THE TYRANNY OF NUMBERS AND ETHNIC POLITICAL PATRONAGE IN KENYA: LESSONS FROM THE UNITED STATES OF AMERICA'S ELECTORAL COLLEGE SYSTEM

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ABSTRACT

Ethnic diversity, though an obvious sign of Africa's cultural richness and social capital, is equally a source of tension between communities and nations and is considered as a potential source of conflicts and a handicap in the construction of a nation-state. The cohesion of ethnic entities and of regional specificities thus appeared, one would expect, as a prerequisite to this construction. Political leaders who have been at the helm of Africa's independent nations assumed this objective which featured in a recurrent manner, as an essential component of their pronouncements and discourse on nation building. Mistrust for ethnicity seemed to have been fanned in Africa and the style of governance could be, in the main, based on neo-patrimonial patronage, that is, the absence of distinction between public and private resources or rather the blurred distinction between the public and private spheres. This type of governing style could have the motive of promoting "ethnocracy" as a tool for legitimizing power and has put in place political patronage on the basis of ethnicity (Medard (1990, Dazon, 2000, Lemarchand, 1972 and Sall &Nsamenang ,2011). In this scenario of Africa's ethnicity, Kenya is not an island. This paper has the intent of an understanding of how to harness and nurture as well harvest the principles of democratic governance in a country that has ethnic diversity, especially for minorities using the example of the Kenya's 2013 presidential elections while drawing lessons from United States of America's Electoral College Vote.

Key Words: Elections, President, Vote, Dictate, County, Democracy, Ethnicity

Introduction

The tyranny of numbers has become a popular phrase in Kenya's political circles following the recently concluded 2013 general elections. The phrase follows from a development in which people in a particular region with high population than others rally behind a candidate from their locality to win the elections. Kenya has a total of forty-two (42) ethnic communities. In the just concluded elections,

a candidate won the presidential elections by having support of the two most populous ethnic communities even without garnering the majority support of the rest. It is the contention of this paper therefore, that tyranny of numbers does not serve the interest of a nation, but that of a selfish people. This has the import of dictatorship by regions that are more populous hence more votes than the rest, thereby imposing a leader on the minority. In essence, the two communities compared to the rest

of forty are a minority, but in practice they are the majority in action and therefore will always determine the presidential outcome in Kenya, regardless.

On March 4th, 2013, Kenyans went to polls to elect members of parliament, senate, county governments and the president, in which Hon. Uhuru Kenyatta won the presidential seat against his close rival Raila Odinga.. According to Ndung'u (2013), Kenyatta's victory does not signify the end to ethnic divisionism that it may seem like from the outside; the same concoction of ethnic strife and political demagoguery was present during these elections as in 2007. In a controversial television interview, political scientist Mutahi Ngunyi predicted Kenyatta would win purely based on the size of the two largest voting blocs. Provocatively titled 'the tyranny of numbers', Ngunyi's theory indicated that Kenyatta would win by garnering very high majorities from two of the largest ethnic blocks, the Kikuyu and Kalenjin, and their respective neighbours in the Mount Kenya and Rift Valley regions. Ngunyi also quipped that Raila Odinga's team, Kenyatta's main rivals, had "slept through the revolution" by failing to urge residents in their strongholds to register during the voter registration exercise in December 2012. This scenario clearly shows the ethnic situation and its likely impact not only on the national cohesion, but also on political leadership in Kenya.

Ethnicity is a theme that goes beyond the Kenyan borders. Sall and Nsamenang (2011) point out that ethnicity or "tribalism" is a resilient reality in Africa but it has not received adequate scholarly commentary in academic, educational and political analyses commensurate to its experiential significance. As a result, today Africa is dotted with conflicts of various forms, often with ethnic overtones. The result has had devastating impact on the political and socioeconomic development of the continent and of most African countries in terms of conflicts, poor governance, and interethnic rancor from the cold hard realities of perceived unfairness

in political and economic advantage in the national ethnic competition for education and jobs from very limited national resource bases. Sall and Nsamenang (2011) remark that:

> (…) ethnicity tends to be regarded and treated as a taboo topic or a subject that is best avoided. For some, ethnic distrust has historical roots. First, the slave trade damaged inter-ethnic trust (…). Slavery generated hostility among ethnic communities, which collective memory has not yet renounced. Second, the colonial regimes introduced "indigenous" governing styles (…) that privileged some ethnic groups over others, thereby activating ethnic enmity. These two theories aver instigation of antagonistic and hostile "collective memories" in ethnic groups, which affected governance of the post colony and that of independent African governance of ethnic collectivities.

In order to more realistically address its development agenda, Africa countries must confront ethnicity directly, irrespective of their alleged negative connotation, which is promoted in resource-rich countries by political gains and global capitalistic intrigues. Africa countries should no longer afford to minimize the importance and impact of its ethnic map, treating it as a side issue or wishing it away; ethnicity will persist as a decisive factor that plagues the continent and most African nations, if it is not harnessed and used as a positive force that it is. This is the root course of this paper.

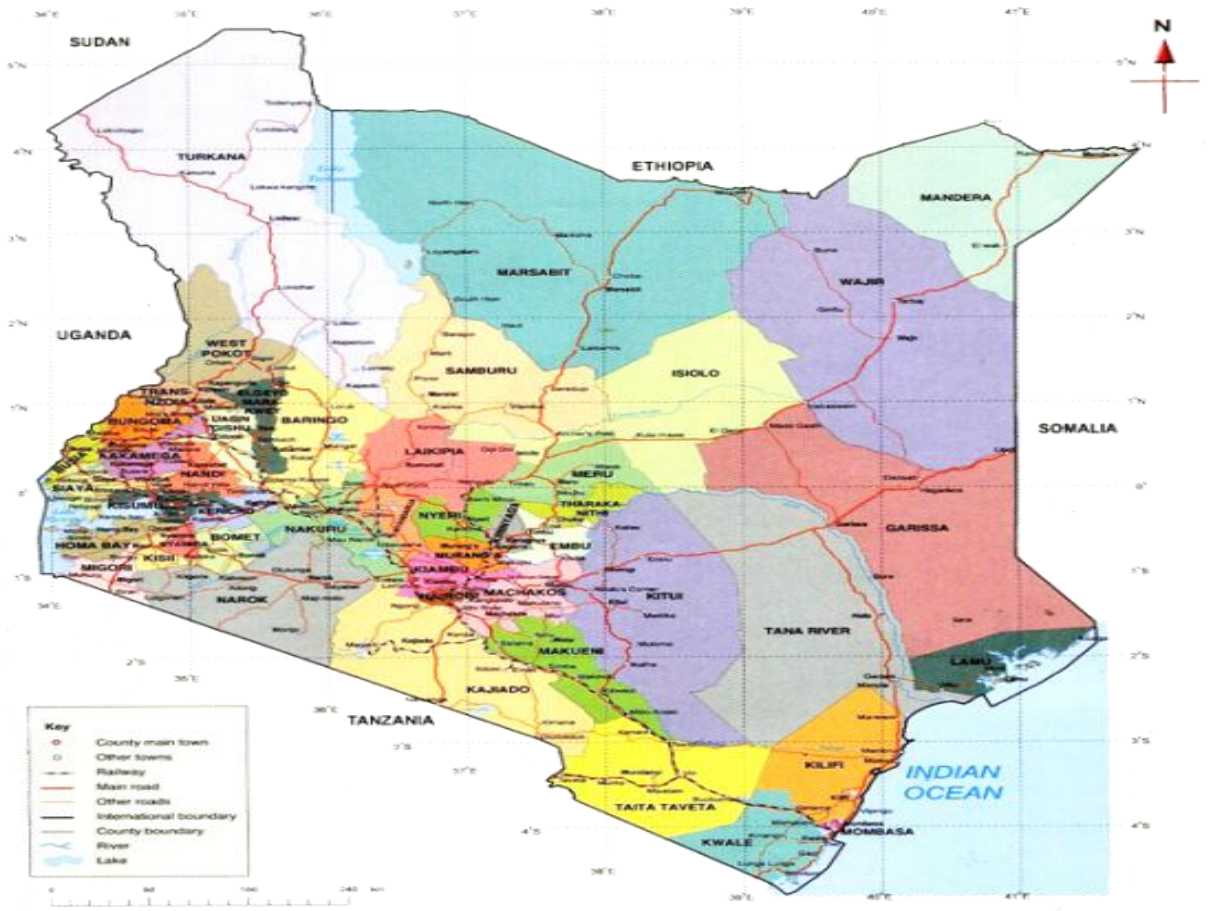**Knowing Kenya: Counties and their Respective Population**

Figure 1: Political Map of the Republic of Kenya, showing Counties and Respective Regions

The Constitution of Kenya 2010 creates 47 county governments. This number is based on the delineation of administrative districts as created under the Provinces and Districts Act of 1992. The Constitution of Kenya 2010 also provided for 290 Constituencies. With exception of urban centers such as Nairobi, the counties and constituencies reflect the ethnic composition of Kenya. The 47 counties and their population figures (derived from the Kenya's 5th Census 2009 which placed the population at 38,610,097 million people.) are spread as follows: Baringo has 555,561 people, Bomet has 724,186 people, Bungoma has 1,630,934 people, Busia has 488,075, Elgeyo/Marakwet has 369,998,

Embu 516,212, Garissa has 623,060, Homa Bay has 963,794, Isiolo has 143,294, Kajiado has 687,312, Kakamega has 1, 660, 651, Kericho has 758,339, Kiambu has 1,623,282, Kilifi has 1,109,735, Kirinyaga has 528,054 and Kisii has 1,152,282 people.

Other counties have figures as follows: Kisumu, 968,909; Kitui, 1,012,709; Kwale, 649, 931; Laikipia, 399,227; Lamu, 101, 539; Machakos, 1,098,584; Makueni, 884,527; Mandera, 1,025,756; Marsabit, 291,166; Meru, 1,356,301; Migori, 1,028,579; Mombasa, 939, 370; Murang'a, 942,581; Nairobi, 3,138,369; Nakuru, 1,603,325; Nandi, 752,965; Narok, 850,920; Nyamira, 598,252; Nyandarua ,

596,268; Nyeri, 693,558; Samburu, 223,947; Siaya, 842,304; Taita Taveta, 284,657; Tana River, 240,075; Tharaka Nithi, 365,330; Trans Nzoia, 818,757, Turkana; 855,399, Uasin Gishu, 894, 179; Vihiga, 554,652; Wajir, 661,941; and West Pokot with a population of 512,690.

Some of these counties are typically named after their respective ethnic communities or identity. Such include; Elgeyo/Marakwet, Embu, Kisii, Meru, Nandi, Samburu among other. This way, ethnic identity is a prominent theme in Kenya, upon which many cultural and probably political thoughts are curved. This paper discusses how ethnic identity could have played a role in the outcome of the in Kenya's 2013 presidential elections.

An Overview of Kenya 2013 Pre-election Analysis: The Tyranny of Numbers

Mutahi Ngunyi (2013), argues that a political contest can only be won on numbers. With the assistance of other political analysts, he had done some more research on figures and the general political mood on the ground from various regions as Kenya neared the general elections. Ngunyi's analysis divides Kenya into eight regions and the numbers from each region are as follows: Central Kenya, 2,190,476 voters. Nyanza had 1,954,756 voters, Western Kenya 1,434,987 voters, Coastal regions had1, 640,083 voters North Eastern region with 504,482 voters Eastern region with 2,092,883 voters, Rift Valley with 3,373,853 voters and Nairobi 1,778,903 voters. Ngunyi says that:

> It's regrettable that most of us are going to vote on the basis of tribal orientation. For (…) Uhuru Kenyatta is banking on central province, Rift Valley, Nairobi and Eastern to win the presidency. If he manages to galvanize these regions he can easily win during the first round (…). I strongly consider the fact and reality on the ground that most Kenyans are likely to vote

along and through ethnic influence.

By using ethnic composition of each region, analysts predicted poll results of either candidate as follows:

1. Rift Valley: Is largely dominated by the Kalenjin community had voter distribution as: Elgeyo Marakwet- 134,290, Nandi - 254,788 Baringo- 171,013, Kericho- 290,102. Bomet - 254,405(sub total 1,104,598 voters. This community is where Uhuru Kenyatta's running mate, William Ruto comes from. It was projected that because of this, the related communities will support Mr. Kenyatta. The other ethnic communities in this region that are not largely Kalenjin are Kajiado- 315,053 Narok- 253,086 Turkana-120,345 West Pokot- 107,894 Samburu- 56,662 Trans Nzoia- 231,352 Uasini Gishu- 318,717 Laikipia- 170,267 Nakuru- 695,879 (sub-total:2,269,255) whose votes were contestable between the candidates. The Maasai Narok and Kajiado not at any point have they shown to be faithful followers of William Ruto. They are more inclined to Raila Odinga.

According to political analyst Mutahi Ngunyi (2013), Samburu, West Pokot might be a fifty fifty scoop for both candidates. Trans Nzoia is a home of none. Luhyas, Kisii farmers and kalenjin mix gives neither candidate an edge. Nakuru is more cosmopolitan and if you scan the register of Nakuru County, Kisiis, Luhyas, Akamba, Luos alone hit at 258, 624 voters. From these counties alone in Rift Valley, it shows that Mr. Uhuru Kenyatta team does not purely command the region. Two thirds of its votes are for split. If Raila gets 1million votes or something close from Rift Valley, it will be a nightmare for his rival. The math of numbers might not work for Mr. Uhuru Kenyatta in Rift Valley with its cosmopolitan nature.

2.Nairobi: (1,778,903 voters) Now that elections will be held in march, the calendar has forced the village voters to vote from the city as they wont be traveling home for Christmas holidays as they used. No wonder we had a voter registration turn out of 138% in Nairobi. As per Register scan Luos, Luhyas, Kambas and Kisiis who

are inclined towards Raila Odinga tally to 1,192,037. Ngunyi (2013) writes that:

> (…) if they will be faithful to their ethnic spirit like their village counterparts then they are likely to vote for Raila Odinga. I hope Kenyatta teams are aware of this variance in numbers. There is no doubt Raila Odinga will emerge a winner from Nairobi by 1million votes plus.

3. Eastern: According to Ngunyi (2013), Eastern has for long time been supporting presidential candidates from central under the Gikuyu, Embu, Meru Akamba (GEMA) banner. In terms of registered voters and ethnic composition, the numbers from all the counties in move as follows: Makueni- 300,086, Machakos- 445,819 Kitui- 323,624 (sub-total:1,069,529) undisputed Raila Odinga's command. Meru- 483,517, Isiolo- 52,617, Marsabit-104,408, Embu- 226,989, Tharaka- 155,823 (Subtotal:1,023,354 voters) Isiolo and Marsabit might be an equal share or a slight win for Raila Odinga. Meru, Tharaka and Embu have been for long faithful in GEMA. The task of Uhuru Kenyatta was to make this people to feel still at home.

Based on ethnic inclinations, political analyst Mutahi Ngunyi (2013) predicted that Uhuru Kenyatta would win the presidency if his team gets pure control of Eastern, Nairobi and Rift Valley regions. There was a big likelihood for Raila Odinga leading in Coast, Eastern, Nairobi, Western, North Eastern and Nyanza regions as opposed to Kenyatta's leading in Rift Valley and Central only.

It emerges from the above pre-election analyses and projections that Kenya went to polls in a political contest that was ethnically patronized. This is to say that those communities with high population would definitely decide Kenya's next president. It becomes evident that smaller communities, regardless of their preferred candidates, they hold no meaningful vote. A situation like this spells oppression. The smaller communities with no matching numbers of voters would have to content themselves with a president imposed on them by the most populous groups. This gives an impression of dictatorial engagements, a ripe ground for ethnic suspicion, mistrust and strife. Whatever is needed therefore is a framework that gives all the communities a near equal strength in electing their president.

Post-election Analysis of Constituency Samples's Voting Patterns in the 2013 Presidential Elections

A perusal through the 2013 presidential poll results shows that a decisive win in Kiambu County coupled with an impressive showing in some perceived strongholds may have handed Uhuru Kenyatta victory over his rival Raila Odinga in the March 4 presidential election (www.nation.co.ke). From the election results released by the Independent Electoral and Boundaries Commission (IEBC), it is seen that Mr Kenyatta's massive 705,185 votes haul in Kiambu county easily cancelled out Mr Odinga's two strongholds of Kisumu and Homa Bay, doing substantial damage to the Prime Minister's chances of winning. The figures indicate that Mr Odinga got 337,232 votes in Kisumu county and 303,447 in Homa Bay, totalling 640,676, below Mr Kenyatta's haul in Kiambu alone. Matters for Mr Odinga were further complicated by Amani coalition's Musalia Mudavadi, who split the Western Province vote to Odinga's disadvantage. In Kakamega County for instance, Mr Mudavadi bagged 144,962 votes against Mr. Odinga's 303,120, while in Vihiga, the former polled 82,426 votes against the PM's 77,826. In Bungoma county, Mr Mudavadi scored 107,868 votes against Mr Odinga's 185,419 (These figures and arguments are based an analysis by Daily Nation News Paper of March 15th, 2013: *www.nation.co.ke*).

The figures indicate that Mr Odinga fought hard to deny Mr Kenyatta a clean sweep in perceived Jubilee strongholds such as Trans Nzoia and Uasin Gishu. In Trans Nzoia, Mr Odinga pulled an upset, getting 92,035 votes against Mr Kenyatta's 74,466 while in Uasin Gishu, Mr Odinga managed 60,060 votes against Mr Kenyatta's 211,438. Uasin Gishu is the home county of Mr Kenyatta's running mate, Mr William Ruto. Mr Kenyatta also fought hard to deny Mr Odinga a clean sweep in the latter's perceived

strongholds of Kisii and Nyamira counties. The Jubilee candidate scored 54,071 votes in Nyamira against Mr Odinga's 121,590 votes, while in Kisii, he bagged 95,596 votes against Mr Odinga's 236,831.

The two candidates shared the two Maasai counties of Narok and Kajiado almost on a fifty-fifty basis, with Mr Odinga carrying the day in the former with 118,623 votes against his rival's 109,413. Mr Kenyatta turned the tables on Mr Odinga in Kajiado where he bagged 138,851 votes against the PM's 117,856. Naivasha (98,182), Westlands (98,391) and Ruiru (94,666) registered the highest voter turnout across the entire country. Kajiado North registered 83,451 voters translating into 82 per cent of the registered voters, Kiharu had 83,320, a massive 94 per cent of the registered voters and Kisumu Central registered 82,119 or 86 per cent of the registered voters.

Generally, constituencies in Coast, North Eastern and Upper Eastern regions performed dismally. For instance, Garissa Township which registered the highest numbers in Garissa county could only manage a paltry 23,272 votes, while Samburu West constituency led in Samburu County with 24,412 votes. Wajir South had the highest turnout in Wajir County with only 24,911 voters. Mr Kenyatta swept Mandera County, hitherto perceived as a Cord stronghold, bagging 94,433 against Mr Odinga's 4,366 votes. Garsen constituency only registered 25,222 votes, constituting 80 per cent of the registered voters, the highest in the county, while Turkana Central led in Turkana County with only 25,618 voters.

Constituencies in Central Province generally performed better than the rest of the country with Kinangop in Nyandarua County registering a turnout of 81,125 followed by Mwea in Kirinyaga County with 78,128 and Kieni in Nyeri County with 75,213 voters. The average turnout in Kirinyaga and Nyeri counties was 91 per cent and 93 per cent, respectively. Other constituencies that did well by way of voter turnout include Laikipia West (75,500), newly created Turbo constituency in Uasin Gishu County (73,434), Imenti South (69,982), Alego Usonga (67,352) and Machakos Town (67,104).

In Mombasa County, Mvita constituency had the highest voter turnout with 59,440, constituting 71 per cent of the registered voters while Kinango led in Kwale County with 38,037 voters, translating into 74 per cent of the registered voters turning out to pick their leaders. In Kilifi, the highest voter turnout was witnessed in the new Kilifi North constituency with 39,732 voters turning out to vote, constituting a low 58 per cent of the registered voters while Lamu West constituency led in Lamu County with 32,108 voters or 89 per cent of the registered voters. Taita Taveta County had some of the lowest figures with the leading constituency, Voi, managing only 29,642 voters. Other big turnouts were witnessed in constituencies such as Manyatta in Embu County (65,089), Kanduyi in Bungoma County (63,839), Malava in Kakamega County (55,484), Bureti in Kericho County (58,063), Kitutu Masaba in Nyamira County (63,600) and Bobasi in Kisii County (57,214).

Assessed from the pre-election projections, it is clear that ethnic affiliation determined the voting pattern. Both candidates garnered many votes from their ethnic and related communities, while sharing votes from the rest of the communities. From the numbers, it can be seen that the communities which split their vote between the candidates had less numbers compared to the candidates' ethnic strongholds. For instance, the two candidates shared the two Maasai counties of Narok and Kajiado almost on a fifty-fifty basis, with Mr Odinga carrying the day in the former with 118,623 votes against his rival's 109,413. Mr Kenyatta turned the tables on Mr Odinga in Kajiado where he bagged 138,851 votes against Odinga's 117,856. This seeming ethnic hegemony could undermine the strength of Kenya's ethnic diversity and this paper attempts a framework that reduces dangers posed by this tyranny of numbers. Kenya ethnic diversity should translate into a healthy and fully democratic nation that recognizes all citizens as equals regardless of ethnic minority or marginalization.

Ethnic Diversity is Kenya's National Strength not Weakness

Sall and Nsamenang (2011) discuss that the official population count of the various ethnic groups in Africa has, in some countries, been controversial due to apprehension not to give certain ethnic groups the political weight and superiority that emanate from numerical strength. One of the main characteristics of the African continent is her ethnic diversity. In fact, all the countries in Africa are ethnic mosaics as well as pockets of racial mix in some countries. Africa is a continent of multiple ethnic identities but the borders colonialism erected for nation-states separated many of them into different countries. Ethnic groups in Africa number in the hundreds, each generally having its own language, or dialect of a language, and culture.

Ethnicity forms a community's identity. Identity formation becomes the strength which African countries can positively use in achieving development and social cohesion. Sall and Nsamenang (2011) hold that:

> Identity formation is the process of the development of the distinct personality of an individual, which is regarded as a persisting entity or personal continuity through phases of life. Personality manifests as a constellation of unique but enduring characteristics which an individual possesses and by which s/he is recognised or known. Identity formation leads to a number of issues of personal identity and an identity where the individual has some sort of knowledge of him or herself as a distinct, separate entity. This may be through individuation, the process whereby a child increasingly defines who s/he is by differentiating the self (that which is me) from the non-self (that which is not me).

Individuation defines individuals vis-à-vis others. Parts of an individual's actual identity include a sense of continuity, a sense of being different from all others, and a sense of group affiliation, which is of central concern here (Sall and Nsamenang, 2011: 83).

In addition to carving out a personal identity based on the need for uniqueness, people also acquire a social identity based on the need for membership in various groups such as family, ethnicity, religion, peership, profession, and others. In addition to satisfying the need for affiliation, these group identities help people define themselves in the eyes of both others and themselves; they need a social identity. Individuals gain a social identity and group identity by their affiliation. Social identity derives from membership in various groups. Sall and Nsamenang (2011) discuss that:

> The term collective identity is a sense of belonging to a group (the collective) that is so strong that a person who identifies with the group may dedicate his or her life to the group over individual identity: s/he will defend group interests and assume risks for the group, sometimes as great as loss of life. The cohesiveness of the collective goes beyond community, as when the collective grieves the loss of a member (Sall and Nsamenang, 2011:84).

According to Sall and Nsamenang (2011), many social scientists regard ethnic identity, that is, the enduring, fundamental aspect of the self that includes a subjective sense of membership in an ethnic group, to be one of the many facets of an individual's social identity with important real world implications for the inter group relations. The

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development of ethnic identity is determined by what the majority of adults in a given society at a particular time in history consider to be prominent. Societies have histories in the course of which identities emerge; these specific histories are, however, made by men and women with specific historic identities. Specific historical structures engender identity types, which are recognizable individual cases. Cultural identity is the identity felt by being a member of a group or culture, or of an individual as far as s/he is influenced by her/his belonging to a cultural or ethnic group.

> An ethnic identity is the identification with a focal ethnicity, usually on the basis of a presumed common genealogy or ancestry. Recognition by others as a distinct ethnic group is often a contributing factor to developing this bond of identification. Ethnic groups are also often united by common cultural, behavioral, linguistic, ritualistic, or religious traits. Various cultural studies and social theory investigate the question of cultural and ethnic identities, and we strongly recommend this for every African country (Sall and Nsamenang, 2011:84).

National identity is a philosophical concept whereby all humans belong to groups called nations. Members of a "nation" share a common identity, and usually a common origin, in the sense of ancestry, parentage or descent. But most nation states in Africa are not constituted on this basis; they were carved out from arbitrary state boundaries imposed by European powers at the 1884 Berlin Congress. The other side of the African perspective relates to the attitude in particular African culture areas or ethnic groups which were more immediately affected by the political surgery by being split into two or more colonies and, later, independent successor states .Despite all the divisive

influences, partitioned Africans have all the same tended in their normal activities to ignore the boundaries as dividing lines and to carry on social relations across them more or less as in the days before the Partition (Sall and Nsamenang , 2011).

Sall and Nsamenang (2011) observed that in spite of the resilient reality of ethnic identities throughout Africa, postcolonial African states made nation-building incumbent on erasing ethnicity, an impossible political agenda, indeed. As a result, they viewed ethnicity in negative terms and as inimical to development and national progress. The fact that each African nation was carved out of multiple ethnic polities passed unheard. Africa must take a decisive step to understand and manage its ethnic diversity so that the various ethnic communities can live their individual identities at their level and at the same time live the identity of citizens within a nation-state.

> Ethnicity is not antithetical to national unity. First, (…) national tension and hostility usually derive from perceptions of inequity in significant government posts and resource distribution, including educational provision. Second, if we could tap into the positive but unexploited potential of the interethnic capital in inter-ethnic marriages and the confidence in inter-communal relations, even across national borders, we could bring different ethnic groups into genuine perception and feeling of nationhood and its plural constituencies. Accordingly, we feel a need to incorporate understanding, respect, and tolerance of ethnicity not only into teacher education curricula but also national policy development and governmental programs (Sall and Nsamenang, 2011:86).

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In the light of the above discussion on ethnicity in Africa, Kenya should establish mechanisms of harnessing and harvesting the gains of diverse ethnic communities within her borders, than have the same undermine the spirit of nationhood. One threat posed by this scenario is political ethnic patronage. Most populous communities have shown a practice of dominating smaller ethnic communities politically. This creates room for suspicion and discontent among the smaller communities. This way, Kenya could learn from how the United States of America resolved and almost similar scenario, through the Electoral College.

The United States of America's Electoral College System

From Wikipedia it shown that the United States Electoral College is the institution that officially elects the President and Vice President of the United States every four years. The President and Vice President are not elected directly by the voters. Instead, they are elected indirectly by "electors" who are elected by popular vote on a state-by-state basis.[1] Electors are apportioned to each state. The number of electors in each state is equal to the number of members of Congress to which the state is entitled.

Kimberling (1992) advises that In order to appreciate the reasons for the Electoral College, it is essential to understand its historical context and the problem that the Founding Fathers were trying to solve. They faced the difficult question of how to elect a president in a nation that:

> was composed of thirteen large and small States jealous of their own rights and powers and suspicious of any central national government (…)contained only 4,000,000 people spread up and down a thousand miles of Atlantic seaboard barely connected by transportation or

communication (so that national campaigns were impractical even if they had been thought desirable) (…) believed, under the influence of such British political thinkers as Henry St John Bolingbroke, that political parties were mischievous if not downright evil, and (…) felt that gentlemen should not campaign for public office (The saying was "The office should seek the man, the man should not seek the office."). (Kimberling (1992:1).

How, then, to choose a president without political parties, without national campaigns, and without upsetting the carefully designed balance between the presidency and the Congress on one hand and between the States and the federal government on the other? One idea was to have the Congress choose the president. This idea was rejected, however, because some felt that making such a choice would be too divisive an issue and leave too many hard feelings in the Congress. Others felt that such a procedure would invite unseemly political bargaining, corruption, and perhaps even interference from foreign powers. Still others felt that such an arrangement would upset the balance of power between the legislative and executive branches of the federal government (Kimberling (1992).

A second idea was to have the State legislatures select the president. This idea, too, was rejected out of fears that a president so beholden to the State legislatures might permit them to erode federal authority and thus undermine the whole idea of a federation. A third idea was to have the president elected by a direct popular vote. Direct election was rejected not because the Framers of the Constitution doubted public intelligence but rather because they feared that without sufficient information about candidates from outside their State, people would naturally vote for a "favorite son" from their own State or region. At worst, no president would

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emerge with a popular majority sufficient to govern the whole country. At best, the choice of president would always be decided by the largest, most populous States with little regard for the smaller ones.

Finally, a so-called "Committee of Eleven" in the Constitutional Convention proposed an indirect election of the president through a College of Electors. The function of the College of Electors in choosing the president can be likened to that in the Roman Catholic Church of the College of Cardinals selecting the Pope. The original idea was for the most knowledgeable and informed individuals from each State to select the president based solely on merit and without regard to State of origin or political party Kimberling (1992).

College of Electors

According to Kimberling (1992) the structure of the Electoral College can be traced to the Centurial Assembly system of the Roman Republic. Under that system, the adult male citizens of Rome were divided, according to their wealth, into groups of 100 (called Centuries). Each group of 100 was entitled to cast only one vote either in favor or against proposals submitted to them by the Roman Senate. In the Electoral College system, the States serve as the Centurial groups (though they are not, of course, based on wealth), and the number of votes per State is determined by the size of each State's Congressional delegation. Still, the two systems are similar in design and share many of the same advantages and disadvantages. The similarities between the Electoral College and classical institutions are not accidental. Many of the Founding Fathers were well schooled in ancient history and its lessons.

The First Design

In the first design of the Electoral College each State was allocated a number of Electors equal to the number of its U.S. Senators (always 2) plus the number of its U.S. Representatives (which may change each decade according to the size of each State's population as determined in the decennial census). This arrangement built upon an earlier compromise in the design of the Congress itself and thus satisfied both large and small States. The manner of choosing the Electors was left to the individual State legislatures, thereby pacifying States suspicious of a central national government.

Members of Congress and employees of the federal government were specifically prohibited from serving as an Elector in order to maintain the balance between the legislative and executive branches of the federal government. Each State's Electors were required to meet in their respective States rather than all together in one great meeting. This arrangement, it was thought, would prevent bribery, corruption, secret dealing, and foreign influence. In order to prevent Electors from voting only for a "favorite son" of their own State, each Elector was required to cast two votes for president, at least one of which had to be for someone outside their home State. The idea, presumably, was that the winner would likely be everyone's second favorite choice.

The electoral votes were to be sealed and transmitted from each of the States to the President of the Senate who would then open them before both houses of the Congress and read the results. The person with the most electoral votes, provided that it was an absolute majority (at least one over half of the total), became president. Whoever obtained the next greatest number of electoral votes became vice president -- an office which they seem to have invented for the occasion since it had not been mentioned previously in the Constitutional Convention Kimberling (1992).

In the event that no one obtained an absolute majority in the Electoral College or in the event of a tie vote, the U.S. House of Representatives, as the chamber closest to the people, would choose the president from among the top five contenders. They would do this (as a further concession to the small States) by allowing each State to cast only one vote with an absolute majority of the States being required to elect a president. The vice presidency would go to whatever remaining contender had the greatest number of electoral votes. If that, too, was

tied, the U.S. Senate would break the tie by deciding between the two. In all, this was quite an elaborate design. But it was also a very clever one when you consider that the whole operation was supposed to work *without political parties* and *without national campaigns* while maintaining the balances and satisfying the fears in play at the time. Indeed, it is probably because the Electoral College was originally designed to operate in an environment so totally different from our own that many people think it is anachronistic and fail to appreciate the new purposes it now serves.

The Second Design

The first design of the Electoral College lasted through only four presidential elections. For in the meantime, political parties had emerged in the United States. The very people who had been condemning parties publicly had nevertheless been building them privately. And too, the idea of political parties had gained respectability through the persuasive writings of such political philosophers as Edmund Burke and James Madison. One of the accidental results of the development of political parties was that in the presidential election of 1800, the Electors of the Democratic- Republican Party gave Thomas Jefferson and Aaron Burr (both of that party) an equal number of electoral votes. The tie was resolved by the House of Representatives in Jefferson's favor -- but only after 36 tries and some serious political dealings which were considered unseemly at the time. Since this sort of bargaining over the presidency was the very thing the Electoral College was supposed to prevent, the Congress and the States hastily adopted the Twelfth Amendment to the Constitution by September of 1804.

> To prevent tie votes in the Electoral College which were made probable, if not inevitable, by the rise of political parties (and no doubt to facilitate the election of a president and vice president of the same party), the 12th Amendment requires that each Elector cast **one** vote for

president and a **separate** vote for vice president rather than casting two votes for president with the runner-up being made vice president. The Amendment also stipulates that if no one receives an absolute majority of electoral votes for president, then the U.S. House of Representatives will select the president from among the top three contenders with each State casting only one vote and an absolute majority being required to elect. By the same token, if no one receives an absolute majority for vice president, then the U.S. Senate will select the vice president from among the top two contenders for that office. All other features of the Electoral College remained the same including the requirement that, in order to prevent Electors from voting only for "favorite sons", either the presidential or vice presidential candidate has to be from a State other than that of the Electors Kimberling (1992).

In short, political party loyalties had, by 1800, begun to cut across State loyalties thereby creating new and different problems in the selection of a president. By making seemingly slight changes, the 12th Amendment fundamentally altered the design of the Electoral College and, in one stroke, accommodated political parties as a fact of life in American presidential elections. It is noteworthy in passing that the idea of electing the president by direct popular vote was not widely promoted as an alternative to redesigning the Electoral College. This may be because the physical and demographic circumstances of the country had not changed that much in a dozen or so years. Or it may be because the excesses of the recent French revolution (and its

fairly rapid degeneration into dictatorship) had given the populists some pause to reflect on the wisdom of too direct a democracy.

The Evolution of the Electoral College

Since the 12th Amendment, there have been several federal and State statutory changes which have affected both the time and manner of choosing Presidential Electors but which have not further altered the fundamental workings of the Electoral College. There have also been a few curious incidents which its critics cite as problems but which proponents of the Electoral College view as merely its natural and intended operation.

The Manner of Choosing Electors

From the outset, and to this day, the manner of choosing its State's Electors was left to each State legislature. And initially, as one might expect, different States adopted different methods. Some State legislatures decided to choose the Electors themselves. Others decided on a direct popular vote for Electors either by Congressional district or at large throughout the whole State. Still others devised some combination of these methods. But in all cases, Electors were chosen individually from a single list of all candidates for the position.

According to Kimberling (1992), during the 1800's, two trends in the States altered and more or less standardized the manner of choosing Electors. The first trend was toward choosing Electors by the direct popular vote of the whole State (rather than by the State legislature or by the popular vote of each Congressional district). Indeed, by 1836, all States had moved to choosing their Electors by a direct statewide popular vote except South Carolina which persisted in choosing them by the State legislature until 1860. Today, all States choose their Electors by direct statewide election except Maine (which in 1969) and Nebraska (which in 1991) changed to selecting two of its Electors by a statewide popular vote and the remainder by the popular vote in each Congressional district.

Along with the trend toward their direct statewide election came the trend toward what is called the "winner-take-all" system of choosing Electors. Under the winner-take-all system, the presidential candidate who wins the most popular votes within a State wins all of that State's Electors. This winner-take-all system was really the logical consequence of the direct statewide vote for Electors owing to the influence of political parties. For in a direct popular election, voters loyal to one political party's candidate for president would naturally vote for that party's list of proposed Electors. By the same token, political parties would propose only as many Electors as there were electoral votes in the State so as not to fragment their support and thus permit the victory of another party's Elector.

There arose, then, the custom that each political party would, in each State, offer a "slate of Electors" -- a list of individuals loyal to their candidate for president and equal in number to that State's electoral vote. The voters of each State would then vote for each individual listed in the slate of whichever party's candidate they preferred. Yet the business of presenting separate party slates of individuals occasionally led to confusion. Some voters divided their votes between party lists because of personal loyalties to the individuals involved rather than according to their choice for president. Other voters, either out of fatigue or confusion, voted for fewer than the entire party list. The result, especially in close elections, was the occasional splitting of a State's electoral vote. This happened as late as 1916 in West Virginia when seven Republican Electors and one Democrat Elector won.

Today, the individual party candidates for Elector are seldom listed on the ballot. Instead, the expression "Electors for" usually appears in fine print on the ballot in front of each set of candidates for president and vice president (or else the State law specifies that votes cast for the candidates are to be counted as being for the slate of delegates pledged to those candidates). It is still true, however, that voters are actually casting their votes for the Electors for the presidential and vice presidential candidates of their choice rather than for the candidates themselves.

The Time of Choosing Electors

The time for choosing Electors has undergone a similar evolution. For while the Constitution specifically gives to the Congress the power to "determine the Time of choosing the Electors", the Congress at first gave some latitude to the States. For the first fifty years of the Federation, Congress permitted the States to conduct their presidential elections (or otherwise to choose their Electors) anytime in a 34 day period before the first Wednesday of December which was the day set for the meeting of the Electors in their respective States. The problems born of such an arrangement are obvious and were intensified by improved communications. For the States which voted later could swell, diminish, or be influenced by a candidate's victories in the States which voted earlier. In close elections, the States which voted last might well determine the outcome. The Congress, in 1845, therefore adopted a uniform day on which the States were to choose their Electors. That day -- the Tuesday following the first Monday in November in years divisible by four -- continues to be the day on which all the States now conduct their presidential elections Kimberling (1992).

Current Workings of the Electoral College

Wikipedia posts that the current workings of the Electoral College are the result of both design and experience. As it now operates: Each State is allocated a number of Electors equal to the number of its U.S. Senators (always 2) plus the number of its U.S. Representatives (which may change each decade according to the size of each State's population as determined in the Census). The political parties (or independent candidates) in each State submit to the State's chief election official a list of individuals pledged to their candidate for president and equal in number to the State's electoral vote. Usually, the major political parties select these individuals either in their State party conventions or through appointment by their State party leaders while third parties and independent candidates merely designate theirs.

Members of Congress and employees of the federal government are prohibited from serving as an Elector in order to maintain the balance between the legislative and executive branches of the federal government. After their caucuses and primaries, the major parties nominate their candidates for president and vice president in their national conventions -- traditionally held in the summer preceding the election. (Third parties and independent candidates follow different procedures according to the individual State laws). The names of the duly nominated candidates are then officially submitted to each State's chief election official so that they might appear on the general election ballot.

On the Tuesday following the first Monday of November in years divisible by four, the people in each State cast their ballots for the party slate of Electors representing their choice for president and vice president (although as a matter of practice, general election ballots normally say "Electors for" each set of candidates rather than list the individual Electors on each slate). Whichever party slate wins the most popular votes in the State becomes that State's Electors -- so that, in effect, whichever presidential ticket gets the most popular votes in a State wins all the Electors of that State. [The two exceptions to this are Maine and Nebraska where two Electors are chosen by statewide popular vote and the remainder by the popular vote within each Congressional district].

On the Monday following the second Wednesday of December (as established in federal law) each State's Electors meet in their respective State capitals and cast their electoral votes -- one for president and one for vice president. In order to prevent Electors from voting only for "favorite sons" of their home State, at least one of their votes must be for a person from outside their State (though this is seldom a problem since the parties have consistently nominated presidential and vice presidential candidates from different States). The electoral votes are then sealed and transmitted from each State to the President of the Senate who, on the following January 6, opens and reads them before both houses of the Congress. The candidate for

president with the most electoral votes, provided that it is an absolute majority (one over half of the total), is declared president. Similarly, the vice presidential candidate with the absolute majority of electoral votes is declared vice president.

In the event no one obtains an absolute majority of electoral votes for president, the U.S. House of Representatives (as the chamber closest to the people) selects the president from among the top three contenders with each State casting only one vote and an absolute majority of the States being required to elect. Similarly, if no one obtains an absolute majority for vice president, then the U.S. Senate makes the selection from among the top two contenders for that office.

The Pro's and Con's of the Electoral College System

Kimberling (1992) discusses that there have, in its 200-year history, been a number of critics and proposed reforms to the Electoral College system -- most of them trying to eliminate it. But there are also staunch defenders of the Electoral College who, though perhaps less vocal than its critics, offer very powerful arguments in its favor.

1. the possibility of electing a minority president
2. the risk of so-called "faithless" Electors,
3. the possible role of the Electoral College in depressing voter turnout, and
4. its failure to accurately reflect the national popular will.

Opponents of the Electoral College are disturbed by the possibility of electing a minority president (one without the absolute majority of popular votes). Nor is this concern entirely unfounded since there are three ways in which that could happen. One way in which a minority president could be elected is if the country were so deeply divided politically that three or more presidential candidates split the electoral votes among them such that no one obtained the necessary majority. This occurred, as noted above, in 1824 and was unsuccessfully attempted in 1948 and again in 1968. Should that happen today, there are two possible resolutions:

(…) either one candidate could throw his electoral votes to the support of another or else, absent an absolute majority in the Electoral College, the U.S. House of Representatives would select the president. Either way, though, the person taking office would not have obtained the absolute majority of the popular vote. Yet it is unclear how a direct election of the president could resolve such a deep national conflict without introducing a presidential run-off election; a procedure which would add substantially to the time, cost, and effort already devoted to selecting a president and which might well deepen the political divisions while trying to resolve them(...) (Kimberling (1992:13).

A second way in which a minority president could take office is if, as in 1888, one candidate's popular support were heavily concentrated in a few States while the other candidate maintained a slim popular lead in enough States to win the needed majority of the Electoral College. While the country has occasionally come close to this sort of outcome, the question here is whether the distribution of a candidate's popular support should be taken into account alongside the relative size of it. A third way of electing a minority president is if a third party or candidate, however small, drew enough votes from the top two that no one received over 50% of the national popular total. Far from being unusual, this sort of thing has, in fact, happened 15 times including, Wilson in both 1912 and 1916, Truman in 1948, Kennedy in 1960, Nixon in 1968, and Clinton in both 1992 1nd 1996. The only remarkable thing about those outcomes is that few people noticed and even fewer cared. Nor would a direct election have changed those outcomes without a run-off requiring over 50% of the popular vote (an idea

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which not even proponents of a direct election seem to advocate).

Kimberling (1992) writes that opponents of the Electoral College system also point to the risk of so-called "faithless" Electors. A "faithless Elector" is one who is pledged to vote for his party's candidate for president but nevertheless votes for another candidate. There have been 7 such Electors in this century and as recently as 1988 when a Democrat Elector in the State of West Virginia cast his votes for Lloyd Bensen for president and Michael Dukakis for vice president instead of the other way around. Faithless Electors have never changed the outcome of an election, though, simply because most often their purpose is to make a statement rather than make a difference. That is to say, when the electoral vote outcome is so obviously going to be for one candidate or the other, an occasional Elector casts a vote for some personal favorite knowing full well that it will not make a difference in the result. Still, if the prospect of a faithless Elector is so fearsome as to warrant a Constitutional amendment, then it is possible to solve the problem without abolishing the Electoral College merely by eliminating the individual Electors in favor of a purely mathematical process (since the individual Electors are no longer essential to its operation).

Opponents of the Electoral College are further concerned about its possible role in depressing voter turnout. Their argument is that, since each State is entitled to the same number of electoral votes regardless of its voter turnout, there is no incentive in the States to encourage voter participation. Indeed, there may even be an incentive to discourage participation (and they often cite the South here) so as to enable a minority of citizens to decide the electoral vote for the whole State. While this argument has a certain surface plausibility, it fails to account for the fact that presidential elections do not occur in a vacuum. States also conduct other elections (for U.S. Senators, U.S. Representatives, State Governors, State legislators, and a host of local officials) in which these same incentives and disincentives are likely to operate, if at all, with an even greater force. It is hard to imagine what counter-incentive would be created by

eliminating the Electoral College. Finally, some opponents of the Electoral College point out, quite correctly, its failure to accurately reflect the national popular will in at least two respects Kimberling (1992).

First, the distribution of Electoral votes in the College tends to over-represent people in rural States. This is because the number of Electors for each State is determined by the number of members it has in the House (which more or less reflects the State's population size) plus the number of members it has in the Senate (which is always two regardless of the State's population). The result is that in 1988, for example, the combined voting age population (3,119,000) of the seven least populous jurisdictions of Alaska, Delaware, the District of Columbia, North Dakota, South Dakota, Vermont, and Wyoming carried the same voting strength in the Electoral College (21 Electoral votes) as the 9,614,000 persons of voting age in the State of Florida. Each Floridian's potential vote, then, carried about one third the weight of a potential vote in the other States listed.

A second way in which the Electoral College fails to accurately reflect the national popular will stems primarily from the winner-take-all mechanism whereby the presidential candidate who wins the most popular votes in the State wins all the Electoral votes of that State. One effect of this mechanism is to make it extremely difficult for third-party or independent candidates ever to make much of a showing in the Electoral College. If, for example, a third-party or independent candidate were to win the support of even as many as 25% of the voters nationwide, he might still end up with no Electoral College votes at all unless he won a plurality of votes in at least one State. And even if he managed to win a few States, his support elsewhere would not be reflected. By thus failing to accurately reflect the national popular will, the argument goes, the Electoral College reinforces a two-party system, discourages third-party or independent candidates, and thereby tends to restrict choices available to the electorate Kimberling (1992).

In response to these arguments, proponents of the Electoral College point out that it was never

intended to reflect the national popular will. As for the first issue, that the Electoral College over-represents rural populations, proponents respond that the United States Senate -- with two seats per State regardless of its population -- over-represents rural populations far more dramatically. But since there have been no serious proposals to abolish the United States Senate on these grounds. But so, as an institution, does the United States Senate. As for the second issue of the Electoral College's role in reinforcing a two-party system, proponents, as we shall see, find this to be a positive virtue.

Arguments for the Electoral College

According to Kimberling (1992), proponents of the Electoral College system normally defend it on the philosophical grounds that it:

1) Contributes to the cohesiveness of the country by requiring a distribution of popular support to be elected president.
2) Enhances the status of minority interests.
3) Contributes to the political stability of the nation by encouraging a two party system, and
4) Maintains a federal system of government and representation.

Recognizing the strong regional interests and loyalties which have played so great a role in American history, proponents argue that the Electoral College system contributes to the cohesiveness of the country by requiring a distribution of popular support to be elected president. Without such a mechanism, they point out, presidents would be selected either through the domination of one populous region over the others or through the domination of large metropolitan areas over the rural ones. Indeed, it is principally because of the Electoral College that presidential nominees are inclined to select vice presidential running mates from a region other than their own. For as things stand now, no one region contains the absolute majority (270) of electoral votes required to elect a president. Thus, there is an incentive for presidential candidates to pull together coalitions of States and regions rather than to exacerbate

regional differences. Such a unifying mechanism seems especially prudent in view of the severe regional problems that have typically plagued geographically large nations such as China, India, the Soviet Union, and even, in its time, the Roman Empire (Kimberling 1992:).

This unifying mechanism does not, however, come without a small price. And the price is that in very close popular elections, it is possible that the candidate who wins a slight majority of popular votes may not be the one elected president -- depending (as in 1888) on whether his popularity is concentrated in a few States or whether it is more evenly distributed across the States. Yet this is less of a problem than it seems since, as a practical matter, the popular difference between the two candidates would likely be so small that either candidate could govern effectively.

Proponents thus believe that the practical value of requiring a distribution of popular support outweighs whatever sentimental value may attach to obtaining a bare majority of the popular support. Indeed, they point out that the Electoral College system is designed to work in a rational series of defaults: if, in the first instance, a candidate receives a substantial majority of the popular vote, then that candidate is virtually certain to win enough electoral votes to be elected president; in the event that the popular vote is extremely close, then the election defaults to that candidate with the best distribution of popular votes (as evidenced by obtaining the absolute majority of electoral votes); in the event the country is so divided that no one obtains an absolute majority of electoral votes, then the choice of president defaults to the States in the U.S. House of Representatives. One way or another, then, the winning candidate must demonstrate both a sufficient popular support to govern as well as a sufficient distribution of that support to govern.
Proponents also point out that, far from diminishing minority interests by depressing voter participation, the Electoral College actually enhances the status of minority groups. This is so because the votes of even small minorities in a State may make the difference between winning all of that State's electoral votes or none of that State's electoral votes. And since ethnic

minority groups in the United States happen to concentrate in those States with the most electoral votes, they assume an importance to presidential candidates well out of proportion to their number. The same principle applies to other special interest groups such as labor unions, farmers, environmentalists, and so forth.

It is because of this "leverage effect" that the presidency, as an institution, tends to be more sensitive to ethnic minority and other special interest groups than does the Congress as an institution. Changing to a direct election of the president would therefore actually damage minority interests since their votes would be overwhelmed by a national popular majority. Proponents further argue that the Electoral College contributes to the political stability of the nation by encouraging a two-party system. There can be no doubt that the Electoral College has encouraged and helps to maintain a two- party system in the United States. This is true simply because it is extremely difficult for a new or minor party to win enough popular votes in enough States to have a chance of winning the presidency. Even if they won enough electoral votes to force the decision into the U.S. House of Representatives, they would still have to have a majority of over half the State delegations in order to elect their candidate -- and in that case, they would hardly be considered a minor party (Kimberling 1992:).

In addition to protecting the presidency from impassioned but transitory third party movements, the practical effect of the Electoral College (along with the single-member district system of representation in the Congress) is to virtually force third party movements into one of the two major political parties. Conversely, the major parties have every incentive to absorb minor party movements in their continual attempt to win popular majorities in the States. In this process of assimilation, third party movements are obliged to compromise their more radical views if they hope to attain any of their more generally acceptable objectives. Thus we end up with two large, pragmatic political parties which tend to the center of public opinion rather than dozens of smaller political parties catering to

divergent and sometimes extremist views. In other words, such a system forces political coalitions to occur within the political parties rather than within the government (Kimberling 1992 :).

A direct popular election of the president would likely have the opposite effect. For in a direct popular election, there would be every incentive for a multitude of minor parties to form in an attempt to prevent whatever popular majority might be necessary to elect a president. The surviving candidates would thus be drawn to the regionalist or extremist views represented by these parties in hopes of winning the run-off election. The result of a direct popular election for president, then, would likely be a frayed and unstable political system characterized by a multitude of political parties and by more radical changes in policies from one administration to the next. The Electoral College system, in contrast, encourages political parties to coalesce divergent interests into two sets of coherent alternatives. Such an organization of social conflict and political debate contributes to the political stability of the nation.

Finally, its proponents argue quite correctly that the Electoral College maintains a federal system of government and representation. Their reasoning is that in a formal federal structure, important political powers are reserved to the component States. In the United States, for example, the House of Representatives was designed to represent the States according to the size of their population. The States are even responsible for drawing the district lines for their House seats. The Senate was designed to represent each State equally regardless of its population. And the Electoral College was designed to represent each State's choice for the presidency (with the number of each State's electoral votes being the number of its Senators plus the number of its Representatives). To abolish the Electoral College in favor of a nationwide popular election for president would strike at the very heart of the federal structure laid out in our Constitution and would lead to the nationalization of our central government -- to the detriment of the States.

Indeed, if we become obsessed with government by popular majority as the only consideration, should we not then abolish the Senate which represents States regardless of population? Should we not correct the minor distortions in the House (caused by districting and by guaranteeing each State at least one Representative) by changing it to a system of proportional representation? This would accomplish "government by popular majority" and guarantee the representation of minority parties, but it would also demolish our federal system of government. If there are reasons to maintain State representation in the Senate and House as they exist today, then surely these same reasons apply to the choice of president. Why, then, apply a sentimental attachment to popular majorities only to the Electoral College?(Kimberling, 1992:18).

The fact is, they argue, that the original design of our federal system of government was thoroughly and wisely debated by the Founding Fathers. State viewpoints, they decided, are more important than political minority viewpoints. And the collective opinion of the individual State populations is more important than the opinion of the national population taken as a whole. Nor should we tamper with the careful balance of power between the national and State governments which the Founding Fathers intended and which is reflected in the Electoral College. To do so would fundamentally alter the nature of our government and might well bring about consequences that even the reformers would come to regret (Kimberling (1992).

According to Kimberling (1992) the Electoral College has performed its function for over 200 years (and in over 50 presidential elections) by ensuring that the President of the United States has both sufficient popular support to govern and that his popular support is sufficiently distributed throughout the country to enable him to govern effectively. Although there were a few anomalies in its early history, none have occurred in the past century. Proposals to abolish the Electoral College, though frequently put forward, have failed largely because the alternatives to it appear more problematic than is the College itself. The fact that the Electoral College was originally designed to solve one set of problems but today serves to solve an entirely different set of problems is a tribute to the genius of the Founding Fathers and to the durability of the American federal system.

The United States of America's Electoral College Vote: Lessons for Kenya

Kenya's ethnic diversity, or even seen from the 47 counties' pattern situation could be likened to that of the United States. As discussed in this paper, Kenya has 42 ethnic communities, with some being more populous than others. With voting inclined towards ethnic lines, there is a translation of diverse community interest. From the discussion on the United States Electoral College it is shown that the founders were faced with the difficult question of how to elect a president in a nation that was composed of thirteen large and small States jealous of their own rights and powers and suspicious of any central national government. Key factor in this regard is the composition of the United States as that of large and small states. In the Kenyan case it compares with large and small ethnic communities or counties. The principle behind the Electoral College is to ensure that the large states of the United States do not dictate who wins the presidency in disregard of the small states. This is needed in Kenya as a way to ensure that presidential candidates do not only rely on their ethnic patronage.

As witnessed in the 2013 Kenya's general elections and other elections held earlier, there is a tendency

of unruly behaviour when presidential candidates take their campaigns in areas perceived to be the opponent's strongholds. As discussed in this paper, such strongholds are, unfortunately, ethnically defined. This way, there is always ethnic tension and suspicion built in the country each time of presidential elections. Some candidates therefore tend to skip campaigns in areas perceived as strongholds of their opponents. This undermines the quality of national campaigns and the citizens' freedom of association and assembly.

Kenya's 50% plus 1 and the 25% of 24 County Rule

In order to ensure that the person winning Kenya's presidency garners at least national support, the constitution requires such a person to get at 50% plus one of the total votes cast, besides getting 25% of total votes cast at least in 24 out of 47 counties. These rules are challengeable on several grounds.

a) They are not applicable in the event of a run-off and therefore the application of the rule is not obvious as it becomes redundant under the circumstances mentioned.

b) Some regions, which are ethnically defined, have more counties than others. The counties were established on the strength of population. The higher the population, the more the counties. This explains why North Eastern Kenya and other marginalized parts have fewer counties. A candidate could still win without their vote.

c) In some counties, the number of registered voters is more than the total population of another county. For example, counties like Laikipia, 399,227 and Lamu, 101, 539; contrasted with counties like Machakos- 445,819 Kitui- 323,624 Meru- 483,517 and Kiambu over 800000 registered voters, the 25% rule does not address inequality. Here, the comparison is between total populations against registered voters. If a county has people going to vote being more than an entire county's population, the 25% rule does not address the inequality.

Related to this, notice that in counties like Machackos and Meru, 25% of registered voters is more than the population of Lamu County. In this scenario, the 25% rule does not hold much.

From the above observations, constitutional mechanisms put in place to resolve the problem of the minority from being sidelined collapses. This way, as earlier said, the minorities in Kenya do have not a meaningful position with regard to the choice of their president. Given ethnic diversity and interests, tyranny of numbers poses threats to Kenya's national interests. Picking lessons from the United States of America voting framework, Kenya could harness and nurture democratic principles thereby having a stronger nation, than the eminent ethnic suspicion emanating from exploitation due to tyranny of numbers.

Conclusion

From its discussion, this paper concludes that ethnic political patronage undermines aspirations of a nation-state. This scenario undermines the gains that come with the reality of ethnic diversity. In Kenya, there is now an emerging trend of the most populous ethnic groups dominating the smaller ones when it comes to the choice of a president. Kenya could enhance its national cohesion by borrowing from the United States of America's Electoral College system, thereby giving all communities an equal strength in the choice of their president.

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