today the 936⁹ registered NGOs remain polarized and consequently less influential in the political and economic policies. Other organizations and groups within civil society are equally polarized by class and ethnicity, weak in institutionally and organization developments poorly funded and ideologically bankrupt. The political opposition is equally polarized and it's aging leadership hopeless and increasingly irrelevant. The political opposition sequentially like civil society has appropriated the political language of the state.

Today, civil society is polarized across ethnic, class and geographical location. They also suffer lack of alternative funding, as all are exclusively donor dependent. Civil society is therefore the beneficiary of the transition period which have been state led. They are both disadvantaged and advantage of state led democratization process and are highly dependent on the state for survival. The ruling state elites, the donor community and élites in civil society and political opposition continue their dominance in Kenya. The rest of the citizenry as has been the case will become relevant come the next general election in the year 2002

CHAPTER II

CIVIL SOCIETY: THEORETICAL AND CONCEPTUAL FRAMEWORK

2.0 INTRODUCTION

Civil society debate is raging no more in Africa than elsewhere. In Africa the debate is informed by the paradigmatic shift from focussing on the state to that of emergent dynamic social movements that are emerging from political and economic obscurity to threshold of potential socio-political power. Different definition have been offered by numerous scholars the most dominant of whom belong to liberal conventional school who design civil society within the larger capitalist market led socio-political and economic development and which civil society is projected as the antithesis of the erstwhile power seeking state.

However attempts to understand contemporary civil society remains problematic. This is simply because its definition is imprecise, ideologically informed and value laden and remains the subject and object of intellectual fashion and traditional analytical tool of the state for most analysts of African studies. Clearly attempts to have universalistic definition of the term for Africa's situation the term is doomed to fail given the diversity of political situations in different regions, countries and to a good measure within specific nation-states. More compelling is the lack of empirical study in to the contemporary

⁹ Based on records availed by the Senior Research Office of the Non Governmental Co-ordination Bureau. Nairobi, Kenya. This is a government department directly under the Office of the President department of Internal Security.

manifestation of the civil society in Africa and Kenya in particular. There is however need to understand civil society in order to fully understand contemporary political movements and puzzle beyond the superficial commentary that obscure so much reality.

Currently many African states are caught up in the jungle of attempts to democratize according liberal western borrowed standards and specifications. There is also emergence of social movements and the discovery of public opinion. Africans are increasingly aware of belonging to a specific social group, organization, tradition and even association where they feel confident to articulate their interest and concerns. The emerging social organizations in Africa are in my view arguably the contestants of the associational space and are particularly embryonic organs of the disengagement from the retreating state. These organizations have emerged as testimonial voice aimed at reclaiming that which was denied to them by state and hold a potential 'disruptive political force'. (Monga, 1996:156)

The emergence of informal and formal groupings that form civil society reflect the prevailing wind of change that is fast moving across Africa and further expose the political undercurrents mitigating the status quo. What can be deduced from the ongoing upsurge is the fact that social space contestation In Africa is more complex than is currently revealed and that the broader sections of the society are beginning to debate major political and economic policy matters¹⁰. However while this is happening civil society having just emerged is weak in institutional and organizational development, manipulated by elites and informed by ethnic and ideological divide (Lemarchand, 1992:178), poorly resourced and manipulated by foreign aid (Lewis, 1992:35) and suppressed by the authoritarian regime (Chazan, 1993:285).

The definition and conceptual understanding of the civil society its internal dynamic notwithstanding however reflect the project of each theorist. While the understanding of the concept remains problematic, imprecise, ideologically constructed and value laden, it is important for researcher to understand that generalized and unitarian definition of civil society borrowed from the west is unattainable in contemporary Africa. Further,

¹⁰ In Kenya the agrarian community based associations increasingly take on the state on issues related to their interests. The small-scale coffee farmers of Central Kenya have taken the government to task on policies related to coffee marketing and this has become a political debate. (Daily Nation Newspaper, August 22, 1999:10)

complexities and intricacies of associational life in Africa and in Kenya in particular are less elegant than much of the recent literature care to admit.

This chapter explores some of the conceptual and analytical assumptions underlying the civil society study in Africa and Kenya in particular. These assumptions are critically queried in the context of actual African realities and rejected as inadequate. This chapter proposes a more acceptable theoretical approach that accommodates the complexities of associational life in Kenya, today.

2.0.1 CIVIL SOCIETY CONCEPTUALISED: THE LIBERAL THESIS

Probably the most dormant protagonist of the civil society debater is the convention school. Where as they offer some provocative and insightful arguments that are cogent and update their high moral handedness and blanket generalization continue to muzzle the debate. Writing in (1986:111), Jean-Francois Bayart defines civil society as 'society in relation with the state ...in so far as it in confrontation with the state' or more precisely, as the process by which society seeks to 'breach' and counteract the simultaneous 'totalisation' unleashed by the state'. His definition echoes the liberal conventional tradition in which civil society is constructed as the antithesis of the state. This definition reflects the dominant conventional liberal thesis in which civil society is conceptualized as the political space between state and household and also as being the antithesis of state (see Blair, 1998:66). This definition offered by Bayart is a reflection of the uni-factor definition that dominate in which civil society is given a universalistic political understanding.

However, to Chamberlain 'Civil society maybe understood as a community bonded and empowered by its collective determination to resist, on one hand, excessive constraints of the society and, on the other hand, excessive regulation by the state. Although civil society is a relatively autonomous entity distinct from both the state and society, it never the less partakes of both, and faces and constantly interacts with both' (Chamberlain, 1993:207-8). His definition is more conciliatory and balanced in that civil society is a pointer to the political state and to society in general.

This paper contends as working definition that civil society *inter alia* implies 'an arena of interest based engagement in which individual(s), family, organization(s), group(s)

across the society stratum engage in and with each other in the space interposed between state and family. In this mix, civil society reflects both individual and collective consciousness; it is self (re) inventing, dynamic, spontaneous, organized and otherwise, (a) political and manifestly voluntary'. Civil society then includes NGOs, cooperatives, ethnic associations, trade unions, media, religious organizations professional groups, ethnic associations, clan welfare associations etc. Not included in this definition are the private sector and the civil service. What gives civil society its proper definition is; its agenda; its activity and the people who compose and hold such. There is added benefit in appreciating the contextual undercurrents that increasingly influence the formation of civil society. (Cited in, Kasfir, 1998:5)

From the foregoing civil society is such conceptualized in terms of: its location i.e. (between state and society); its functions (interest based and perpetually defending its membership rights) and finally its role in political democratization.¹¹ Further in this model, Phillip Schmitter writing in (1997:241) specifies civil society as being characterized by ' (1) autonomy from both social interests and state, (2) capacity for collective action promoting interests or passions, (3) absence of an intention to govern the polity, and (4) agreement to act within civil rules" conveying mutual respect'.

Three dominant theses arise out of this model. These are; associational space contestation; disengagement thesis and the normative ideological thesis. In the following paragraphs critical I analyze the central assumptions of this tenets with a view of querying their relevance for Kenya's contemporary civil society.

2.1.1 ASSOCIATIONAL SPACE CONTESTATION THESIS

Civil society is conceptualization originate from the liberal western tradition. In Africa its application is to aid the analysis of the political state and as such it is effectively argued to be the antithesis of the state. Within this thesis civil society is ascribed the emancipatory role. It is argued therefore to be concerned with 'systemic reform' of the state'. (Blair, 1998:66). Emphasis is weighed in favor of emerging social movements as collectively and actively contesting the space being vacated by the erstwhile power seeking state. It is crucial however to go beyond the state-civil society contesting the existing social space and show how and where the two meet and or depart. Traditional

African association groups have pre existed the modern state and continue to play a significant role in contemporary nation-state it is therefore necessary that the nature of civil society and state relations be fully understood.

Shaw and MacLean (1996:251) see civil society as being constituted to primarily presents a polarized position from the state and does perpetually remain in conflict with state. Bayart's call for the autonomy of the association space in civil society is rooted in his assertion that civil society simultaneously counteracts the totalizing state. Taking the contestation thesis further, Bratton (1989:187), notes that transitions have been greatly enhanced by the protest and reforms spearheaded by civil society. The underlying assumption in this thesis is that there exists a connection between civil society and democratic struggle.

This however is not necessarily the case for Kenyan perspective. In practice civil society propensity to engage the Kenyan state is hinged on how state treats and relates with the latter. The Kenyan State permeates the emergent civil society and this implies that the associational groups and grassroots organizations operate in constricted space because they have not appropriated the political language of the state. The Kenyan State defines the boundaries of political engagement and legitimacy. Mutahi Ngunyi writing in (1996: 23-34) argues that civil society is an agency that can rescue society from the statization. Implied in his arguments is the assumption that civil society organizations are altruistic and interested in transformation of the state and will necessarily invest the association space to good use. However the reality in Kenyan perspective is that some elements of the civil society are hostile to the democratization project and reproduce statist tendencies.

2.1.2 NORMATIVE THESIS

This thesis in part holds that the antagonism between state and civil society as being explained by the collapse of the normative order that mediate their interactions¹². Within the normative thesis it is logically assumed civil society as being important for the re-establishment of that order. In this thesis the following observations avail. First, in the language of civil society there is a specific pessimism on the part of African state. African

¹¹ See Blair (1998: 65-109), Bayart (1986:111)

¹² See discussion by Ngunyi (1994)

state is portrayed in a negative sense as being in need of liberalization and transformation and its political hegemony questioned. It seems to me that the more focus is placed on civil society the more (mis) understanding of the logic of contemporary state. Second, there is a characteristic proposition in which civil society is considered as democratic idea of the people against the state. Third, it is the liberal idea of pluralism and tolerance against authoritarianism and enforced homogeneity. Fourth, civil society is constructed as the elitist idea interest motivated private property in which state has no control (Wood, 1990:161). Lastly and even more compelling is that civil society is the progressive and civilized grouping that is above racial and ethnic cleavages. (Fine, 1992:71)

The problem with this thesis is that it does not reflect the manifestation of the civil society in the transition states like Kenya and neither does it account for the traditional African civil society. Both post colonial and pre colonial states stifled the traditional civil society elements. In the post colonial state there has been continued repression and stifling of the civil society elements. The boundary between the social, political, religious and economic remains porous and fluid. In Africa state today the political elites dominate the economic sphere too without being accountable to the polity as the would be the normative case. For normative order to be achieved the post – colonial African State would have to be dismantled and replaced with one that is accountable to the legitimate power of the polity.

2.1.3 DISENGAGEMENT THESIS

This is probably the dominant line of thought in conventional model. In this thesis civil society is argued to be the antithesis of the state. It assumed that the state faced with pressure from the plural collectivities of the societal members' retreats and as such expands the space and agenda of social political engagement. Civil society- state duality is assumed to exist arising from the fact that the latter is regarded as expression of the 'public' interest. Relationship between state and civil society is pegged on this dichotomy. This thesis is pre occupied with organized civic organizations and not traditional associational groupings.

In the context of Kenya this thesis is unattainable as the state continues to dominate the social space. The civil society boundary and that of the state and that of political society

is rather porous and often eclipsing each other. The emergent civil society speaks the political language of the state and is partly dependent on the state. Further, civil society in Kenya remain polarized with the emergent one which is 'English speaking' being close to the state operations and that one of the traditional associational groups being less influential and sophisticated. However the boundaries of the civil society –state or civil society- society are much more porous.

In sum the conventional liberal thesis is more concerned with the organized sectors of the society. Left out of this model are the associational groupings like (extended) family, kinship groupings and ethnic association because they are considered as 'uncivic'. (Bratton, 1989) and what Ugglå and Hardenius argued as being 'pronouncedly hierarchical association' that 'are not internally democratic' (cited in Kasfir, 1998:6). Civil society is argued to be (in) dependent of both the state and society. Characteristically organizations within civil society are argued to plural, autonomous, independent organized and inherently more 'democratic' compared to the state.

The conventional liberal thesis cannot fully explain the manifestation of the contemporary civil society in Kenya. This model does not fully demarcate the boundary between state and civil society. Civil society in Kenya is partly eclipsed by the state evidenced by the ruling elites control and involvement in organized civic activities. This model cannot be used to explain the traditional associational groups that have pre-existed the modern state. These traditional groups cannot be described in the political language that this model uses to analyze the state. These traditional grouping like kinship system, (extended) families are rooted in certain sets of moral, religious and cultural philosophical principles. Life, economic, social and political factors continue in part to be predicated on this. The assumed boundaries of state and civil society arena remain porous and fluid. The assumptions implied in this model therefore cannot be fully relied upon to explain the complex civil society manifestation that is characterized by polarity, homogeneity, ethnic and ideological cleavage and conflict of interest.

2.2 AFRICAN DEBATE

Civil society debate in Africa is heavily borrowed from the Western liberal conventional model. The specifications implied in Bayart's (1986:111) definition is at best revision of the liberal thesis that stipulates what civil society should be as opposed to what it is.

Eboe Hutchful (1996:69) echoes Bayart's pioneer arguments that civil society 'is itself the historical result of the moulding and remoulding of society by the state and cannot be understood in abstraction from it'. Suddenly the emergent social movements are being propped ideologically and financially with a mission of upstaging the retreating state. Civil society is constructed to be the in mission of rescuing the state in Africa from perdition.

A critical review of literature on Africa civil society reveals a more of revision of the stipulative and essentialist liberal postulations of civil society. The following assumption avail from the review of the literature. First, it is widely assumed that civil society necessarily exists as the countervailing power to the state. This assumption is borrowed from the experience of Eastern European nations and the contemporary western liberal democracies where civil society play significant role in the politics and policies of the state. However this situation is not attainable in Africa. In Africa the state controls access to political and economic power. The state is the dominant player and factors and actor in the lives of the society members. This assumption further ignores the fact the in Africa assumed boundaries between state and society are rather porous. Further the state in Africa is neither indifferent nor passive. The state in Africa has dominated by destroying and fragmenting political opposition. It is crucial therefore that in analyzing civil society in Africa that the emphasis is also placed not only on civil society pluralizing potential but also on the way state uses the civic sphere and some institutions as vehicles for its hegemonic project and how this in turns frustrates democratic potential of civil society. Second, civil society literature is more concentrated in favor of the formal civic institutions. The problem with this assumption is that these formal organizations represent social and political interests. Left out of these are those interests and views held without any organization and or institutional framework. However in reality this assumption is unattainable as most civic organization remain weak in institutional and organization structure and further most associational life takes place outside the formal groups. Third, scholarly writing on African civil society is overlooks the fact that conflicts facing political society are reproduced in civil society too. Civil society in Africa reflects the political and social cleavages that face the society in general. Class and ethnic divides that currently inform the political state are also found in civil society. Fourth, there is characteristic pessimism in the African State. The state is written off as being neo patrimonial, incompetent and in perpetual state of retreat from pluralizing force of civil society. In reality however, the state in Africa is sophisticated, dominant, and continues

to plays significant role in the polarization and fragmentation of civil society. The misrepresentation of Africa State only muzzles its evident interference and dominance in social and political space. Lastly, there is assumption that civil society groups are only those that are self organizing and relatively autonomous of the state. (Maina, 1999). This is unattainable in most African states. In most states the organized groups need to be legally registered and state has used this provision to frustrate such organization. Groups considered a threat to the state hegemony are often frustrated and denied registration hence legal existence. Further the state mains the draconian powers of de-registering civic organization that pose a threat to it.

The above assumptions have been argued as pointers to the central thesis of this chapter: namely that existing conceptions of civil society have limited explanatory power for the complexities of associational life and emergent civil society is Africa, and Kenya in particular. This then leads to a need for a more acceptable model. There is a need for a more acceptable approach the transcends the theoretical paralysis that has hereabove exposed.

2.3 CONCLUSION

It has been suggested that civil society is a concept borrowed from western liberal tradition and does not reflect the African contemporary reality. There is need to look for a conceptual model that fully accounts for the manifestation of civil society is Kenya. Like most writings on Africa civil society, this study with great reservation accepts that civil society is crucial in the deepening of the democratization process. However there is need for the following amendments to be made on its conceptual framework.

2.3.1 Cultural and Political Definition

There needs to be shift of focus from the preoccupation on political definition of civil society to that of both politics and cultural perspective. Cultural conceptualization of civil society is important in fully explaining the traditional associational groups. These traditional lifestyles in Africa have pre-existed the modern political state and are informed by the cultural and traditional values. Further, people's history and identities are encoded in their customs and cultures. A focus on the cultural and political aspect element of the associational life in Africa is crucial. It helps to explain political and

cultural factors that inform such communities like pastoral ones in northern Kenya frontier that are far detached from state politics while engaging in such violent acts as cattle rustling.¹³ Cultural focus of civil society helps to locate the political language of the a people group, civil society and ultimately the state. In contemporary Kenya there are many traditional cultural groups. These groups usually perform in political gatherings. Their music and dances are informed by their traditions and usually have a very clear political language. Such groups are usually very well organized and focussed. To explain such groups politically is not enough as such only cultural and political conceptualization of such can help to fully appreciate their place in civil society arena.

In Kenya the during the on going transition period the elites in political opposition and in political state found political anchorage in their ethnic communities. These urban based professional elites further hold, important senior positions in their respective ethnic welfare groups¹⁴. A focus on both political and cultural elements of the civil society will return the help to understand where culture meets politics and how people's ways of life influence their political decision and praxis. Political and cultural conceptualization occasions answers as to the emergence of political opposition and especially the trend in which civil society in Kenya has acted as proto opposition parties to the state. This is simply because political parties are key actors in civil society operations. In Kenya, political parties have their own, NGOs and most opposition personalities have used civil society to launch out their political careers. Another justification for political focus is that civil society has political opinion. In Kenya during the last two multi party elections of 1992, 97 many emergent civil society organizations were practically opposed to KANU under President Moi and acted as proto opposition parties. This then answers the question as whether civil society should include political parties. Political parties have membership that are included in civil society and the fact that both hold political views make it logical that political parties should be part of civil society¹⁵.

The cultural conceptualization of civil society also avails the important historical linkage. This is important because civil society should be analyzed along historical continuum. Civil society is not an event, but a dynamic process that adjusts to the mitigating social,

¹³ The Pastoral communities of Kenya are for example Turkanas, Boranas, Pokots etc. They are famous for cattle rustling activities using sophisticated weapons. They however, are highly militarized and less politicized

¹⁴ Often such urban-based elites are the 'spokespersons' of their ethnic societies. Most Members of Parliament in this multi party era have relied on the support of their kinsmen and ethnic community.

historical political and economic specifications. Historical analysis of the civil society also helps to expose its membership, ideological base, culture and tradition and even power relations. Lastly historical analysis helps to understand not only the political state but also society in general. Analytically therefore civil society becomes a pointer to peoples past, present and possible future.

2.3.2 Privileging Incorporation Thesis

In Africa, there is more of incorporation between the civil society and state than disengagement. The relationship between civil society and the state is not always necessarily acrimonious. Azarya (1988:6) calls this incorporation. This is why privileging the incorporation thesis helps to fully appreciate the role of the state in the creation and subsequent fragmentation of the society. In Kenya for instance the state elites have established their own NGOs to counter the emergent counterparts that are dominated by divergent political views. The state in Africa has used its political and economic muscle to subdue the civil society by incorporating it within its wider scheme of hegemony. This then means that civil society appropriating the characteristics of the state, appropriating state's political language. There is further very narrow boundary if nay between the political state and civil society. Mamdani (1995) further draws our attention to the fact that even during the colonial period the, ... 'subject was incorporated in to – and not excluded from the arena of colonial power'. (Cited in Mutunga, 1999:16). In addressing the civil society in Africa, it is prudent that incorporation is addressed as many organizations within civil society continue to support the state and are equally dependent on the state.

2.3.4. Shift from organization focus to activity focus

There needs to be change of focus from pre occupation with organizations and institutions within civil society to an activity view. This is because much of the significant and transformative activities in Africa occur outside the formal organization. Spontaneous protests, laxity, non-cooperation with the state, silent encroachment are examples of civic actions outside formal organizations. These non-confrontation methods of registering discontent with the state offer remain much safer than organized marches, civil disobedience etc. Activity-based focus allows for inclusion of those activities that would otherwise be invisible. The activities of (extended) families, clan

¹⁵ In Kenya for instance SAFINA political party emerged out of activities of the emergent civil society.

associations, ethnic welfare groups that have been snubbed as 'uncivic' (Bratton, 1989:416) can then be appreciated. These groups often engage state representatives at the grassroots level. In Kenya, Village Chief's barazas¹⁶ continue to be an arena in which (extended) families and clan members confront state representatives. Such activities are of civic nature and not to represent this reality is to misrepresent the full reality about civil society in Kenya.

2.3.4 Privileging Relativism and Inventory Approach

This approach is essential since civil society is not a homogenous arena. In Kenya civil society remains polarized and differentiated. If, civil society is to be fully understood without gendered bias then it is important that each case study is analyzed objectively and relatively for universalistic tendencies currently dominating the debate obscure than clarify civil society. On the other hand, inventory method is useful in surgical exposition of civil society. Within this framework civil society can be understood in terms of its; membership, agenda, factors influencing it, agenda, goals, ideology, institutional and organization base, sustainability etc

Civil society debate is not conclusive. Civil society reflects the forces of the society at large. It reflects the past, the present and future of the society. Civil society reflects interest and cleavages that endure in the society and the demands that people have on the prevailing environment. It is both the advantage and disadvantage of the contemporary African State. It is part of the society and not apart from it. Civil society is dynamic, self-adjusting and will reinvent itself to meet the demands of the society. The above amendments are beneficial in exposing the contemporary manifestation of civil society in Kenya, as the following chapters will show. The preceding chapters will reveal the complexity of civil society in Kenya and why single unitary model cannot be relied upon to fully tell the 'Kenyan Story'.

¹⁶ Village Barazas are chaired by appointed local Chief who represents the Office of the President.

CHAPTER III

CIVIL SOCIETY IN KENYA: A CONTEMPORARY STUDY

3.0 INTRODUCTION

In this chapter I look at two principle areas of the contemporary civil society. I look at the manifestations of the contemporary civil society within the transition period 1990-1999. The chapter reveals the historical factors, the factors and actors that inform the practice of civil society and ends up by exposing some analytical perspectives of the trends of civil society organizations during this period.

3.0.1 HISTORICAL CONTEXT

The historical and contextual forces of the 1980s Kenya inspired and informs the actions and language and even composition of the civil society as it operates in Kenyan today. Two points account for this. First, the rise in activism of the civil society was heightened by the crisis in the state. The state had over a long time enjoyed the monopoly of power and wealth. The ruling elites had monopoly of political and economic power and such controlled all aspects of the society members. The state hegemony meant that it had a highly centralized leadership and also retained a very coercive and dictatorial force. Legitimacy of the state was basically based on routine elections dominated and choreographed by the ruling elites. The state was developmental and controlled and dominated the political space and also declared the way wealth was accumulated and distributed. Kenya was then a classic example of the 'predator state' (Fatton, 1992:1-57). With these pressure the marginalized society members and especially the elites opted to challenge state hegemony via the constricted space available through the churches, religious organization and open demonstration. The seed of the 1990s civil society effectively began to germinate.

The state in the 1980s repressed political opposition and dissenting opinions including that of civil society through the threat and or actual use of force, legislation, propaganda and dirty war. The state managed to get in to the running of some of the organized civic organizations like the Central Organization of Trade Unions (COTU), the women

organizations like Maendeleo ya Wanawake became a KANU property, independent alternative press was suppressed, Matatu Vehicles Owners Associations¹⁷, student and university staff academic unions de-registered while the private sector interested in the market were co-opted and even flattered by the regime¹⁸. During this time of contained and constrained associational life and enfeebled civil society the religious organizations like the NCKK and the professional organizations like the LSK remained the only vocal groups that challenged the regime and became avenues of political dissent.

Second, the economic of crisis in the state. This crisis in part caused by the failure of the Structural Adjustment Programs (SAPS) was further compounded by political instability, lack of good governance and political accountability and debilitating corruption , and failure by the state and liberal market to provide development to the polity. The World Bank and the donor organization mostly from the Western democracies began to call for good governance under the theme of "governance for development" (World Bank, 1989:60)¹⁹. This translated in to the choice of civil society elements particularly NGOs who were then preferred as the alternative agents for development. NGOs were preferred because of the capacity and comparative advantage in that they were small, closer to the people, composed of trained and well-schooled individuals and was more open and 'participatory' or at least these normative ethos of NGOs attracted the attention of the donors. This phenomenon led to the capacitating of the civil society especially the development oriented NGOs who form the bulk of civil society in Kenya today.

The condition set by the donors was that the state should reduce its hold on politics, liberalize and also open up the market according to the demands of the capitalist system. This then resulted in to rolling back of the state and the rise of NGOs as the alternative implementers of development receiving donor funding and vote of confidence and consequently resulting to latter's strained relation with the state.

The above events mitigate for the emergence of the 1990s civil society. The emergent civil society remains very vibrant and active in especially matters that deal with politics.

¹⁷ Matatu Owners Association remains a very powerful movement formed by owners public transport 'taxis' (known in Kiswahili as Matatu). In the recent past they have paralyzed the transport system in Kenya grounding the economy and daily affair of the state. They continue to exist even though they are not a legal body.

¹⁸ Wachira Maina Personal communication

The church and religious organizations continue to be a very dynamic and influential actors in the arena of the civil society. Further Nairobi remains the only city in East Africa with a very high concentration of NGOs, INGOs²⁰ and also headquarters of emerging local elitist initiative

3.0.2 CIVIL SOCIETY: THE FACES.

The contemporary civil society in Kenya manifests itself in many and diverse organizations and groups from (extended) families to highly organized and moneyed NGOs, from religious organizations to the pastoral organized communities in the northern frontier, from trade unions and legally existing initiatives to ones that continue to exist (out) side the legal frame, from formal groups to informal ones and lastly from the urban based initiatives to the traditional groups that are mostly rural based and which includes also include such groups like CBOs and GROs.²¹

3.0.2.1 THE TRADITIONAL ASSOCIATIONAL GROUPINGS

Probably the most uncelebrated face of the civil society is the associational groupings that are manifests in form of; ethnic welfare associations; clan groupings; (extended) families, age groups and age sets who all play significant role in the society. The traditional associational life remains one of the vibrant cornerstones of the way politics is practiced in Kenya.

The ethnic welfare association for instance acts the oasis where political language situates and where political language is interpreted and translated and applied to its membership. The elite in politics maintains membership with their ethnic welfare association where they usually hold important voices. In the recent past in Kenya the political elites in civil society, opposition politics and the ruling elite have been contesting the tittle of 'ethnic spokesperson'. For instance Raila Odinga of NDP party has been argued to the Luo spokesperson and Mulu Mutisya of Kamba community as the "Kamba

¹⁹ Cited in (Owiti et al , 1999: 5)

²⁰ Nairobi is the headquarter of organizations like All African Council of Churches (AACC), further organizations like World Vision Southern Sudan, Care International, Oxfam all base in Nairobi even while they operate outside Kenya. Local NGOs also have their NGOs located in Nairobi.

²¹ Community Based Organizations (CBOs) and Grassroots Organizations (GROs)

spokesperson". This title is tied to the ethnic welfare groupings and in the real theatre of Kenya's politics it translates in to votes.

Similarly the ethnic association and clan groupings act as the reservoir of political maneuvers and community identity. The identity of the people is discussed in clan meeting and the ethnic association protects the interests of its membership. The traditional association groups provide the social anchorage that is necessary for the highly ethnicised politics in Kenya. Further the place of the family as civil society element is one in which has not fully been appreciated. The African extended family plays a very important role in coding and encoding the social political behaviors. The history and cultural identity are part and parcel of ethnic associations.

The ethnic welfare associations are not only famous for arranging funerals of the members who die for example in urban-centres but they also determine the agenda and platform of engaging the state elites in aspects that concern the people at the local level. Thus hence when the doyen of Kenya's opposition politics Jaramogi Odinga died in 1994 his burial ceremony provided the platform for the members of his clan to demand some infrastructure from the state in the presence of President Moi. These demands were acceded to. It has become very common for politics to be discussed openly in burial ceremonies. This elevates the place and status of the clans, extended family acting as the oasis and arena for vibrant political engagement in a language they most understand and in the environment they feel most secure around. Maina (1998: 139) is right therefore in asserting that ethnicity supplies the metaphor for the 'African politics'.

In this category we also have the pastoralist who basically engage in activities that are not 'democratic' and should not be measured on those heights. The pastoral communities inhabit the northern frontier of Kenya, which is semi arid. These communities like the Pokots, Turkanas, Boranas and Samburus live a nomadic lifestyle and wander around in search of water and pasture for their basic source of subsistence, which is herding cattle, sheep, goats and camels. Their lifestyle is as such a response to environmental demands and geo politics of Kenya. Since independence they have been neglected by the state in terms of development. As such the pastoral communities have been engaging in cattle rustling using sophisticated weaponry. The northern arid zone remains highly militarized but less politicized. However given that the communities

are homogenous and organized and their cattle rustling activities are often very well organized band executed they earn a berth as element of civil society in Kenya today.

3.0.2.2 THE DEVELOPMENTAL NGOS

These are intermediate organizations that are interested in the poverty alleviation and development of the people. NGOs have existed since the 1970s. Alan Fowler (1989) accounts for up to 120 of them by 1978. The number of NGOs in operating in the country from 400 in 1988 to 936 as of September 1999.²² NGOs are considered to be having a comparative advantage in that it can work with people in a way that the state had failed in. The NGOs in Kenya that carries out development work mostly in the rural areas even while most of them have their offices registered in Nairobi. Development NGOs operate in rural set up, working for the poor for poverty alleviation and service provision in areas of relief, provision of health care, education, shelter and water and other basic amenities. They are largely apolitical and 'cope' well with the state. The state accords them good favorable treatment recognizes their contribution as partners of state in development²³. They work with Community based organizations (CBOs); Grassroot organizations (GROs) women organizations who have also increased in numbers steadily. Fowler in 1989 for instance counted up to 23,000 registered women organizations. The organization working in Kenya in the development sector include those donors local partners like Oxfam, Action Aid, others are the locally initiated one funded by donor organizations and even local initiatives and donor funded like Undugu society and other voluntary development organization, others are sectarian interest based groups like the Kenya Women Financial Trust that caters for women only by giving loans and other related financial advice, religious organization development NGOs like NCCK.

3.0.2.3 DEMOCRACY AND HUMAN RIGHTS NGOS

This is the sector of the civil society that is pre occupied with the issues related to the constitutional making, human rights ²⁴. They are also concerned with good governance, and liberalization of politics. These organizations have been the main beneficiaries of the

²² Based on official records from the NGOs- Coordination Bureau a government agency charged with the registration of NGOs and also based on personal communication by Sekoh Nyandoro senior Research officer in the same department

²³ Government Development Plan of 1989/1983) singles out NGOs along side public and private sectors as essential in achieving its plan

²⁴ Especially 1st generation rights i.e. civil and political rights (CCPR)

transition in to multi party system. Democracy and Human rights organization are characteristically urban based, middle class dominated, donor funded, and (quasi) legal.²⁵ These organizations are politically active and have become avenues of civil and political discontent. The number of these groups shot up from 12 by 1992 to 140 by 1998. (Ngunyi, 1998:25). This group also includes the alternative press e.g. the Society, Post Magazines the current politically dubbed "gutter press".²⁶

3.0.2.4 THE CAPITALISTS- MARKET ORGANIZATIONS

Groups included in this sector are mainly players in the market interested in profit making, wealth creation and its accumulation. Organizations included are the professional interest groups like the Kenya Association of Manufacturers (KAM), trade unions like COTU, Kenya Chamber of Commerce and Industry (KCCI) among others. This sector remains politically inactive due to the fact that over the years it has enjoyed preferential treatment and patronage from the state. In 1979 KCCI became under the patronage of the President appropriating the policies of the government. As far as COTU is concerned its marriage to KANU (Maina, 1998:24) effectively meant that 350,000²⁷. The government control of COTU is manifest in the manner in which the former has remained mute and avoided crossing the state, further the Secretary General of COTU is a Member of Parliament under a KANU party ticket. Attempts by pro-reform trade union actors to form the National Congress of Trade Unions, and Kenya Federation of Workers, came to a naught as government refused to register the two. The Kenyan State has consistently sought to neutralize commercial civil society organizations that have been critical to the regime. The state perceives any source of independent capital as a threat to its operations. The most powerful of these organizations that received harsh treatment from the state is the now de-registered Matatu Vehicles Owners Associations (MVOA). This organization was so powerful, vocal and had independent funding and fearlessly challenged President Moi's regime. The MVOA members continue to be very influential especially in Nairobi City's politics and economy. They are the one group who have demonstrated that they can paralyze the whole state by strike actions. They have also availed their vehicles to ferry people to the election sites during

²⁵ Most of them operate as 'programs' of the registered professional organizations as the state has declined to register them

²⁶ These are 2-4 paged cheaply published magazines that are sold in the streets of Nairobi and other urban areas with highly sensational political issues, scandals and saga affecting the government.

²⁷ Cited from Maina and Musambayi 1998:34. This number forms 50% of the private sector wage earners

the last two elections held in this decade effectively influencing the decision of such voters. So powerful is this organization that even without legal existence they continue to influence public opinion and advocate for changes as well as protecting their interest. The Moi regime also dissolved powerful agrarian organizations like Kenya Farmers Association (KFA) and reconstituted it as Kenya Grain Growers Cooperative Union (KGGCU) under president's own patronage. (Maina and Musambayi, 1998:23).

3.0.2.5 THE RELIGIOUS ORGANIZATIONS

These have been the sector that kept the civil society culture vibrant during the repressive dark decade of the 1980s courtesy of NCCCK, Catholic and PCEA churches. These organizations are involved in human right, civic advocacy and development work and command the largest constituency a member based organizations. This sector has advocated for changes in governance and maintains the largest coverage of the country in terms of geographical breath. The religious organizations like the NCCCK enjoy wide support from the society as it is not an elitist initiative and therefore is so far as legitimacy is concerned the state responds to criticism from former in a very careful manner. In the post 1997 election Muslim organizations²⁸ have been very active in agitating for changes especially constitution changes.

3.0.2.6 ENVIRONMENTAL ORGANIZATIONS

This category is the largest and the oldest and the least celebrated. It includes indigenous grouping, agrarian and peasant organization that have come together and advocated for land rights, fair prices of agrarian products and environmental protection and conservation. This group is diverse and ranges from the more modern, large and well institutionalized GBM to women led conservation organizations to more militarized and marginalized pastoralist movements of the northern arid zones of Kenya. The interests of such organization are the immediate basic needs of food and pasture, land related and are based in rural areas. In these category as such we have CBOs, GROs and pastoralist movements even while the theory has not adequately addressed the fact that they are element of civil society even while they are heavily militarized and engaged in cattle rustling.

²⁸ For example, The Supreme Council of Muslims of Kenya (SUPKEM) and Muslim Consultative Group have been very vocal in calling changes in Kenya

3.0.2.7 MAGENDO (INFORMAL) SECTOR

This sector has gradually and silently been encroaching the existing social space with its activities and has defied the existing laws and authority, formal and mainstream sectors and increasingly matured to be body and force to reckon with. This sector is loosely organized and institutionalized. Its membership is broad involving people from cross section of the class, ethnicity and interests and political persuasion. The membership of this category is drawn from people of lower social status from across the ethnic divides. They are the slum dwellers and homeless people in urban areas, beggars and street urchins. These people are organized around search for basic needs. They operate outside the existing laws and norms, pay no taxes and engage in 'criminal' activities. They are politically informed and aware but not interested in power. A good example of a group within this sector are the 'street hawkers. These hawkers sell clothing and food items on the streets of Nairobi. They are organized in so far as they defy authority and existing by-laws, they pay no taxes, and they engage in informal market and organized around their survival strategy of hawking in central business district of the city. They pay no taxes directly, engage in 'informal economy and market'. Other groups in this category include; parking boys, sex commercial workers, newspaper vendors, shoe-shiners, watchmen and gangs²⁹

3.0.2.8 POLITICAL PARTIES

The activities of political parties has become more pronounced during the on-going transition period. The ruling party's interest in social space began during the post-independence period when state co-opted most civic organizations. KANU government dominance and control of civic organization reached its peak in the 1980s with civic organization like (Women's National Development Organization) Maendeleo ya Wanawake being dominated by ruling elites and used for partisan politics. The state has similarly been involved in NGOs with many ruling elites forming their NGOs in what is know as GONGOs³⁰. Wachira Maina asserts that there are at least 200 GONGOs in Kenya.³¹ The opposition parties have also used the enlarging social space to form their own NGOs and use them as avenues for political praxis. The emergent civil society organizations of the 1990s especially those in Democracy and Human rights category

²⁹ These gangs engage in criminal activities and its membership is mostly men from the ghettos and slums.

³⁰ Government owned NGOs

³¹ Based on direct communication by Wachira Maina.

have been arenas for opposition parties meeting platform providing the agenda and strategic thinking for the parties. Opposition political party like SAFINA³² owes its formation to civil society organization.

3.0.2.9 THE DONORS

Donor organizations are the most significant actors in the civil society debate in Kenya. The contemporary civil society cannot exist without the donor funding. In the Kenyan situation there are different categories of donors. First in the list are the bilateral donors representing the western liberal democracies among the leading ones being; Britain, Sweden, Germany, The Netherlands, United State of America, Norway, Denmark among others. These countries channel 60-90% of their donations to the NGOs. (Ngunyi, 1998). The developmental NGOs receive the giant share from this donation with democracy and human rights NGOs receiving just about 10%. The second category is that of multinational donor organization. IMF and EU are their main donors involved. The EU works closely with the European bilateral donors. The third category is the non-governmental donors and foundations like; Westminster Foundation, Oxfam, Novib and Christian Aid among others. They fund most activities of democracy and human rights organization. These NGOs also act as conduits for disbursement of funds from north to south NGOs. Organizations are also largely involved in the development work.

3.1.0 FACTORS AFFECTING CIVIL SOCIETY

3.1.1 STATE PATRONAGE POLITICS

Politics in Kenya has been dominated for decades by the state. The KANU hegemony is one that has been characterized by patron – client relationship in which the ruling elites have been able to buy out opposition and control descent. Moi regime over the years has perfected the art of dividing the opposition and controlling the dissenting voice. The statization of the social space has meant two things 1) that the elites that have been left out of power have resulted in to forming civil society organizations and movements. The state on the other hand has helped in creation of the NGOs to counter the (semi) independent civil society organizations. The state controls and influences the language of such organizations. This phenomenon is typical of elite led urban based NGOs which

³² SAFINA translates literally as ‘ARK’. It is a opposition political party emerged prior to the 1997 elections. It is in practice a political party formed by the coalition of Democracy and Human rights NGOs.

survive on the 'left -over' of the state and who by and large play the politics of the state.

The second dimension is that at the rural areas there are increased predatory activities such as rustling in the parts of northern arid Kenya. The state patronage and hegemonic tendencies has seen it create a vigilante grab urban land and especially that meant for the poor in a situation that has is known as land grabbing. (Maina, 1999) The rural civil society with their rustling activities have transformed the area in to militarized zone. The state is therefore a factor in the way civil society is formed by its involvement in the social space either by creating of elite vigilante groups or by controlling dissenting voices. Ndegwa 1996 is right in arguing that being in civil society is the alternative to being a civil servant.

3.1.2 DONOR FUNDING AND FACILITATION

The most important factor in the way civil society is conceptualized and formed and their method of operation is the donor group. The donors are western liberal democracies and organizations from within. The donors entirely set the agenda for the civil society organizations through their funding. The donors know that civil society cannot exist without their money³³. The donors are increasingly weary of developmental NGOs that do not address poverty as a political issue and as such associate more closely with the Democracy and Human rights NGOs.

Table 3.1 DONOR SUPPORT TO CIVIC ACTIVITIES (IN US DOLLARS)

DONOR AND LEVEL OF SUPPORT

Programme Area	USAID	DANIDA	SIDA	Totals	Ranking
Gender	607,970	101,455	409,031	1,118,456	1
Capacity Building/ Institutional support	576,551	464,275	-	1,040,826	2
Research and Publications	898,629	99,039	-	997,668	3
Law and Human rights	621,547	103,130	205,448	930,125	4

³³ Based on personal communication with Willie Pronk a retired HIVOS staff in charge of Kenya 13/8/99

Civic Education	488,90	22,100	208,807	719,807	5
Media	246,620	146,620	41,866	435,018	6
Democracy Scholarships	187,200	-	-	187,200	7
Doctors Fees	-	93,066	-	93,066	8
Miscellaneous	-	-	61,268	61,268	9
Totals	3,627,329	1,029,685	926,420	5,583,434	

Source: United States Agency for International Development (USAID), Danish International Development Assistance (DANIDA), and Swedish International Development Cooperation Agency (SIDA)³⁴. This table is a result of a study conducted over a period of three years (1993-96)

From the above table it is clear the areas of priority for these section of donors. It is clear that donors favor gender advocacy which takes one out of every five dollars of all donor support to civil society. Support for capacity building in civil society absorbs 18.6% of the total while Law and human rights activism being the third in the line of priority taking up 16.3% of the total support. The donor support of the emergent civil society further polarizes these organization choosing to favor the English-speaking, urban based middle class initiatives thus marginalizing the popular sectors of civil society especially the traditional association groups, rural economic groups and community based organizations. (Maina, 1999:159). The donors do not support the civil society involved in above programmes out of a belief and faith in their potential. The state having failed to meet the donors' expectations and standards³⁵, they resulted to support state's own citizens against it. This then is essentially a backhanded compliment that needs to be pointed out. The donors perceive as their duty to fund the civil society, agitate for reforms and pressurize the state and expect accountability, transparency, better organizational structure from their beneficiaries.³⁶The only exception albeit minimal are the GONGOs who enjoy support from the state. The civil society organization thanks to the donor funds and facilitation has led to the "supply driven civil society

³⁴ Cited from Maina, 1999:157

³⁵ These are the standards that relate to good governance, political liberalization and respect for human rights.

³⁶ Based on personal communication by Willie Pronk a retired HIVOS staff in Charge of Kenya

phenomenon'.³⁷ The MONGOs and even NGIS and to some extent GONGOs are the direct result of 'supply driven civil society phenomenon. The donor factors warns Wachira Maina³⁸ can be viewed as '*Alternative State*'³⁹ a factor that is manifest in the way the donor organization have pushed certain civil society elements to handle the on going constitutional review debate⁴⁰. The donors are also interested in the development work in the rural areas in the sector of poverty alleviation by means of supporting developmental NGOs to empower the poor. The donors continue to be active with the Democracy and Human rights NGOs in issues related to civic education, election monitoring etc. Infact during the 1997 elections IED, NCKK and JPC were brought together by the donor regime to form election-monitoring coalition. The donors are interested in the empowering the citizens to fight the power seeking state.

3.1.3 ETHNICITY

Ethnicity is a factor in contemporary civil society. Two reasons account for this phenomenon. The first one is that the incumbent regime has consistently marginalized ethnic communities that do not support it namely the Kikuyu together with GEMA partners and the Luos⁴¹. This has led to the creation of 'Opposition ethnicity'. The members of these communities marginalized by state and excluded from government find refuge and inclusion in opposition political parties and in civil society. This accounts for the Kikuyu/ Luo factors especially in Democracy and Human rights NGOs.⁴² The second phenomenon is where élites from these excluded ethnic communities motivated by desire to 'develop' their neighborhood form NGOs in which then will act as spring board for political recognition and challenge. Such NGOs are a launching platform for political actions along the 'developmental' desire akin to the 'developmental state' of the

³⁷ Supply Driven Civil society is the phenomenon that is transpiring in contemporary civil society where the latter's existence and activities are influenced by the donors funding and not by demands from the society membership.

³⁸ Based on direct communication

³⁹ The donors have wealth and resources that aggregating matches that of the state, further most donor organizations are involved in local politics providing a particular language of their own and lastly Maina points out that polarization of civil society is due to state and donors competing to influence sections of civil society.

⁴⁰ This debate is a continuation of the process that began in 1991 when section 2A was repealed. This action outlawed political opposition and in net declared Kenya a de jure single party state. The process was ignited after the 1997 elections.

⁴¹ No Luo sits in Moi's cabinet and Kamotho a nominated MP is the only Kikuyu who is part of the government at that level

⁴² CRIC is headed by a Luo Nicholas Otieno; SODNET by a Luo Prof. Oyugi, KHRC was initiated by a Kikuyu Maina Kiai, CGD is headed by a Kikuyu Wachira Maina

1970s and parts of 1980s. Exclusion from the state and need for development for legitimacy coupled by ready donor funds and the logic of being urban based (where donors and state are located) explain in part why ethnicity is increasingly a factors and a reality in civil society. The need to develop ones ethnic neighborhood that is the way of practicing politics in Kenya is a reality in civil society as much as it is in the state. The ethnic factor in civil society at the political level is negative. This is simply because the emergent civil society was expected to be arena of inter-ethnic engagement but not to be ethnically polarized. Ethnic polarization is so sharp and staggering that the Democracy and human rights NGOs are considered to be proto- political parties for Kikuyus and Luos who dominate such. The smaller ethnic communities in Kenya have as such resulted to supporting the regime where they feel a sense of security and representation.

3.1.4 PORK BARREL POLITICS

Mutahi Ngunyi (1998:25) has clearly identified this scenario as a factor in civil society. The donor pressure for economic liberalization has led to the scenario in which policy formulators are the leading beneficiaries of the very policies (Maina, 1999:159-167) leading to situation where the ruling elites dominate the market and power leaving those elites excluded to revert to civil society as arena for organized resistance against the state. The pecking of pork barrel strategy has been used by the regime to circulate the regime. In this strategy the politically incorrect elites were disengaged into the cold to await political reform while the correct ones were incorporated into the regime. The Disengaged elites with no hope of incorporation to the State, merely shifted gear to the civil society which they always tried to organize in a bid to do battle with the state (Ngunyi, 1996:265). The poor organization in some of the emergent civil society organizations is then informed by these pseudo democrats disengaged from the state. This brings into question whether these people have the legitimacy to articulate interests of society membership.

3.1.5 GEOPOLITICAL FACTORS

There is an element of environmental factors that has influenced the rise of civic activities in the northern arid frontier of Kenya. The northern frontier is inhabited by nomadic pastoralist communities who keep large herds of animals mostly cattle, camels, goats etc and wonder across the vast arid area in such of pasture and water. The area

has been systematically marginalized by the post independent state. In the recent years however the areas has become increasingly militarized with many incidents of cattle rustling activities reported. The inhabitants of these areas are armed with sophisticated weaponry and state has been as yet unable to disarm them. This area is also characterized with low interest in politics. The area as such highly militarized but less politicized. However the increase in cattle rustling activities is the systematic civic activity that people in this area practice. In the lack of interest with state and or politics in general, the nomadic inhabitants of northern arid zone of Kenya continue to engage in regular activities of cattle rustling in part to make political statement. This situation can in part be explained by the fact that the environmental condition in the area in harsh, secondly the systematic marginalization by the state and thirdly the geopolitical factors of land, water and human resources remain contested areas by these people.

What this phenomenon says in terms of civil society conceptualization is that, the theories available are inadequate in explaining this situation. Further this paper contends that there is a need to investigate the actions of civil society organizations even while they may be surrogate and even militarized. The questions that begs answer is whether then it is possible for a civic actions that are 'negative' and or malignant to be analyzed within the realm of civil society conceptualization? The answer according to this paper is affirmative. The fact that civil society is composed of interest based grouping, and such interests must not necessary be 'moral' then allows for such to be included in the theoretical analysis.

3.2.0 CHARACTERISTICS OF CIVIL SOCIETY

The contemporary civil society has the following characteristics: -

- ❖ It is influenced, funded and facilitated by the donors and its agenda is state democratization through liberalization of politics and market. As such they are 'supply driven'. Their agenda as such include - Democracy, Good governance and human rights and development.
- ❖ The civil society mirror donor language and lack grassroots connectivity
- ❖ Civil society literature in Kenya is characterized by intellectual hostage, surrogate and fashion in which democratization project of the state is pegged on vibrancy and growth of the civil society. Intellectuals have also formed their own NGOs in a way of actualizing their thesis.

- ❖ The urban NGOs are dominated by middle class professional elites. At least 40 plus lawyers are involved in civil society.
- ❖ Civil society in Kenya has a particularly nuanced liberal Christian bias. This is accounted by the fact that over a third of the total NGOs registered in Kenya are either directly related to Christian churches, traditions and teaching.
- ❖ Civil society is also characterized by rural- urban divide, MONGOs versus GONGOs and characteristic conflict of interests
- ❖ Civil society is polarized, heterogeneous and reflects the society in general

3.2.0.1 ACHIEVEMENTS

- Civil society has provided intellectual leadership. This is a phenomenon that has not been celebrated. The academic quality in personalities in political opposition, religious leadership, in academia in NGO world confirms this reality.
- The Constitution reform Act that informs the attempted review of the constitution debate currently on going reflects quality input of CGD, 4Cs, LSK and ICJ.
- Civil society has a large reservoir of intellectual resource, which exist as “think Tank “ resource.
- Civil society organizations especially the Democracy and Human rights NGOs have set the agenda for political opposition and the state.
- The civil society has put the agenda of Human rights (CPR and ESCR) on the political agenda and has helped to liberalize politics, press and economic which have been dominated by the state for long
- Developmental NGOs have contributed to the country’s development a fact that has been recognized by the government.
- Co-operatives have managed to engage government in agrarian policies. The agrarian institutions like the tea, coffee and maize sector are being restructured.

3.2 CIVIL SOCIETY AND TRANSITIONAL POLITICS

During the ongoing transitional cycle civil society has undergone often very dramatic changes and has evolved in to many faces and its actions have often been influenced and informed by what is happening in the state at the central level. This decade has witnessed the renaissance of the activism by the religious organizations, development organization and the professional interest most of them middle class who have grown

increasingly weary of the patronage by the ruling elite. The trend of the civil society during this era in part then is manifest in the ways discussed below.

3.2.1.1. RISE OF THE ALTERNATIVE PRESS.

For long the press has been dominated by the state. Information has been censored and even monitored by the Leviathan in a way to diminish any political opposition and or dissent. The regime during the 1980s systematically muzzled the print media and refused to liberalize the press. The citizenry were as such fed with propaganda through the national broadcast system KBC, which is state, owned. The mainstream independent print media namely the Nation Group company suffered frustrations and attacks by the ruling elites everytime it published articles that the state deemed as threatening its hegemony. However during this decade 'alternative' press emerged that informed the citizenry and even offered alternative views. Such magazines like Society, Finance, The Post, have all been sympathetic to the opposition parties politics. Of late there has merged what is politically dubbed ' gutter press' which while concentrating in sensationalizing scandals and using tabloid mentality articulates the opposition politics. The state in a bid to counter these gutter press publication has itself manage to initiate its own so with view of attacking and discrediting the opposition in their own game.

3.2.1.2 POLARIZATION OF CIVIL SOCIETY

Civil society in Kenya is famous for its polarization status. This state of affair began during the preparation of the 1992 multi party elections when many parties were registered and donors began availing their money for civic education and election related issues like training of election monitors, voter education and even supporting the political opposition. The polarization took place in the sense then there was 'opposition' within the civil society itself. The NCCK for instance which has always been a leader in the advocacy for reforms soon found a rivalling threat in the form of Evangelical Fellowships of Kenya (EFK) which was co opted by the regime and began disorganizing the gains made by the pro reform NCCK. During the election period many anti state movements cropped up with a definite political mission and language and vibrant campaign for the ouster of KANU but even such were countered by pro regime movements and groups. We then have Youth for KANU 1992 composed of youthful propertied elite who countered the more fragmented modest 'operation Moi out" (OMO), and 'Operation Moi must go' among others. The regime also sponsored alternative press e.g. New Era

which carried stores maligning opposition personalities the same way Finance and Society magazines maligned ruling elites.

The ongoing transition period is marked by a steady increase in the ethnic politics, which has been the hallmark and platform of politics in Kenya finding its way in to the civil society arena. Civil society was to be 'different' from the political parties interested in power. It was to 'stay' above the petty ethnic politics that KANU had been accused of. The ethnicization of the civil society is explained in two ways. The first reason is that of the state project to fragment the civil society into manageable levels by dividing them in to ethnic lines then playing them against each other. Ngunyi (1999) gives the example in which the state sponsored the creation of a women's group Women – In – Action to counter what it perceived to be a Kikuyu organization Mothers- In – Action. The rationale was the latter was a Kikuyu organization which is geographically located in central province as such the women in western part of the country needed their own. This phenomenon explains Ngunyi led to the extinction of the Mothers – In – Action. The second reason is that ethnic politics is a reality in Kenya. It is the 'uncelebrated' political platform in which power is gained and in which wealth is distributed. The elites in civil society aware that if they 'bring' development to their neighborhood then that will bring the publicity and eventual potential political power resulted into NGOs in order to gain publicity and prominence for political mileage. During the 1992 and 1997 civic education were conducted by members of the civil society in particular areas to support their ethnic community stance against a ruling party candidate. So ethnicization of the civil society is due to state interference and also that of the elites in opposition parties and those in civil society who want 'make a name' for themselves.

3.2.1.2. *DECLINE OF CIVIL SOCIETY VIBRANCY*

The hype that greeted the civil society in the early 1990s has been steadily dying. The civil society organizations in disappointment in the way 1992 and 1997 have turned out to be have retreated from politics leaving the process to the elites in state and political opposition. The second reason for this phenomenon is that civil society agenda and funding is linked to the donor community. Some donors have engage in a wait and see attitude while some take the position of 'better the devil you know' and as such have re directed their funds and influence elsewhere. This has impacted negatively on those

organizations that are entirely dependent on the donor funds reducing them to just names. The withdrawal of donor funds from such organizations has definitely affected their activities leaving them to be 'irrelevant in the transition process (Ngunyi, 1998)

Civil society is under the grips of political elitism a distinctive characteristic of political praxis in Kenya. During the on going transitional period there has been a characteristics tendency of personalization of the civil society as opposed to its institutionalization. This in part therefore explains the decline in its vibrancy that greeted the emergent civil society in the early 1990s. The personalities in especially political civil society organizations have used their organizations as the personal political platform in effect turning the organizations in to personal property. In the Democracy and human rights sector of the civil society, there is no neutrality in them. The political elites who run such organizations have openly recorded their political position and have allied very closely with the political opposition. The political position of the leaders of these NGOs has permeated the organizations and as such the organizations has effectively adopted such political stance. Personal leadership of Prof. Maathai in Green Belt Movement (GBM) since 1975 and her obvious political opposition to KANU has meant that GBM is in effect reflection of her political ideas. Personalization of NGOs even while being subtle is explained by the fact that the NGOs have weak institutional and organizational frame, they lack independent agenda and funding source and given the nuanced political ambitions of its leadership they have tended to be tools of their leadership. Most NGOs as such are synonymous to its leaders in terms of political position and actions. There is no validity in claim that such NGOs political stand is representation of its constituency. This is because internal democratic structure does not obtain from NGOs. The ideas that are practised are those of the elites who control it. The net effect of this is that most organizations suffer from decline in its activities and consequently donor and local attention.

3.2.1.3 CIVIL SOCIETY AND OPPOSITION POLITICS

Civil society especially the Democracy and Human rights groups have increasingly acted as 'proto parties'. This means that they have and continue to harbor potential politicians and given that civil society is not politically neutral they have been the avenues for opposition political activism. During the build up for 1992 and even 1997 there has been increased close relationship between political opposition and the civil society. This

opportunistic tendencies is temporal and has tended to obscure the reality that politics is dominated the elite class. The political opposition have been welcome in the civil society who have demonstrated their support for opposition politics and as such used the platform of the civil society for their political mileage. This marriage between the political opposition and the civil society that has only been cozy during the election periods has led to mutual benefits for both. The case in point is that of 4Cs and NCEC that had a considerable opposition representation. 4Cs and NCEC acted as the 'unofficial' secretariat for the politicians and organized their agenda. In turn the political parties affiliated to the former brought with them mass support and publicity and even money from the donors. Some politicians even became activist in civil society as a means of creating platform for themselves courtesy of their own NGO while some were used a resource persons by some NGOs in their civic education empowerment programs.⁴³

This marriage between the opposition parties and Democracy and Human rights NGOs have led to the decline and dormancy of the latter. This is simply because the politicians interest are shallow and immediate and opportunistic. As soon as they got elected in to parliament they abandoned the NGOs taking with them their supporters and donor money that covered their stay there. 4Cs and NCEC that relied on the presence of such people have suffered a critical decline not only in the number s of its partners but critical qualitative support and as such leading to decline in donor funding and rendering some programs extinct.

PART THREE

This final part analytically discusses the emergent civil society in relations to the mitigating social economic and political environment. Specifically the discussion hereunder targets the underlying relationships between civil society and other principle actors like; the State, the Market and the Society.

3.3.1 THE STATE AND CIVIL SOCIETY

Kenyan State is one that has been shaped by the historical factors stemming right from the colonial era. The British colonial government polarized the country into regions and reserves awarding themselves productive economic land and amassing power. The

⁴³ Mutahi Ngunyi (1999)cites CRIC as such organizations that utilized legislatures in its empowerment

colonial state with its 'divide and rule' doctrine ruled the colony with an iron fist. Ethnic division and politicization arose during the struggle for independence and since then ethnicity has become a factor in the way Kenya has subsequently been ruled.

The post-colonial ruling elites inherited the colonial political, social and economic administrative structures and institutions without any alterations. The form of political leadership of dominated and offered by the state has been that of 'one man show' with the president being the charismatic leader, the patron, the head of state the most powerful and wealthy man. Politics of patronage and favouritism has been the rule with regular state choreographed elections used for legitimacy alongside apparatus for violence namely the police used for control and coercion of the citizenry.

The state stands out as the cause of all the social and economic ills of the society while on the other hand civil society considers itself as having the right to challenge the state on the way it governs and distributes resources. Civil society considers itself to be having the moral legitimacy to demand for good governance, constitutional and political reforms and distribution of economic and political goods. The state on the other hand considers civil society to be lacking the legitimacy and to be renegade and representing partisan interest of foreign donors, specific ethnic communities even individual and indeed opposition parties. The state views itself as the legitimate body that can deliver protection, fair judgement having been convened by the 'will of the people' via elections. As such Moi's government has been most reluctant to engage in debate and dialogue with the civil society elements dismissing them almost as non-existent and 'petty bourgeoisie' who lack loyalty and patriotism.

This antagonism and mutual distrust is however linked to power and economic resources and not based on ideology. The civil society is fully funded by donor and as such represent donors agenda. They are supply driven. The donor organizations pump a lot of money into NGOs who they consider are more accountable than the state. These fund 13 Billion Kenyan Shillings in 1998⁴⁴. In the 80s and 70s such money was given to the 'developmental state' until it increasingly failed to deliver. With scarce economic resources the state then frustrates NGOs and controls its activities right at the point of

work

registration and even in its operation. The political NGOs are the ones that endure the wrath of the state power. The civil society in engaging with the state has increasingly preferred to be confrontational and has used riots, threats, strikes, and civil disobedience among others to undermine the state.⁴⁵ The state faced with a threat to security of public has met such 'attack' and confrontation with mighty force that left public members dead and some seriously injured. Secondly the state has increased its propaganda weapon by registering its own NGOs⁴⁶ in order to counter the threat posed by the mainstream civil society. Thirdly propaganda by state controlled KBC and 'gutter press' publications and even by magazines owned by state officials have been used to discredit civil society actors especially the political/ human right ones. Fourthly at the very worst state of war of attrition continues to exist as state continues to be determined to finish off actors in civil society who consistently undermine 'state action' or are considered a threat to 'public security'. This is actualized by de registration, denial of licenses, surveillance and even imprisonment of such actors.

The state considers civil society as its nemesis. However the other side of the state is that it works cozily with the developmental NGOs and other voluntary groups that are not politically active. Such NGOs are partners with the state development sectors in such forums as District Development Committee (DDC), and other developmental forums. The potential for the two working together exists. Dialogue sobriety and maturity can be realized. The civil society must appreciate the entrenched power and machinery of the state. They must accept the legitimate claims of the state as the protectors of the citizen with vast economic and political power and influence. The state must engage with civil society actors by granting them chance for dialogue and debate. The civil society has a large reservoir of intellectual leadership and power and though working together for the common good of the country progress can be made. Civil society elements must obey the state laws as they exist and work to get the 'bad' laws to be repealed and amendment of the constitution.

⁴⁴ By Oduor Ongwen Chairperson on NGO council based on interview screened by KBC television on 2/9/99 at 6.30 PM

⁴⁵ The nane- nane/ saba- saba riots of 1997 were organized by civil society elements under the leadership of NCEC

⁴⁶ Wachira Maina has counted up to 200 NGOs that are owned by state officials

The relationship between the state and civil society in the 1990s is one of mutual distrust. The state does not trust civil society especially politically related organized ones. The state views such NGOs as conduits of foreign donors who are out to promote 'neo- colonial' control of the nation- state. The civil society elements view the state as not interested in political and constitutional reforms, as being against the aspiration of the people and lacking legitimacy. Infact the civil society has increasingly acted as if the state was non-existence party or an equal partner. The state of antagonism exists therefrom. The state antagonistic position towards the civil society led to the enacting of the Non Governmental organization Coordination Act of 1991.

The state relationship with civil society is one based on: -

3.3.1.1 ENGAGEMENT AND COOPERATION

Civil society engagement with the state is explained by the nature of activities of the former. The developmental NGOs considered as 'partners in development' by the state according to the Sessional Paper No.1 of 1986 (Kanyinga et al, 1998:23) have collaborated with the state in the areas of poverty alleviation and service delivery. Others involved in sensitive matters like public peace and security e.g. Nairobi Peace Initiative and NCKK Peace and Rehabilitation have no room for alternative in as far as their activities are concerned. They have to work closely with state machinery. The NGOs involved in the realm of Democracy and Human rights aware that the state is a principle stake holder in realization of human rights and administration of justice have engaged the state in dialogue and joint seminars in areas concerning good political and economic governance.⁴⁷ Another aspect of cooperation between civil society and state arises due to circumstantial need to reconcile the extreme position of antagonism adopted by state with regards to some elements of civil society. NCEC is an example which in 1997 took 'extremist' position against the state and as such MODAN emerged as a coalition of NGOs which were less abrasive and 'soft' with the state on constitutional issues whose mandate was to bridge the gap between state and NCEC.

⁴⁷ Based on direct communication by Wachira Maina and Mutunga Willy. CGD headed by Wachira Maina has a program that deals with parliamentarians from across the political divide

3.3.1.2 DISENGAGEMENT AND CONTROL OF CIVIL SOCIETY

Disengagement and state attempt to control the activities of the former also characterize the relationship between the state and civil society. The disengagement of the civil society is first and foremost explained by the nature of the work undertaken by the particular NGO. NGOs in Human rights increasingly find themselves in state of perpetual opposition with the state. This is due to nature of their work as civilian advocates of human rights and the method in which they carry such actions. Organizations like KHRC, Kituo Cha Sheria and Public Law Institute (PLI) are mostly at loggerheads with the state by their work and actions. The government has also engaged some civil society elements in constant attack, dirty propaganda and intimidation. Such NGOs have as such opted to disengage from working closely with the state. Example of such is the state relationship with Kenya Pastoralist Forum and (KPF) which the state declared as clandestine.

In attempting to control the work of the NGOs the state has used different strategies and tools. First and most important is that of **Legislation**. NGO Co ordination Act 1990 This Act was passed by parliament in 1990 and enacted in to law and as such became operational in 1991. It was meant t frustrate the registration of NGOs by individuals as government became suspicious of their intention and during the time was the height of the call for return to multi party system and a need for political reforms. With persistent attack on the state by religious organization (Ngunyi, 1996) and professional organization like the LSK and other emerging Human rights organizations (Mutunga, 1999) the state decided to check on the growth and activities of civil society.

The NGO Coordination Act of 1990 was enacted by parliament to as an instrument of controlling, regulating and monitoring the activities of NGOs by the state. This Act necessitated the creation of the NGOs coordination board whose chairmanship is based on appointment by the president ⁴⁸ by the state to be in charge of executing the registration and monitoring of NGOs. The executive arm of the board is the NGO Coordination bureau. This bureau is directly under Office of President's Provincial and Internal Security department. The Act also allowed for the creation of NGOs Council, which in practice is the NGOs trade union. This Act inter alia provides for co-ordination of the INGOs and NGOs operating in Kenya, their registration, and policy guidelines and

maintaining of data and records on these organizations. Today the NGOs coordination bureau has so far registered 936 NGOs, which is the functional arm of the NGOs Coordination Board.⁴⁹ The Board has the power to de register and or deny registration to NGO if its considered suspect by the state. CLARION is on example of NGO, which was de registered by the state in 1995 after its publication of report on corruption.⁵⁰ The state has regulated the activities of civil society by denial of registration so points out Ngunyi (1998). National Democratic and Human Rights Organization (NDEHURIO) has been denied registration as it is considered to harbor clandestine ideas and a threat to 'national security'.⁵¹ Second, the state has used, *Co-optation* to control dissent from civil society. The elements of civil society e.g. the one involved in market arena like Federation of Kenyan Employers (FKE), Central Trade Organization Union (COTU) have enjoyed 'flattery' relationship with the state leading such elements to be well within influence by state powerful actors and ruling elite. The evident donor funding and facilitation explain antagonism by state on the part of civil society. The state therefore sees such NGOs as harboring foreign ideologies and not representation of the Kenyan polity. Secondly the fact that political opposition thrive within civil society is another reason why the state mistrust intentions and activities of the NGOs especially the political ones. The government expects NGOs to abide by the laws of the land and the fact that some civil society actors avoided that like NCEC did in 1997 accelerated the mistrust. To the state civil society is the 'opposition parties' from backdoor⁵². The state considers politics to be issue for political parties and not NGOs whom they also accuse of harboring western values and agents of western neo colonial intentions to dictate the developing nations.

3.3.2 CIVIL SOCIETY AND SOCIETY

The Kenyan society is one which is multi ethnic and whose political - economy activities has been dictated by historical forces beginning with the colonial government and the many decades of leadership by the elites. Given that Kenya is multi ethnic society, politics along ethnic lines has been a significant factor in the way political and economic power has been achieved. Distribution of resources and 'political' goods has been tied to

⁴⁸ NGOs Coordination Act of 1990 Section 4a.

⁴⁹ Based on direct communication with a senior Research Officer with the NGOs Coordination Board

⁵⁰ CLARION by court order regained registration

⁵¹ 'National Security' for good and otherwise reason has been the states excuse on clamping down on opposing views.

⁵² According to direct communication by a Senior Research officer with NGOs Coordination Bureau. Backdoor here implies 'foreign based ideology and backing'.

ethnic politics the fact that is manifest in the way Kikuyu community emerged a politically and influential economic community due 15 years of President Kenyatta's leadership. President Moi followed footsteps of his predecessor and perfected the art of politicization of ethnicities by empowering and favoring 'small' tribes and especially his Kalenjin tribe against other major one. (Maina and Katumanga, 1999). Kenya is also a class society. This means that it is politically and economically dominated by the bourgeoisie and the middle class elites. Wealthy Kenyans as such are the ones who have been politically favored by the regime or are the ones who are politically active be they in the ruling party, position parties or to a good extent in civil society. There is uncomfortable relationship involving the minority ruling elites and the majority working class, peasant and the proletariat in general. Kenya is a heterogeneous and pluralistic society. This holds true for civil society too. The most striking thing about the civil society and society in general is the fact that the latter are polarized along ideological constructs of (development and democratization) project. The fact that civil society is ethnically polarized politically divided and the fact that it is dominated by the middle class elites is reflection of the Kenyan society and its values.

3.3.3 CIVIL SOCIETY AND MARKET

Civil society is composed of those Kenyan who are well off at least economically and intellectually. The relationship between civil society and market actors continues to be uneasy. The market players especially the industrialists, banking institution, manufacturers and business class have engaged the state in their actives and snubbed civil society activists and disengagement strategies with regards to state. The market actors regard civil society strategies as not being conducive for private sector. As such private sector actors and institution have adopted the attitude of 'cutting deals' with the state in through dialogue and negotiation. The status and wealth of private sector and market actors in general is explained by the fact that they have been beneficiaries of the political patronage by the state. Cooperation between the market actors and civil society therefore seems to hinged on condition that civil society change its strategies and not being confrontational with the state. However increasingly certain market players like the FKE, KAM are adopting advocacy tendencies in demanding for greater accountability by the state a trend that civil society can respond to. The fact market players like KAM and FKE are increasing their advocacy stand provokes a review of the general theory that explains civil society activities in Kenya. The current theory is in adequate in that it only

adopts organizations that are generically geared towards state democratization as being part of civil society. The questions therefore that begs further investigation is to whether when such market actors are agitating and pursuing democratization agenda are part of civil society.

3.4 CONCLUSION

This study exposes the dangers of the underlying assumptions of literature on civil society in Africa and Kenya in particular that good civil society is one that is populated by professionals groups, religious organizations, human rights lobbies or development NGOs. The non-popular ones are those that are fall under the tradition association groups which are informed by ethnicity. The civic organizations that are attempting to leave ethnic loyalty behind and is animating forces of class and ideology is then considered to be important. These assumptions are wrong. In Kenya today the traditional association groups continue to inject and influence what happens in the more formal civic organizations. There is a very important role played by the (extended) families, clans and ethnic welfare associations especially in providing political interpretation and to a good extend mass influence on the political standpoint of its membership. These groups are the only category that have legitimacy due to their mass support and voluntary membership base. From this chapter is obvious that four actors inform the civil society praxis in Kenya, viz. the State, Class, Ethnicity and Donors. This in effect has created polarity in civil society. In Kenya today there is the brand of civic organizations that are 'donor funded' e.g. the Human rights democracy NGOs. Secondly we have 'state driven' organizations e.g. the GONGOs and lastly we have the 'popular organization' e.g. the ethnic associations, youth organizations, political parties, rural community based associations, informal groups like street hawkers, co-operatives etc. The above dynamics and analysis of contemporary civil society in Kenya is reflection of the dynamics of Kenyan society in general.

CHAPTER IV

CASE STUDY: CITIZENS COALITION FOR CONSTITUTIONAL CHANGE: THE 4CS

4.0 INTRODUCTION.

This chapter mirrors in to the Citizens Coalition for Constitutional Change (hereinafter 4C) as an example of the organized civil society group of the 1990s. It investigates the activities and the potential effectiveness of 4Cs in their quest for good governance and democracy in Kenya. The second objective is to investigate the extent to which the 4Cs strategy fits in to the wider thesis of the state democratization process. Third object is to show how 4Cs has contributed to the building of civil society culture in Kenya a rather analytical and descriptive format.

4.1 HISTORICAL AND POLITICAL BACKGROUND

The 1992 marked the peak level of civil society activism in Kenya as many groups emerged to contest the political space vacated by the retreating state. 4Cs fits in the category of the 'Human rights and Democracy' sector of the civil society. 4Cs emerged as a middle class project situated in the 'bourgeoisie sectors' of the civil society. (Mutunga, 1999: 71-91) Ideologically 4Cs is informed by the Neoliberal concept of civil society rooted in the liberal democracy discourse. 4Cs emergence was inspired with radical activism reminiscence of the MAU MAU⁵³ movement of the pre independence Kenya 4Cs came into birth as an idea that followed the process in which three legal cum human rights organizations: the Law Society of Kenya (LSK), the Kenya Human Rights Commission (KHRC), and the International Commission of Jurist-Kenya Section (ICJ). Motivated by low confidence in the state and disappointment with the human rights situation in Kenya and flawed multi party elections of 1992 (Mutunga: 1999:74), the three organizations came up with a model constitution draft titled: "Kenya Tuitakayo"⁵⁴. This action led to the formation of steering committee to handle the constitutional reform agenda by the end of 1994. On 9 January 1995 after process of consolidation 4Cs came into existence. Its motto was and has been since "Kenya Tuitakayo, Katiba Mpya"⁵⁵ 4Cs an initiative of the three organizations was then joined by other groups in governance

⁵³ MAU MAU was a violent armed independence struggle by section of Kikuyu community membership

⁵⁴ It means "The Kenya We Want"

and democracy sector among which included; trade unions, student unions, professional groups and other peasant upcoming initiatives. (Maina: 1999:33). The membership of 4Cs grew from 3 in 1995 and by the end of 1997 it was 60⁵⁶. Three factors account for its emergence. First, the disillusion by the middle class elites with the 1992 multi party elections that KANU defeated the ethnically polarized political opposition. Second, the desire by the urban-based professionals to offer a alternative political platform void of ethnic cleavages. Third, the class struggle between the ruling elites and the elites in civil society, 4Cs offered the disaffected elites to seek to protect their material and political wealth in an alternative platform. Fourth, the availability of donor funding and attention to a more institutionalized democratic strategy in which constitution-making project was one. Foreign funding, concedes, Willy Mutunga (1999:105) helped in the consolidation of the 4Cs especially in the setting up of its secretariat and the many workshops that were conducted.

4.2 COMPOSITION, POLITICAL AND ORGANIZATION STRUCTURE OF 4CS

4Cs is a coalition of like minded civil society organizations broadly engaged in the area of state democratization project and human rights issues. Organizations ranging from religious bodies e.g. (NCCK, Catholic Church), Islamic groups, trade unions, professional bodies, private business interests, co-operatives unions, academic staff and student unions, individuals from within and outside Kenya form the bulk of it. 60 organizations are affiliated to 4Cs⁵⁷. 4Cs' structure of leadership is one in which a steering committee composed of membership of 60 people' head it. At the apex of this committee is four Co – Chairpersons among who for long has included Dr. Mutunga Willy and Bishop Nthamburi, Bishop Mwana a Nzeki and Sheikh Munir Mazrui and Tabitha Seii. The chairpersons are in charge of chairing the committee sessions and also oversee the activities and the reports of the steering committees. The steering committee is composed of representatives from religious organizations, professional, women, youth, student organizations, political opposition, trade unions and 'individuals.

4Cs political structure is loose and not defined at any rate. Politically and structurally the political parties that are part of the 4Cs wielded more power and influence At the top of

⁵⁵ It translates as “The Kenya we Want, New Constitution”.

⁵⁶ This is according to 4Cs report of 1997

its political power structure are the opposition parties politicians especially those who are members of parliament. These personalities have offered 4Cs attention and mass support from their constituencies. The political opposition members especially those who were Members of Parliament provided the leadership and influence given their populist support, media attention and donor funding They wield political power in the sense that they publicize the agenda of 4Cs. Second in the political ladder are the technocrats who are the initiators of the coalition. These technocrats are lawyers in LSK, ICJ and KHRC who draft, initiate and provide the policy and agenda of the coalition. They are also the political, intellectual and moral powerhouse of the 4Cs. Following the technocrats are the religious leaders from partner organizations like NCCK, Catholic Church etc. Religious leaders offer spiritual inspiration and guidance and advice. They also use their constituency for mobilization of support for 4Cs' agendas. At the bottom of the political ladder are the representatives of NGOs, youth groups, women groups and all other such movements that were part of the coalition.

The implementing organ is the secretariat composed of youthful activist persons. Secretariat is composed of seven salaried staff members. The secretariat is composed of 2 project officers and is headed by a CEO who reports to the steering committee. The secretariat are hired by the members of the Coalition who advice the steering committee. 4Cs is entirely financially funded by foreign organization from the western democracies among which include Ford Foundation- (USA), HIVOS- (The Netherlands, DANIDA- (Denmark); USAID- (USA); Swedish Aid Agencies. The funding from the foreign donors should in part read the conditionality of 4Cs being the agent and the implementer of the donor interest in Kenya.

Having been established as a coalition of NGOs and other civil society groups concerned with democracy and human rights sector concerned with the constitutional reform in Kenya, its objective then follows that it was to market the idea of their agenda⁵⁷. The draft constitution around 4Cs was initiated was meant to be a working document which was to serve as the reference point for Kenyans when discussing the form and content of the constitutional process. The clarion call of "Kenya Tuitakayo" accordingly is grounded on the altruism that a new constitution will be a true shield and

⁵⁷ Cited from 4Cs records and 1994 report

⁵⁸ The agenda here being the precious' new constitution that had been drafted by LSK,ICJ and KHRC

defender of the citizens. The new constitution is believed that will inspire a democratic culture in a democratic process that is open, participatory and inclusive. The normative goal of 4Cs is to work as a coalition towards a creation of a culture of concern and respect for the principles of constitutional and democratic governance in Kenya.

4.2.1 4Cs OBJECTIVES

The objectives of 4Cs are in line with its ideological frame. These objectives reveal a wide spectrum of issues (in) directly related to the project of good governance and democracy in Kenya. The key objectives include: -

- Provision of a process for constitutional making that is truly democratic and participatory
- To provide alternative proposals for the existing constitution
- To advocate for participation in a peaceful constitutional process
- To facilitate dialogue between the government , the political opposition , civil society and the public
- To promote the role of civil society organizations and institutions in the making of constitution
- To advocate for participation in peaceful constitutional change
- To create a national forum for constitutional debate
- To conduct civic education programs throughout the country
- To offer technical resources and expertise in constitution making

4.2.2 APPROACHES AND STRATEGIES

To achieve the noble objectives of these objectives 4Cs has uses the varied strategies within its mandate. These activities have included the publication of a number of brochures, booklets (some translated in to vernaculars)⁵⁹. Second is the use of seminar, workshops and conferences aimed at addressing themes related to the constitution. Third, 4Cs has used drama and theatre as a tool for educating the public. The Theatre group has traveled to many towns in Kenya crusading for mission and vision of 4Cs. Public relation materials have been developed with messages that are provocative and aimed at raising publicity and public awareness. In 1995 15,000 stickers, 1,600 T-shirts

⁵⁹ According to December 1995 report 3,500 copies of 'model constitution' had been published, with a summary and highlights of the same translated in to 10 vernacular languages and total of 64,000 copies published.

and 4,200 lapel badges were distributed by the steering committee to the Coalition membership. 4Cs has also used publications on different areas and topics related then constitution and lastly consultations with political parties. 4Cs worked closely with NCP⁶⁰. 4Cs has also been engaged in consultancy where members of the Coalition have acted as resource persons in workshops organized by partner organizations as well as meeting with donors locally even travelling to donor countries to report on the work as such creating awareness and lobbying for international recognition.⁶¹

4Cs continues to use mediation and lobby tactics to get their message across to the public and to the state. Lobby and consultations has been another strategy that 4Cs continues to employ in order to realize their goals. 4Cs has also engaged propaganda on both local and foreign media about the ills of the state. Lastly it has engaged '*disengagement-tactics*' advocating for radical and tough stands against the state. The 4Cs as such (dis) obeyed certain legal dictates present in then constitution and defied the state in legal areas that it considered oppressive.

With its infant existence 4Cs has managed to be one of the critical players in flagging the constitutional review project in more pragmatic and alternative style by translating their vision into local dialects. 4Cs continues to offer intellectual leadership on the issues of constitution making an fact attributed to the number of lawyers who form its membership.⁶² The Coalition has also continued to press for changes in the constitution in fact their pressure for changes lead to the IPPG minimum administrative and legal reforms of 1997 which enabled the opposition politicians to participate in the 2nd multi party elections. Through their many workshops, civic education, campaigns and advocacy work, many people have by no means been reached and conscientization with 'alternative message'. Due to diversity of its initial membership⁶³ 4Cs has helped in creation of substantial plural civic culture. NCEC is one of the natural outgrowths of the 4Cs pluralism and diversity. 4Cs is also included in the constitution review process where they offer technical support to the process. Their publications and promotional

⁶⁰ National Convention Planning Committee a partnership of opposition political parties and civil society organizations

⁶¹ Based on December 1996 Report

⁶² The 'model constitution' prepared by ICJ, LSK and KHRC is a case in point of intellectual leadership given by lawyers

⁶³ 4Cs membership has declined tremendously since being abandoned by the political opposition and the religious organizations. Its membership today is composed of middle class friends who sit in the coalition more on personal capacity than institutional level.

materials mostly about the critique of the current constitution remains good asset for informed citizenry.

4.3 4Cs AND THE CONSTITUTION REFORM AGENDA

4Cs is constructed around the normative and cardinal commitment to a 'people' based constitution overhaul and review. It has agitated for the repeal or amendment of the oppressive laws undemocratic legal and administrative practices. The view of 4Cs in demanding changes in the constitution is that it provides for meaningful and sustainable democratization process.

Willy Mutunga (1999:76) writes of 4Cs' constitutional project as being one in which all the problems bedeviling Kenya would be discussed. The constitutional model prepared by ICJ, LSK and KHRC was the guiding torch upon which the 4Cs coalition would negotiate with all other critical actors and stakeholders. Towards this goal 4Cs is committed to the amendments of all oppressive laws inhibiting the enjoyment of the fundamental rights and freedoms of the individuals, and basic political participation in the governance of Kenya by the citizenry.

A closer look into the constitutional making process spearheaded by the 4Cs reveals very modest achievement. The constitutional project has stalled and failed to deliver the normative goals and vision discussed in flattering depth and breath by Mutunga (1999: 74-111). The explanation for the stalled constitutional project whose prospect for dormancy is currently real that ever before is gendered in the fact that it was exclusively a middle class agenda. Further, it has taken a top- bottom approach in which the elites define it, dominate the discussion and in practice the dictate it to the rest of the citizenry. It is also one of those agendas that is donor funded and laced with idealism. The majority of the citizenry faced by survival demands have failed to relate to the call for change in the constitution. Majority Kenyans do not understand the political language being used by the elites, they have never seen the constitution, which is written in a foreign language, and have no idea what it entails. The few who follow the debate do so in retrospect to find out how the government has acted extra constitutionally in the past with impunity. Simply constitution review agenda is not the priority of most Kenyans. Further, the attempt to imitate the western democracy by advocating for constitutional review project has not delivered simply because liberal democracy has its own pre

condition and mitigating factors most of which do not exist in contemporary Kenya. Kenya is at a transitional stage with numerous structural and managerial problems and if ever the western styled liberal democracy was to materialise the country it will never be the same as western donor desire and or imagine it and certainly not in the way 4Cs envision it.

In the context of 4Cs the constitution debate is crippled due to its current weak membership and lack of commitment and consistency by its partners and this is compounded by its weak organizational and institutional frame. Divided interests on the part of 4Cs coalition is manifest in the way the political opposition⁶⁴ parties joined up with KANU to agree on IPPG package of minimum reforms and went ahead and participated in elections even while the position of 4Cs was for boycott of elections.

The cleavage between the urban based NGOs and the rural ones also explains the failure of the 4Cs constitution review project as it scarcely consulted and or included the latter. The other reason is based on 4Cs methodology and strategies. 4Cs spent more resources and time in Nairobi with donors and with elements of the state instead of building a constituency based on popular base. Their operandus vivendi of speaking the very language of both the donors and that of the state soon being redundant and irrelevant. The current constitution of Kenya is not one of the best representation of a democracy however conceived. However the problem has been that it has never been fully implemented and obeyed by the ruling elites. The state has (mis) used, abused the constitution. The state has selectively applied it to silence dissenting voices. The executive has acted by design and default as if it were above the law. What the politicians and majority membership of the 4Cs wanted were changes that would allow them to compete for political power which in Kenya translates as a means for personal enrichment. There is a political opportunism and strategy. These factors coupled by the re emerging statist tendencies of the regime have meant that the constitutional review agenda being practically dead in as far as 4Cs is concerned. What Mutunga has termed 'Constitution making from the middle' is yet to be realized. (Mutunga, 1999:75-81)

⁶⁴ The opposition political parties like DP, Ford Kenya, Ford Asili, SAFINA, SPD, NDP etc formed the bulk of the 4Cs coalition mostly at individual level than institutional level

4.4 4Cs, DEMOCRATIZATION AND GOOD GOVERNANCE PROJECT: CRITICAL ANALYSIS

This far we have established that 4Cs is a coalition of likeminded civil society organization linked informed by the goal of democracy and good governance via means of constitutional review. With its diverse membership composed of highly trained, learned, propertied middle class, the extent to which 4Cs has contributed towards its noble goals and creation of civic culture should therefore be questioned and tested. Arising from this is a need for critical evaluation and analysis of 4Cs as a pointer towards examining whether there is any causal relationship between democracy and civil society.

4.4.1 DEMOCRATIZATION FROM THE 'MIDDLE'

4Cs think of itself as the mediator, the umpire, the advocate, the facilitator, player-actor, educator, learners, listener, defender of people's rights, a convenor and lobbyist.⁶⁵ Driven by the constitutional making project it in principle adheres to normative principles of; non-partisanship, inclusiveness, non-governmental with continuity open structure democratic and committed to rule of law and respect for human rights. 4Cs then normatively is the ideal outcome of the ongoing transition process in Kenya.

4Cs in practice is a classic case of middle class top-bottom agenda and democratization project. A critical look of 4Cs membership further reveals the fact that it is male dominated, heterogeneous, professionals (mostly lawyers)⁶⁶ who claim to represent the interest of the rest of society. 4Cs internal democracy is wanting reflected in its top-down structure in which final decision making power is vested on the elite club of steering committee. 4Cs is also donor dependent a factor that compromises its independence and influences its operations. It is a 'supply driven' organization and not a reflection of the demands by the popular majority. Further its lack of rural connectivity means that very few Kenyans know of its existence beyond specific places in Nairobi and selected towns in Kenya.

Another problem with 4Cs approach is that their language is that of the state. They have chosen not to be the 'alternative voice' but they are more of displaced 'ruling elites' interested in their own welfare. 4Cs is partisan organization composed of elements

⁶⁵ This information is from the 4Cs report of 25th February 1999.

interested in state power a fact evident by the way its opposition political membership rushed into 1997 election after IPPG reforms even while it was principle of 4Cs for boycott. Questionable therefore is how within such framework democracy be achieved or even consolidated. Further the impact that 4Cs has made on the state is inconsequential. It has instead benefited immensely ironically due to the state's despotic activities. The minimum changes implemented by the state have been largely due to external pressure and dwindling internal economic resources than pressure from organizations like 4Cs.

In spite of the above weaknesses of 4Cs, it does retain the potentials of being a countervailing force the state democratization project. 4Cs has demonstrated that it can offer intellectual leadership the fact that state has acknowledged by its inclusion in on-going constitution review process that is state led. 4Cs' publications in vernacular and its use of drama and plays are avenues of opening up the debate to Kenyans in especially rural areas at their own level and terms and seize from its exclusivity tendencies. 4Cs can achieve all the flattering and platitudes ⁶⁷ if it is to undertake a policy of inclusiveness.

Two problems arise out of this phenomenon. The democratization trajectory of Kenya has stalled. This is largely because it is 'foreign driven' and implemented by civil society. Kenya is on the track of liberal democracy a situation, which has its own pre conditions. It is questionable how such process driven by and funded by 'outside' forces can be achieved? Questionable also is to what extent the gains made so far can be consolidated. The second problematic arises out of the methodology error. 4Cs has chosen constitutional review and with time it has lost substantial amount of its membership and funding.

Democracy is a bottom- up phenomenon at least at the normative level. It cannot be achieved and even consolidated if the method used to achieve it is the very method that will replace the elites of the state with those in civil society. Equally questionable is whether the on going agenda of civil society that is foreign simulated and funded can translate in to democracy and good governance. Third, is the critical issue of popular

⁶⁶ These professional are either partners and or close friends at a personal level

⁶⁷ See Willy Mutunga (1999) chapter on 4Cs and also 4Cs reports of 1996-99

constituency and legitimacy. Democracy is about majority rule by consent. The majority of Kenyans remain sidelined to touchline of political theatre dominated by state and elites in political opposition.

Democracy is stagnant in Kenya because of lack of alternative approach by the civil society and political opposition and also due conflict of interest and lack of addressing the structural problem of the society. The on-going transition is firmly State-driven with civil society and political opposition being the prime beneficiaries. There is no causal relationship between civil society and democracy in Kenya.

4.4.2 4CS AND CIVIL SOCIETY THESIS IN KENYA

4Cs wide membership of like minded partner organization is worth examining critically with view to reflecting whether it contributes to building of the civic culture that is 'demand driven'. Is 4Cs committed to the building of the civil society culture that can be positive in the state democratization project?

4Cs is committed to constitution making as tool for state democratization. Very little can be shown of areas in which 4Cs has responded to wishes of the people outside its elitist membership. It is questionable then whether by its highly elitist membership, language and agenda that they can constitute to building of a vibrant civic culture. The conspicuous ethnic membership by Luos and GEMA communities in 4Cs is questionable as to 'smaller' ethnic communities are deliberately being overshadowed by the otherwise largely ethnic community that equally dominate political opposition. Building of a civic culture in part requires full participation and qualitative representation of the people. Civil society vibrancy is possible if citizens are free to pursue their interest without interference from the state or such forces that represent their interest. The agenda and structure of the 4Cs does not allow room for much debate aside from the its stifling constitution one. In this regard 4Cs does not deliver the promise of being a force in building a civil society culture accommodative of 'alternative ideas and approaches?

Civil society is normatively argued to be participatory, people friendly, flexible and alternative agency for achieving alternative development. 4Cs as a civil society organization follows the mainstream dominant pattern of the state, it is bureaucratic and speaks the political language of the state. It is from this that rent-seeking characteristics

that have been state domain is currently being nurtured in 4Cs as in deed in other organizations within civil society. This is sure fact given is excessive donor dependency and its implied patronage. The emergent civil society organizations that are donor dependent have weak organizational and institution base. They are weakly developed, ethnic manipulated, void of internal democracy and legitimacy and are equally (mostly) non-voluntary and effectively lacking necessary infrastructure of being the countervailing power to the powerful state. The potential for growth is real as the is political opportunity for it. However with cleavages informed by ethnicity, themes, class ad lack or rural connectivity, competition for dwindling resources and lack of popular base renders civil society in Kenya to be in part a reflection of the society and that of the political state.

4.4.3 CONCLUSION

It was discussed in chapter two that the overwhelming intellectual fashion of state- civil society duality does not obtain necessarily in Kenya. The case of 4Cs as a constitutional making initiative and a force in democratization process brings in to focus the extent to which civil society should be engaged in politics and if so how it should be conducted. Put the other way is whether civil society is the avenue of popular political involvement?

4Cs method of politics has been that of consulting with its partner organizations and the donors instead of increased bargains with the state with whom power is vested and held. Politics is at simplistic level competition for power and as it is in Kenya politics is a dominion of ruling elites and their counterparts in the opposition and civil society. Politicians are the wealthy citizens as politics is means of personal enrichment. The fact that 4Cs has been engaging the 'wrong' people in their quest for liberalization of state and politics in part then laments a serious problem for the society members. Civil society elements in Kenya continue to speak the language of the state as funded and suggested by the donors. 4Cs do not offer alternative avenues and is not agency of alternative politics. The same holds s for most democracy and human rights NGOs. Politics in Kenya then is and continues to be practiced by elites and the middle class. The rest of the citizenry is marginalized and left to be political observers who only become useful when elections are due. Politics in Kenya is not liberalized and not bottom up. Politics in civil society is elite dominated capturing the middle class interest. The rest of the society will have to reinvent something new for a change.

CHAPTER V

CIVIL SOCIETY IN KENYA: THE CRITIQUE

5.0 INTRODUCTION

Having looked into the 1990s civil society and having explained how it manifests itself in Kenya; this chapter takes a critical perspective restricting itself to the Kenyan context that can also act as a mirror in to the dynamics of Kenyan society at large. This chapter sounds a warning note that what has dominated literature about civil society being the promise of democracy does not obtain and such furthering the need for relative objectivity and review of some basic assumptions on civil society.

5.1 CIVIL SOCIETY AND MIDDLE CLASS FACTOR

Njuguna Ngethe (1992) wrote that ' what is believed about NGOs (and civil society groups) frequently obscures what is known about them'. (Cited in Maina: 1999:139) This warning holds in Kenya a situation where the conceptual understanding of the civil society is weighted in favor of the elites and the moneyed middle class. In 1990s Kenya middle class has been the most dominant actors and players in the political economic development. The middle class then includes: - academics, intellectuals, businesspersons, connected businesspersons, merchants, landowners, and professionals. These elites⁶⁸ are political opportunists who have perfected the art of maximizing the available social space for material and economic well being. In Kenya this class of people were also former state ruling elite who fell off with the regime and use NGOs as an anchorage for political revival.

The rationale for the middle class dominance in the civil society groups is linked with the fact that they are the taxpayers from where the state gets its funds. Their level of sophistication, education and orientation explains the second reason for elite domination in civil society. Most of them having been part of the ruling elite know the political language of the former and with available donor funding they have as such resulted to civil society to further their political activities.

⁶⁸ See Appendix 1 for example of the 'middle class' initiatives.

The emergent civil society organizations of the 1990s are initiatives of this category of social class. These initiatives are urban based, 'English-speaking' sophisticated and located in the 'Democracy and Human rights ' sector of the civil society. The middle class are interested in their own agenda which is in line with that of the donors i.e. democracy, good governance, human rights, political and constitutional reforms, clean elections and liberalization of politics. Underneath the ideological call for democracy, good governance and human rights etc conceals a real goal of the urban elites, which is economic empowerment, which then they can use for political power. Shaw and MacLean (1996:251) are right in asserting that the material basis and interest of elites is real as much as their interest to capture the state power.

The problem that elite domination in civil society creates is that civil society then cannot be used to fully understand and analyze the state as most liberal scholars have argued. Secondly the top-down manner in which civil society is practiced speaks doom for democratization project. The elites claim to be the "voice of the voiceless". The truth however is that they speak for their own interests and eat where the state is eating. The middle class NGOs in Kenya spends more time consulting with donors, presenting sophisticated proposals for funding and dominating the liberal emergent media at the expense of spending time with the proletariat whom they fervently claim to represent. . The problem gendered in the middle class factor in emergent civil society organizations is they claim to have a constituency, which is the proletariat. These middle class initiatives are problematic in that their political and operation language is that they exist to protect the 'common wananchi'⁶⁹. The realities however is that these middle class initiatives have no popular base, no proletariat constituency. While they claim to protect the 'common citizens', their interactions with the very people is wanting, they do not speak the same language i.e. language of the proletariat and further being urban based and located in what Mutunga (1999:51-67) termed 'the bourgeois section' they have ideological and social political relationship with people outside that class.

Democracy cannot be achieved along the path of exclusive domination by a minority class however powerful and moneyed. Democracy in principle is a bottom up structure. The Kenyan case needs more review and restructuring to give the people the space due

⁶⁹ This is a common political rhetoric by both the ruling elites and political elites in civil society. 'Common wananchi' translates as 'ordinary citizens'.

to them to determine what they want and to voice it without waiting for the elites to do that for them. The last point here is that civil society culture cannot be built in hypocritical situation and highly stratified society where the minority dominates all and every sector, wealth and power. Democracy is about majority participating in the governance and politics and economics of the country. The contemporary civil society in Kenya is neither the promise of such democracy. The many 936 NGOs available by economic interest coated by ideological construction of being vehicles for political democratization. The NGOs are neither participatory nor are they vehicles for mobilization for the citizenry. This is dangerous for transition State like Kenya and certainly it is not good for democratization process.

5.2 CIVIL SOCIETY FORMATIONS AND OPERATIONS

Civil society is '*supply-driven*'. This is due to the fact that the genesis of civil society being linked to donor funding and facilitation. Civil society is constructed along a very narrow base in as far as legitimacy is concerned. It has weak organization and institution structure. In its operation and formation the following weaknesses are noticeable.

The emergent civil society has a very weak base in as far as legitimacy is concerned. This is primarily because of its lack of mass participation and critical rural connectivity. Further, most emergent elite initiatives that urban based are not member based organizations and as such exists as exclusive club of the middle class, intellectual aristocrats, propertied civil servants etc. This problem is mostly found in democracy and human rights NGOs. The developmental NGOs that operate in rural Kenya are less participatory in practice and work for the poor and not with the poor. These NGOs have not addressed poverty as a political issue and as a human right entitlement. The poor are scarcely involved in policy decision and implementation of the project. The 'democracy and human rights NGOs claim to be harbingers and advocates of democratization of the state. However a critical evaluation of their activities during the on going transition period reveal the fact that most of these groups have no basis to claim any success. Further the fact that they lack popular mass support and are neither plural reveals their very narrow basis of legitimacy. The issue of legitimacy has not been resolved in Kenya. Question that needs answers is as whose legitimacy civil society is pegged on and why? Legitimacy for whom?

Second weakness is that of duplication of activities. Wachira Maina (1998:147) in his study of the contemporary civil society elements in Kenya found that over 40 NGOs based in Nairobi conducted 'civic education', which has become the 'catch program'⁷⁰ of the 1990s civil society organizations. The duplication of activities is manifest in many seminars that are organized mostly in posh hotels. Duplication then comes in where one NGO would conduct a training on the very same topic and content that another NGO would have handled and some times on the very same people. This leads to the recycling of the ideas and people. What this implies is lack of co-ordination and networking and even more compelling is the fact that these NGOs exist in praxis as competitors and not partners. This duplication of activities especially in the area of civic education brings about confusion, misinformation and often misinterpretation of what democracy entails. Duplication of activities is also expensive and time consuming even redundant. Third, the fact that they are often held in posh hotels gives a wrong picture to the beneficiaries and creates wrong expectations. Fourth, the language used in most of the civic education seminars is foreign and materials which are not easy to internalize by the people. It has also been the breeding place for corrupt malpractice by both the beneficiaries and the NGOs officials. The corruption is manifest in the way facilitators are often being remunerated. Often the very same NGOs staff on full salary would pay themselves honorarium for civic education facilitation. The beneficiaries having been treated in posh hotels usually are given transport allowances. This has led to creation of "Rented Audience"⁷¹. The beneficiaries aware of available funding have also perfected the art of faking their transport money, receipts and tickets so as to maximize from the available funding

Another area of contestation is that of weak institutional capacity especially in the democracy and human rights NGOs. Such NGOs lack human resources and inadequate funding in order to sustain the task ahead of them. This has led to individualization of the civil society by the elites turning the NGOs in to 'fiefdoms'. This lack of internal capacity avails problems in the areas of coordination, networking and internal democracy. Even more compelling is the fact most civil society organizations are

⁷⁰ Civic education is one of the leading donor funded program in Kenya.

⁷¹ Rented Audience is a group of people who are famous for attending civil society organized civic education in which they have perfected the art of asking 'right' questions especially when donor representative are in attendance and giving good evaluation report on the way such civic education has been beneficial.

characterized by the competition for resources as opposed to cooperation and partnership.

Internal democracy in form of leadership and daily office relationship and structure is not something that one finds in civil society elements in Kenya. Civil society has a phenomenal weak organizational structure, which has led to lack of internal democracy. The NGOs in democracy and human rights are in praxis fiefdoms of the individuals who lead and or own them. Lack of internal democracy is manifest in the way the leaders of such NGOs operate. Probably the best example of NGO that has had same leadership for over a decade is that of GBM (see Ndegwa, 1996:81-95 and Kiraka, 1998:35-67) where Prof. Wangari Maathai has been at the helm of leadership since 1975.⁷² Lack of internal democracy constrains institutional development and even the potential of building a vibrant civic culture.

5.3 CIVIL SOCIETY AND DONOR DEPENDENCY SYNDROME

Civil society in Kenya is donor dependent. Both donors and the civil society activists acknowledge this fact.⁷³ NGOs in Kenya are not only dependent on the donor funds but they also lack 'independent' funding sources. So real is the donor influence in Kenya's civic organization that the former latter practically implements the agenda of the former. This has created a dependency syndrome. Donor funds are ideologically informed. The donor funds represent the entrenched donor interests in the country, which is not necessary, a reflection of what Kenyans want. It is the availability of donor funds that has made the emergent civic organizations to be 'supply-driven' and not vehicles of 'peoples' demands and or immediate concerns.

The danger of this dependency syndrome is manifest in the fact that the agenda that civil society organization stand is often 'exotic' and unattainable. Further the complexities in associational groups are never considered and the priority of the citizens ignored that is quest for basic needs. This puts the NGOs in a constant path of confrontation with the state that sees them as 'sell outs' for their western masters. Second, this dependency is

⁷² Prof. Wangari Maathai is the co-ordinator of Green Belt Movement. She challenged President Moi in 1997 general elections. President Moi has been in power since 1978.

⁷³ This is based on interview by two donor organizations representatives and four NGO's directors in Kenya. The answer was clear that "NGOs in Kenya cannot exist without donor funds

a malaise in itself in the sense that it is the breeding place for corruption. This corruption is manifest in the sense that the salaries that the NGOs staffs pay themselves are high and often unjustified compared to those of civil servants and private sector employees with equal qualification.

The Donor dependency is not healthy for state democratization project and creates few problems. Controversially therefore, civil society in Kenya is practically a project of the donor community. Tied to this is the issue of sustainability, how long will it be reliant on donor funding? Maina and Musambayi (1998:67) correctly argue that this trend has led to donors being "*Alternative State*". As currently constructed civil society in Kenya cannot be sustained if the donors were to pull out. This then calls for need for independent funding sources, creation of alternative sustainable development programs with the NGOs implementing people's agenda. Civil society needs strong institutional basis in terms of capacity and funding. Funding by the donors must not necessarily determine their agenda this is because currently donor funding and its conditionalities has compromised independence and sovereignty of the civil society organizations.

5.4 CIVIL SOCIETY AS THE MIRROR OF THE STATE

The Kenyan State of the 1990s confirms what many of its opponents have argued it to be. The state, we are told is authoritarian, repressive, neo-patrimonial, corrupt and ineffective. (See Katumanga 1998: 1-15; Makoude, 1998:35-60.) . Politics is the means for wealth acquisition and accumulation. The state therefore is essentially dominated by patrimonialism and patron-client system. Politics is the means for wealth acquisition and accumulation. The state dominates politics with the ruling elite also doubling up as the corporate elites. The political system is *top-down* and based on patronage.

The emergent civil society of the 1990s in theory was to be the antithesis of the state. It was to be plural force, the organismic force, the microcosm of efficient opposition politics, a plural countervailing force and a mark of democratization, (Kasfir, 1998:25), and a 'community of citizenry empowered enough to resist the excessiveness of the state'. (Hutchful, 1996:57-9) Civil society was to be the autonomous force and a buffer between the state and the citizens.

Within the Kenyan context therefore civil society was to be an autonomous body of politics that engulfed all ethnic communities, traditional association groups and institutions e.g. the (extended) family, ethnic welfare groups etc. It was to address issues ranging from environment, poverty, constitutional and political reforms, gender and human rights matters. To achieve these civic organizations were to be above petty partisan politics, to provide an alternative to ethnic politics, be transparent, efficient, internally democratic, populist social movement. They were to be people friendly and people-driven. It was also to be the boiling and the melting private social space for political aspirants, an oasis in the desert of hopelessness, political dictatorship and economic malaise. They were to be a people friendly and people-driven. The task of the civil society was to return ownership of politics to the people; be the platform for political debates and engagement, provide agenda for politicians, demystify state and politics, be a channel for participatory alternative development and a source for the empowerment and participation of the citizenry.

However increasingly in practice the civil society reflects the state in many aspects and has failed to deliver the promised expectations. A critical look at civil society reveals the very characteristics of the Leviathan. First, ethnicity is consolidated and exacerbated in civil society as indeed in the state. An investigation of most city based NGOs reveals conspicuous GEMA and Luo community domination who represent the largest ethnicities and currently are the largest communities in political opposition. These NGOs practice ethnic favoritism in terms of employment and recruitment of staff, networking and cooperation. Lastly ethnicity in civil society is manifested in the way decisions are made and even implemented. Emergent civil society like the state is informed by personal and professional friendship from where patronage and exclusive nature breeds.

Like the state, emergent urban-based civil society lacks fundamental and structural connectivity with the proletariat most of whom are rural based. Like the state the 1990s civil society is elite dominated. The elitist element implies then that the 'bottom-up' promise of the civil society as a force for change, as an agency of the masses does not obtain in Kenya. Further, emergent civil society has a weak basis of legitimacy, is characterized by lack of institutionalized approach and structure for dealing with problems choking the citizens. The same is true of the state. Corruption is as high in civil

society as it is in the state.⁷⁴ Further civil society is highly partisan and practically private 'enterprise' of their founders. They are not voluntary or member based and practices dubious values. Its characteristic lack of proletariat base makes it to be a perfect reflection of the contemporary state in Kenya. Lastly the political language of civil society is that of the state. This is compounded by the reality that the economic and political distance between the two in minimum and at best non-existence. The emergent civil society organizations have weak internal democracy and highly centralized leadership and like the state decision and policies are made in favor of the 'ultimate' boss. In sum therefore the 1990s civil society are perfect reflection of the contemporary state in Kenya

5.5 CIVIL SOCIETY AND ACCOUNTABILITY.

Corruption and lack of financial accountability in the emergent civil society of the 1990s remains one of its greatest weaknesses. This problem is so entrenched in most organized sectors of civil society viz. NGOs, professional organizations like LSK⁷⁵, (para) church organizations NGDOs etc. The corruption is explained first and for most by the available donor funds. Second, most of these organizations have weak institution and organization structure. Third, the emergent civil society because nepotism and ethnic favoritism often recruit ill-trained personnel and have no institutionalized accountability mechanism.

This malaise is not limited to the political and good governance NGOs but it is also true in developmental NGOs and individuals. In most development oriented NGOs save for big players who are international in orientation like Oxfam, Action Aid, World Vision etc. Corruption in civil society is manifest first and foremost in staff recruitment. The recruitment is often informed by ethnic factor and or personal relationship and not based on merit and qualification. Most job opportunities in NGOs are seldom advertised in the popular media. Second, corruption is manifests in the way work and tenders are awarded culminating in the financial accounting and financial accountability. Tenders are in practice awarded to 'friendly' organization after a 'deal' is negotiated between the two

⁷⁴ Based on direct communication by Dr. Willy Mutunga and Wachira Maina civil society advocates and scholars.

⁷⁵ The East African Newspaper of August 39th – 5th of September 1999 reports of 500 existing complain cases against lawyers in Kenya. This is in the wake of disciplinary actions taken against lawyer Otieno Kajwang MP who was accused of stealing his clients money

parties. Like staff recruitment tendering is informed by ethnicity, personal friendship and entrenched economic maximization.

Third, corruption is manifested in the way programs are run and or implemented. An example is in the area of 'civic education'. The NGOs that offer this program are famous for hosting them in posh hotels. The choice of venue is made in a way that the NGOs personnel get something in return out of it. There is a corrupt mutual relationship between such NGOs and the posh hotels where most civic education seminars and programs continue to be conducted. Further the consultants hired to offer the program are usually close friends of the such NGO and as such fees are usually based on personal negotiation as opposed to standard official fees. Receipting of payments and expenses often is dubious. Fourth, there is corruption in the way fund raising for civil society organization is conducted. The proposals are usually tailored and guided by the blue print specifications of a particular donor organization. The elites in civil society as such write specific proposal to specific donor usually for the same program. Such NGO then ends up getting multi funding from multiple donors. Such funding is usually geared for same project and the organization usually ends up maintain 'separate' books of account audited by separate auditing firm. (Willy Mutunga⁷⁶ 1999). Further, fundraising in western countries is usually done by the CEOs and founder of NGOs with the blessing of the donor organization. This is another breeding point of corruption that needs further investigation i.e. corruption between donors and the benefiting NGOs.

The overseas fundraising trips are dominated are reserved for the of the NGOs. The agenda usually ranges from fund raising, presenting paper on sensational subject usually about state problems and how the individual and his/ her NGO are struggling to address the problem. These NGIs are known for presenting areas of needs in form of (Four Wheel Drive vehicles, computers and other office machinery, more funds for paying salaries and allowances etc). Once such needs are met through donations the vehicles and such machinery become personal property of the founder or CEO⁷⁷ registered under his/ her personal name.

⁷⁶ Based on personal communication

⁷⁷ Chief Executive Officers

Procurement of office machinery and other relevant equipment and property another area in which corruption is manifest in civic organizations. The bidding of tenders is seldom advertised and or made public. Procurement procedures are as such private affair and concealed from the state and the public. The staff of the locally based donor organization negotiate 'deals' with the local NGOs in return to which they get their 'pay' out of the deal. The state also accuses the NGOs of failing to give accurate books of account and annual reports regularly and in good time. The NGOs are accused of often abusing tax and duty exemptions by the government to import things in to the country, which they soon sell out.⁷⁸

5.6 URBAN VS RURAL CIVIL SOCIETY SCHISM

Civil society in Kenya is polarized not only in thematic areas i.e. Developmental versus Democracy and human rights. The rural civil society organizations are characteristically developmental. They are largely apolitical while sum NGOs in this category choosing to remain neutral. The rural based civil society is concerned with 2nd generation human rights. Their work is in the areas of poverty alleviation, relief, service provision in terms on health and education, rehabilitation, farming and cattle rustling. Most Kenyans live in rural areas and as such are beneficiaries of the NGOs operating in the area. The Urban based civil society organizations are politically involved and ideologically informed. The founders are elites, academics and moneyed private sector personalities. The agenda of the urban NGOs includes: - Human rights; good governance, environmental activism, gender equity, political and economic liberalization. The concern of urban-based civil society groups is the civil and political rights. The urban NGOs receive good coverage and publicity, are more sophisticated and speak the language of the state and that of the donors. The trend of this divide is that the rural civil society has increasingly been atomized, passive and monotonous choosing not to address poverty as a political matter. They have chosen to steer away from politics. The urban NGOs have in their part avoided networking with their rural counterparts. Most urban based NGOs conduct civic education and other programs even in areas where there are a number of rural based NGOs without consulting them or even involving them.

⁷⁸ Based on direct communication by Senior Research Official; NGO Coordination Bureau of the Office of President.

The state on its part has employed the tactic of divide and conquers while repressing any dissent from the two divides. The state has also managed to scout and even court the rural based civil society elements by involving them in partnership development planning and implementation. This has served to break resistance and dissent from the part of civil society. Exceptions however exist in the way organized rural civil society react to despotism. In some cases the peasant have threatened to boycott food and or cash crops production forcing the state to intervene. In the urban set up the build up to the 1997 realized militancy and civil disobedience from the society members led by the NCEC that led the state to yield to minimum constitutional and administrative legal reforms.

Questionable however is how urban and rural divide that plague civil society can be addressed and fixed so that the two can be articulate and advocate for democratic changes and even consolidate the gains already achieved. The question of networking, coordination and building of organizational and institutional capacity needs to be reviewed. The urban based groups need to network with the rural ones and articulate the 2nd generation rights while the rural ones need to talk about civil political rights alongside their mandate. There is therefore need for 'collective anger ' (Monga, 1995) by the civil society elements against the state and not on each other. The challenge therefore is how to move beyond the barriers of ideological and methodological capture that divide the two sides. The state has a part to play and can act as a referee in bringing the two closer. The rural – urban divide can be conquered through increased networking, capacity building, organization and institutionalization of work, network and coordination. Clearly therefore there is urgency in addressing the divide if civil society is to be the midwife of democracy in Kenya.

5.7 CIVIL SOCIETY AS “RENT SEEKING”

During the on going transition civil society has become an arena of accumulation by the elites. This is manifest in areas such as over invoicing, fraudulent billing of seminar and 'renting audience' to participate in civic education. In the era where state democratization has dominated the talk of civil society groups, the actors in these sectors have consequently perfected the art of cashing in from the available funding.

This has led to emergence of 'Democracy Industrialists'⁷⁹. This aspect of 'Democracy Industrialist' is manifests in the increase of MONGOs⁸⁰ and NGIs⁸¹. Their founder(s) and or executive officers dominate such NGOs. The rent seeking character of the urban-based donor funded NGOs has led to personal and institutional competition for donor funding, exclusivity and lack of transparency. Patronage and lack internal democracy also characterizes such civic organizations. The operations of such NGOs reveal corruption in the way consultation contracts in such areas as civic education essentially nurturing patronage like the state is a reserve for minority group of elites. The politics of such NGOs is not one that is informed by demands and needs of the people and neither are they grounded on firm idealistic frame. Politics, both in theory and praxis of the rent seeking civic organization is that of the belly and selfish satisfaction. It would seem that soon as the money is in the accounts of such groups then nothing of substance takes places and wall is soon erected by the founders and dominating elites to obscure their goals and actions from public gaze.

5.8 CONCLUSION

Lastly in its operation the emergent civil society is ethnically polarized, informed by dubious values, lacking financial accountability and transparency. Civil society remains elitist, middle class and bourgeoisie with no popular base. The emergent civil society is also informed by political opportunism, conflict of interest and competition for donor funding and other resources. They are weak in institution and organizational development structure. The problem with the way civil society operates in Kenya is formed is twofold. First of all it exposes the narrow understanding of what civil society entails in Kenya. Civil society is formed on very narrow ideological base that does not address the immediate concerns of the society and neither does it heal the cleavages of class, ethnic chauvinism, poverty and despotism among others that face the country at large. Second, democratization task is daunting and huge. It demands some structural and institutional pre conditions in the part of civil society. Under the way civil society operates is difficult for democracy to be consolidated and even to be achieved. Third, is the issue of sustainability and alternative solutions. Civil society as currently constructed

⁷⁹ These are individuals who have come in to fame as being 'pro democracy advocates, human rights activists, pro reform, gender activists' who while masquerading as advocates for democracy have received financial benefits from their words and deeds from the donors. They are middle class elites and urban based with sophisticated knowledge of how to write proposal that amplify donor interest in the country.

⁸⁰ My own NGO

cannot fully be sustainable given the high level of donor presence and elitist domination in form, substance and language. Civil society with weak institutional capacity, lack of international democracy, void of coordination and networking means its based no weak structural frame and such cannot be sustainable. This is more so because the apparent lack rural connectivity means that it is not participatory, people driven exercise.

CHAPTER VI

CONCLUSIONS AND RECCOMMENDATIONS

6.0 INTRODUCTION

This chapter draws conclusion from the analysis made from the preceding five chapters about civil society in Kenya in the period between 1990-1999. Following from these conclusions, I provide recommendations within which I suggest how civil society should be re-conceptualized and also areas for further research.

6.1 CONCLUSIONS EMERGING FROM THE STUDY

We have established that there is a correlation between civil society and consolidation of the elites' political and economic interest in Kenya. Further we have established that politics and economic informs the formation of the modern civil society and this are rested in the donor constructed ideological interest. Civil society elites have curved out a space of accumulation for themselves. The elite fixation on state power is paramount and this has been is explained by the collapse of the 4Cs coalition.

From the foregoing it is clear that civil society has limited capacity to address the daunting challenge facing Kenya today the most important of all being poverty, bad governance, corruption and ethnic chauvinism. These analysis raises questions as to how civil society can be an effective force for that which it is widely constructed to achieve namely be the panacea for democracy. From the study it is clear that there are limits as to how far civil society can go in addressing problems facing Kenya especially those that hinge on politics. Civil society is pre occupied with attacking the incumbent

⁸¹ Non Governmental Individuals

regime at the expense of addressing deeper fundamentals and structural roots to such problems. Their agenda is dictated by the foreign funds curtailing their autonomy. By rubbing the state the wrong way, civil society has been able to attract attention to themselves. The emergent urban based NGOs are one-person outfits and cash-cows with legitimacy and accountability system

We have also established that there is no causal relationship between civil society and democracy in Kenya. If anything the presence of civil society today is a consequence of state-led democratization process. Civil society as such is the beneficiaries of the political changes engineered by the state. However the potential for civil society to promote political liberalization remains valid and is testified by the pressure that democracy and human rights NGOs put on state that has led to substantial changes in the political state especially in constitution area and in governance and human rights.

Civil society performance in this decade 1990-1999 has been dismal and has led the state to perfect its hold on power and control the democratization process. We have further established that emergent civil society in Kenya is not void of state patronage and control. Civil society is weakly developed and is manifestly polarized ideologically and by geographical location. Civil society as currently constituted is not able to match the power and sophistication of the state. There is very little difference between civil society and state in the way they operate and its composition and agenda. Their form and substance remain the same. Civil society as such is a reflection of the political state.

Civil society's grassroots connectivity is narrow and the fact that they are donor driven raises the question of their independence and sustainability which casts doubts therefore on their real intentions and motives. In Kenya donor funds precede civil society formations effectively rendering them to be 'supply driven'. It remains doubtful as to the sources of inspiration and motivation for civil society organization. The ideological motivation on the part of NGOs is narrow. The elites, academics and intellectual aristocrats lack real intimate connection with the predicament of the toiling and marginalized rural polity. Most elites in emergent civil society have enriched themselves from the coffers and it is very difficult to quantify the impact of their activities especially those of urban-based democracy and human rights NGOs.

Civil society we have established mirrors the idiosyncrasies and biases found in the broader population and reflects the very fissures that face Kenya society in general namely ethnic chauvinism and politics, elitism, corruption and academic aristocracy and intellectual surrogate. It increasingly depends on the state and eats from it.

The important dimension of the above critical analysis is to partially show the face of civil society as reflection of the political state in particular and society in general. The conclusion from the study is that the contemporary civil society cannot be counted on to the harbinger of any real change in Kenya. At least not the kind of immediate and far-reaching change that is now urgently needed to put the country back on the democratization track.

6.2 RECOMMENDATIONS

If civil society is to play meaning and central role in Kenya, then there is need that its conception is re-defined and its elements are reviewed. Salient to this process is the need for using the model as suggested by this paper which is the relativistic audit approach. This approach will help to understand civil society along its contextual realities and allow for critical examination as whether it can lead to consolidation of democracy. This approach will allow for the understanding of the relation among the critical players of civil society i.e. NGOs, donors and the state. The audit approach will help to understand how civil society organizations consolidate their control over the democratic space while engaging the state in further struggles.

Further, if civil society is to play meaning and central role in Kenya, then there is need that its conception is re-defined and its elements are reviewed. Salient to this process is the need for using the model as suggested by this paper which is the relativistic audit approach. This approach will help to understand civil society along its contextual realities and allow for critical examination as whether it can lead to consolidation of democracy. This approach will allow for the understanding of the relation among the critical players of civil society i.e. NGOs, donors and the state. The audit approach will help to understand how civil society organizations consolidate their control over the democratic space while engaging the state in further struggles.

6.2.1 RECONCEPTUALIZING CIVIL SOCIETY / STATE/ DONOR RELATIONSHIP

The donor community has contributed immensely to the development of civil state in Kenya in this decade. The donor's fund all the 936 NGOs currently registered with the state. The significant political changes realized in this decade like the change of constitution to allow for multi party system was due to sustained pressure by the donor community. The donors are also shouldering the ongoing constitutional review debate. However the other side of the donor entrenched role in Kenya political and economic development is that it has led to financial dependency, patronage and ideological position that are not obtainable in contemporary Kenya. There is a need for donors-civil society relationship to be reviewed and necessary changes made. The donor community should have a principled supportive relationship with civic organizations in Kenya. The support should reflect the demands of Kenyans but not exogenous interests of the donor countries. Further there is a need for deeper understanding of the contemporary civil society and crucially of the traditional associational groups and grassroots initiatives by the donors for they are the backbone and the oasis of the civil society renaissance in Kenya.

Further for long term purposes there is need for the civil society elements in Kenya to look for alternative sources of funding. This will give them the independence they need and will make it more relevant and responsive to the demands of its constituency as opposed to its current character of being supply driven effectively being dominated by the donors.

There is need for the donors and the state to re-work their relationship. African state is always going to be threatened if more attention, money and focus is given to the civil society that by and large is the breeding ground of the political opposition. There is need for the logic of the state to be understood and redefined. The state continues to dominate and is relevant to the society. Civil society as currently constituted cannot replace the state and it should not. State plays a very important role in giving security and offering a platform in which the 46 Kenyan ethnicities feel secure. Civil society organizations have in the past been driven with need to capture state power. A proper

understanding of the logic of the contemporary state by both the donors and civil society organizations will help secure that which has this far been achieved in the political development in Kenya.

There is need for renewal of attention on the African state since those who have written it off do not offer empirical evidence to support their claims and also is comparison with the modern western democracy states makes the debate to be wrong footed. The focus should not be on the economic shrinkage of the state and also its political liberalization. Persistent attempt to sideline the state the donor financial support and to concentrate such aid on NGOs has impacted negatively making corruption to grow within the state and civil society.

Civil society should be investigated and understood holistically along the historical continuum. This will help to understand where civil society has come from, how it is today and where it is headed. Within this mix the informal groups, the ethnic associations, the spontaneous protests, the NGOs, the grassroots initiatives can be better understood and included. The holistic approach to civil society reveals its qualitative and quantitative manifestation and fully unearths the sensitive relationship that exists between civil society and state and that of state, civil society and donors.

There is need for focus on analysis of the interconnection and (inter) penetration by the established political organizations and civic organizations and how they impact on the state along the democratization trajectory. This will help in unearthing the changing behaviors of the political elites operating in the state and also in civil society how such behavior undermine and or support political liberation. There is need for the political and societal economic environment in which the civil society operates in to be fully understood. The pluralism potential of civil society in Africa and Kenya in particular is hinged on the situational realities and complexities that influence and inform it constantly.

6.2.2 THE MISSING LINK BETWEEN URBAN AND RURAL CIVIL SOCIETY

The civil society divide between the urban elitist and the rural developmental organizations is one that needs very urgent attention. There is need to understand their

departure points and meeting platform. This brings in the crucial role for the elites who dominate both divides of the civil society and how they can engineer such activities as help the growth of civil society culture in Kenya. Linked with this there is a need to establish a bridge between the urban based ethnic community welfare groups and their counter parts that are based in the rural areas and how they can work together to consolidate that which they share. There is a role for the state in this. The state with its legislative and operational machinery can bring together NGOs with identical interest to work together towards a particular project and provide the necessary political and otherwise infrastructure for its realization. The donors should support initiatives that would encourage greater cooperation between the two divides. There is therefore need for more studies to be done in the areas of emerging grassroots initiatives and crucially the Magendo (informal) sector that is emerging sporadically. The activities like those of the pastoral communities in parts of Kenya need to be fully appreciated and understood

6.2.3 LINK BETWEEN 1st and 2nd GENERATION RIGHTS

The contemporary civil society cleavage is based on the fact that the urban-based Democracy and Human rights NGOs are more concerned with the *Civil and Political rights* (1st generation rights) while the Developmental NGOs are principally concerned with the *Economic, and Social Cultural rights* (2nd generation rights). It is important to note that poverty eradication project which informs the rural civil society organization is linked to a question of rights. There is need, therefore for convergence of attention from both civil and political rights advancement to that of tackling poverty as a political question. The issue then is that of linking the rights advancement with human development as a whole. Implied in the Human development is the eradication of poverty as well as enhancement of opportunities for responsibilities and people participating in the making of the decisions that affect them.

The Democracy and Human rights NGOs should appreciate the fact that rights cannot be advanced in the environment that are antagonistic to the realization of human rights. Good governance and democracy can only be consolidated if the basic rights and including the social economic rights are met. It is imperative therefore those certain human development issues are addressed. A practical way of actualizing such is for the democracy and human rights NGOs and their developmental counterparts is to have

persistent consultations, networking and coordination of activities in such a way that they address both areas. The NGOs can start projects that address both areas. The donors whose influence in civil society in Kenya is very substantial need to support joint projects between the two divides of the civil society. The potential is already there and the foundation and infrastructure already exists. What is needed is for the NGOs to design projects and programs that would address both concerns equally. NGO like the KHRC is already in advanced stages in addressing the human development rights.

6.2.4 CIVIL SOCIETY AS 'ALTERNATIVE' STRUCTURE OF SOCIAL - POLITICAL RELATIONS

There is need for the individual members of the society to be able to influence and determine their social relations with each other and not to depend on the scouting and patronage by the state. The civil society elements have every opportunity (political and social) to address the question of the governance and maximization of utility among the members of the society. Civic actions like civic education remain one way in which civil society can educate the public on possible alternative voices. By the civil society addressing the issue affecting the individual then it is possible that the alternative voices to arise. The agitation by the slum dwellers group (Muungano wa Wanavijiji) which is linked to the Kituo Cha Sheria work has for instance created 'alternative' structures of social governance among the urban poor as well as creating a vibrant civic participation culture. Such structures then allow for individual participation in matters affecting them. The rural based developmental NGOs can borrow from such initiative and incorporate the poor in the villages by working and speaking with them and not working for them. The rural poor must be empowered as to address their needs, advocate for their rights and consequently be involved in decision making.

6.2.5 COOPERATION WITH THE STATE

The state is a significant player in the lives of the people as whole. The state cannot be fully diminished and or wished away. In Kenya the state dominates all and every sector of the society. It has the political and economic muscles and even determines the space in which civil society operates. There has been increased antagonism especially by the democracy and human rights NGOs with the government. This trend needs to be halted. The NGOs need to understand the logic of the state under the contextual realities in Kenya. Borrowing 'foreign' standards and ideals may not help to reduce the conflicting

interests between the two. To address the divide there is need for effective civic participation by the state elements in policy matters. Democratization of the political state can in part be achieved if the state workers, the civil servants, the provincial administration officials are targeted with civic education and cooperation in areas in which it is crucial. A key area is the on going constitutional review debate and process. The elements of civil society that are involved in the process, the religious organizations the human rights NGOs have every opportunity to lobby with the state elites and the political opposition in the direction of helping to democratize the state via constitution review.

In net therefore is important that the debate on civil society in Kenya is projected beyond the all too familiar state-civil society confrontation and instead seek to understand where two meet and where they depart and how their relationship impacts on the society in general. In other words civil society debate should be both analytical tools for political state but also for the society in question.

Specific areas therefore that need further investigation includes: -

- The understanding of the nature of activities and relationship therefrom between the urban and rural civil society
- What are the distinguishing features that influence the traditional civil society and the modern elitist civil society organizations
- What factors influence the civil society to be either political and or apolitical
- How can the process of networking (between urban and rural based civil society organizations) and apportioning of responsibility while stressing unity in diversity be engendered to facilitate meaningful engagement with the state
- Who are the donor organization behind the civil society groups in Kenya, what is their motivation and how can their relationship with the local civic organization be redefined to allow of independence, efficiency and relevance
- How can activities of civil society be measured and their impact understood?

Admittedly these are large questions. However the issue at hand mitigate an urgent need for the review of the debate with a fresh focus. It is important that an attempt is made to reduce the burden of proof and answers need to provided for on how civil society can be best located in the prevailing political struggles in Kenya.

Appendix 1

CIVIL SOCIETY ORGANIZATION	FOUNDER/ DIRECTOR/ CEO	ETHNIC BACKGROUND
4Cs	Mr. Erastus Wamugo	Kikuyu
African Broadcasting Network	Mr. Kiragu Oscar	Kikuyu
African Women Development and Communication Network (FEMNET)	Mrs. Njoki Wainaina	Kikuyu
Anglican Church of Kenya (ACK)	Bishop. Rev. Dr. David Gitari	Kikuyu
Catholic Church	Bishop Ndingi Mwana Nzeki	Kamba
Central Organizations of Trade Unions (COTU)	Mr. Joseph Mugalla	Luhya
Centre for Gender and Democracy (CGD)	Dr. Wanjiku Kabira	Kikuyu
Centre for Good Governance and Democracy (CGD)	Mr. Wachira Maina	Kikuyu
Centre for Law and Research International (CLARION)	Prof. Kibwana Kivutha	Kamba
Centre for Legal Education and Networking (CLEAN)	Mr. Oketch Owiti	Luo
Civic Resource and Information Centre	Mr. Otieno Nicholas	Luo
Clean Election's Campaign	Mr. Joseph Karanja	Kikuyu
Green Belt Movement (GBM)	Prof. Wangari Maathai	Kikuyu
Institute of Education and Democracy	Ms. Grace Githu	Kikuyu
Kenya Human Rights Commission	Dr. Willy Mutunga	Kamba
Law Society of Kenya (LSK)	Dr. Kamau Kuria	Kikuyu
League of Women Voters	Hon. Martha Karua MP	Kikuyu
Nairobi Peace Initiative	Mr. George Wachira	Kikuyu
National Convention Executive Council (NCEC)	Dr. Kamau Kuria Prof. Kibwana Kivutha	Kikuyu Kamba

	Dr. W. Mutunga Mr. Davinder Lamba	Kamba Asian-Kenyan
National Council of Churches of Kenya (NCCK)	General Secretary Mutava Musyimi	Kamba
Public Law Institute	Dr. Ombaka Ooko	Luo
Series on Alternative Research in East Africa (SAREAT)	Mr. Mutahi Ngunyi	Kikuyu
Social and Democratic Network (SODNET)	Prof. Walter Oyugi	Luo

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