PARTICULARISTIC EXCHANGES AND PACTS OF DOMINATION IN AFRICA: EXAMINING HOW PATRONAGE APPOINTMENTS MAY HAVE INCREASED RESISTANCE TO PUBLIC SECTOR REFORMS IN KENYA

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ABSTRACT

The complex bureaucratic institutional mechanisms that make it difficult to implement reform policies are deliberately set up by most African rulers to serve their selfish interests, which are diametrically opposed to the objectives of public sector reforms. It means that the emergence of a new form of institutional arrangements, which produce more efficient patterns of relationship between state, markets and civil society in the management of public policies, depends on dismantling the old order. In order to be successful, the proposed reforms require altering the internal incentive of the bureaucracy, which would in turn fundamentally alter the power controls and relationships on which a traditional bureaucracy is based. But this new and more efficient pattern of relationships has for a long time been resisted by the existing web of associations created by patronage appointments.

This paper examines political emasculation of key public service institutions through patronage appointments leading to loyalty to the government of the day, but with no institutional integrity and with a weakened trust among the actors in the external environment (Cameron 2010). Under such circumstances, prospects for reform depends either on fundamental political change or on engaging with that class' fear that reform represents a threat to their interests (McCourt 2007). Therefore, this paper contends that the lackluster performance of public sector reforms in Kenya was not because reforms were implemented but yielded unsatisfactory results, but because several initiatives never got past the implementation stage at all. Rather, they were blocked outright or put into effect only in a tokenistic, half-hearted manner (Polidano 2001), due to vested political interests.

Keywords – *Appointments, Particularistic Exchange, Patronage, Politics, Public Sector Management, Public Sector Reforms*

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INTRODUCTION

The distribution of public offices through patronage relationships and other forms of particularistic exchanges in Africa pre-dates the post-independence era. But these practices took new forms in the newly independent countries due to the changed political and socio-economic conditions. Whereas every country exhibited a slightly different variant, consolidation of power seemed to have been the overriding motive for the appointment of cronies to strategic state organs and for the rulers' engagement in other related particularistic exchanges. Newly won political power ignited a continual latent struggle, with the oligarchies very suspicious of any outsider who aspired to enter their ranks. Those aspiring for political offices were not regarded simply as eventual heirs but as spoilers who were ready to supplant the ruling class without waiting for their natural death (Kemahlioglu 2005). For this early class of rulers, they perceived their tenure as life-long— probably in the same manner as traditional kings.

Apart from coercive means, a vital form of consolidating power by most post-independence rulers was their reliance on a system of state patronage(Mwenda and Tangiri 2005). But what is patronage, what does it mean and why is it so important in consolidation of power? The concepts of patronage, clientelism and corruption, are often indistinctly employed as generic labels referring to all kinds of particularistic political exchanges (Kopecky and Scherlis 2008)-an exchange where allocation of state resources is particularly important for maximizing the actors probability for re-election (Indridason 2007); however, a high degree of conceptual vagueness and ambiguity surrounds their usage in academic literature. Policy makers, journalists and even scholars often employ these three concepts synonymously, as though they referred to one and the same phenomenon explaining a number of political outcomes not only in Africa but in many developing countries as well (Arriola 2009).

DISTINGUISHING PATRONAGE FROM CLIENTELISM AND CORRUPTION

Since this essay focuses primarily on patronage, it is critical to disentangle it from the other two concepts for a clearer understanding. Both classical and contemporary literature allows for a clear distinction between patronage and a variety of other practices. Political patronage as a concept is theoretically and empirically distinct not only from clientelism but also from corruption. Over time, political patronage has been used to refer to the granting of favours, contracts and rewards beyond public positions by politicians in exchange for electoral support(Campbell 1988; Smith and Mesquita 2010). Scott (James 2005) defines political patronage as a mechanism for public employment in exchange for victorious partisan labour, while Hollyer describes it as the bidding for public offices by both skilled and unskilled candidates by offering political services in exchange for public posts (Hollyer 2010).

Political clientielism refers to the exchange of favours between a political party and individuals, in which the former releases a benefit that the latter desires in order to secure their political support (Kopecky and Scherlis 2008). Although the concept is common in social sciences, clientelism in its political dimension is fundamentally associated with the distribution of public resources and the partisan-electoral arena, be it by way of votes or other forms of political support in exchange for public resources by power holders as a favour (Gordin 2001). Clientelism implies an asymmetrical nature of the linkage which takes place between actors of different status and power- hence an exchange between unequals (Clapham 1982).

Corruption—the third element in the group—is also closely associated with particularistic political exchange in developing countries. Corruption can be broadly defined as the illegal use of public resources for private gains, often involving exchange of money for favourable public decisions (Kopecky and Scherlis 2008). In addition, corruption in the public sector has been seen as the abuse of powerful positions in the political system among others to extort bribes, to supply party members and followers with lucrative positions in the public sector and related corporations, to shape political and economic institutions to the benefit of affiliated interest groups, or to channel public resources into the hands of party leaders, members or private individual associates.

It is through the ability to control state positions that rulers in developing countries are able to manipulate state resources in clientelistic or corrupt ways. Hence, politically-mediated access to public resources has been a key mechanism for purchasing allegiance and maintaining support for many African rulers (Mwenda and Tangiri 2005). Studies in several developing countries show that using the state and its resources has constituted a vital form of consolidating power (Kemahlioglu 2005). Patronage can therefore be described as the glue that holds modern clientelism together (Gordin 2001). It is also important to note that political patronage is the necessary condition and often plays a critical role in the emergence corruption and clientelism in many developing countries.

THE ROOTS OF PARTICULARISTIC EXCHANGES AND PACTS OF DOMINATION IN AFRICA

The challenges that faced many of the African countries immediately after independence, leading to the adoption of developmental oriented policies, also inadvertently opened up avenues for political patronage. The pre-colonial traditions of statecraft were fractured and the foundations drastically altered during the colonial take over. Consequently, the imported institutions lacked basic legitimacy, while the indigenous forms that were permitted to continue were stripped of their mechanisms of accountability (Nugent 2010). These fractured structures inherited at independence could not for that reason be relied upon in laying the foundation of the new states. Accordingly, the new leadership faced triple challenges of state building, nation building and economic development (Baraka ; Ayee 2008). With no reliable institutions, personalities took centre stage in Africa's development in the immediate post-independence period.

The challenge of state building dictated that constructing effective public authority, establishing viable state institutions and creating responsive and legitimate agents of governance was to be an obligatory undertaking. During the colonial period, the frustrations and the anger of local populations coalesced into independence movements leading to the transfer of power. The same anger was rapidly transformed during independence into enormously high expectations and aspirations of the potential of the new governments (Stein 2000).

With political independence, many countries also wanted to take immediate management control of the economy and the state organs. It was therefore not surprising that the newly independent countries succumbed to pressures to rapidly Africanize the public sector. After all, that is what they had fought for- ‘self-rule’. The elected leaders used the expanding opportunities in the civil and the wider public sector for political purposes, especially in an environment where primary focus on professionalism was overlooked for the sake of rapid Africanization (Stein 2000). To understand the full extent of how the big state and powerful government which characterizes the developmental state played into the hands of the immediate post independent rulers in Africa, it is worth analysing the nature of political authority exercised in these countries during that period.

While authoritarian rule at the onset of independence may have been reasonably justified on the basis of the challenges faced duringnation building, it also provided unlimited and unrestricted access to public resources for those in power. Since many African countries are made up of different distinct ethnic communities, heterogeneous in nature and boiling with competing socio-economic interest, the mere attainment of power did not guarantee stability or certainty for the rulers. As a result, those who ascended to power could only consolidate their position by appeasing the various interest groups and winning the loyalty of the competing tribal and ethnic interest (Kebonang 2004). Thus, the political authority in many African countries in the post-independence period took the form of neo-patrimonial rule.

The neo-patrimonial authority occurred not in a traditional environment but within a context of modern state, blending elements of patrimonial (traditional) rule and features of rational-bureaucratic (modern) rule (Kebonang 2004). Hovering above the formal political and administrative chain, in the neo-patrimonial systems of the immediate post independent era, was a dense network of dependent relationships. The ruler not only dominated the state apparatus but was also considered to be above its laws (Bratton and Van De Walle 1997). Officials were appointed to bureaucratic positions based on closeness to the ruler rather than on performance, where they would acquire personal wealth and status. The primary motive for such appointments were therefore the twin objectives of staying in power while building an economic base (Baraka) and not fostering the development goals many citizens had hoped for during the fight for independence.

The leaders extended the scope of the direct government involvement in the economy by over-expanding the public sector. This multiplied opportunities for patronage, which allowed the regimes to channel economic resources to the targeted social groups (Booth 2003). Resources needed for effective, large-scale economic and social development as had been envisaged were consequently drained away to support efforts of such regimes to consolidate power. In their quest for self-preservation, the ruling elite dispensed government resources such as jobs, licenses, contracts and credit facilities only to political allies, as well as mediating economic opportunities in favour of close associates so as to enhance their hold over state power (Baraka ; Tangri 1999),thereby creating ‘pacts of domination' and in the process resisting any reform measure that would shift the balance of power away from them (Branch and Cheeseman 2006).

In both pre-and immediate post-independence periods, appointments to key positions as well as coercion was monopolised by state (Mueller 1984)and no regime was ready to surrender such powers. This legacy of a statist economy hence helps explain why the inherited authoritarian apparatus was kept and subsequently used to blunt political opposition. This situation was exacerbated especially as most of the triumphant nationalist leaders saw themselves as unique liberators of their people who deserved unlimited tenure to rule their newly independent countries (Baraka ; Tangri 1999), epitomised by life presidency syndrome. Throughout successive regimes, incumbent politicians have therefore used patronage appointments to manipulate state systems and buy loyalty in order to minimize their likelihood of losing power.

PATRONAGE PRACTICES IN KENYA

The desire of politicians to control key state institutions is a continuing struggle, especially in developing countries. In Kenya, the tussle for political domination of the public service influence pre-dates the post-independence era. The colonial government in Kenya was manifestly authoritarian and did not develop strong institutions of good governance. Their main focus was to build a strong civil service which would maintain law and order manned by their cronies, while neglecting the other arms of government, the legislature and judiciary (Gertzel 1966).

But the need for and the form of political influence acquired a new shape after independence, due to the changed political and socio-economic conditions. Whereas the independence constitution provided for some democratic safety-valves that resulted in wide dispersal of power within the country's political system, including a multi-party system, a dual executive, a bicameral legislature and a quasi-federal system (Amadi 2009), deep-seated political and self-interest did not allow the state to run as well as was envisaged in the independence constitution.

In order to overturn this, rapid successive constitutional amendments were undertaken within a very short period after independence. The first major amendment abolished the two-chamber system, the quasi-federal system and the position of the prime minister and transferred all powers to the president (United Nations 2004). Ironically, though unsurprising given the underlying political interests, those rapid constitutional amendments immediately after independence followed the pattern of the colonial system by greatly strengthening the executive vis-à-vis other branches of government, reflecting the belief in a strong executive rule (Gertzel 1966).

These amendments laid the foundation for an all-powerful presidency, using appointments to control critical power centres. It also led to the emergence within the civil service of a bureaucratic oligarchy which had very strong connections to the political establishment (Oyugi 2006). Starved of well-functioning institutions, the survival of this new state rested on the collusion of powerful elites in various positions in and out of government keen on protecting their positions and status (Branch and Cheeseman

2008). The elites developed personal connections which enabled them to manipulate, subvert or simply ignore the state and its institutions (Branch and Cheeseman 2006). The Kenyan civil service became completely political, and as a result political persuasion and loyalty became major criteria for appointments to all senior offices. (Oketch 2009).

After over 40 years of independence, the situation in Kenya, as well as in most African countries, remains unchanged. As (Berman 1998) notes: “Somehow after all the efforts at political reform and multi-party elections throughout Africa, all of the earnest concern with promoting the growth of civil society and pluralism, the evil triumvirate of patronage, corruption and tribalism appeared to be reasserting their retrograde influence on African societies” (Berman 1998: 306). Political patronage in Kenya is thus a product of a continuing historical process, always simultaneously old and new, grounded in the past and perpetually in creation (Berman 1998).

Studies indicate that informal systems driven by patronage, clientelism and corruption (Kebonang 2004; Mwenda and Tangiri 2005; McCourt 2007) are key contributors to stifling popular merit-based systems of appointment to public service positions; subverting the rule of law, fostering corruption, and eventually distorting the delivery of public services. In several developing countries, Kenya included, there exists a superstructure of rational-legal administration, which nevertheless continues to rest on a deep foundation of a patrimonial rule (Brinkerhoff and Goldsmith 2002). Under such systems, despite appearances and juristic procedures to the contrary, policy is implemented mainly through patronage networks. It can therefore be argued that the manner in which political power to appoint, promote and remove public servants is exercised has direct implications on the conduct and performance of the administrative system (Cameron 2010).

THE KENYAN PUBLIC SERVICE

In 1965, two years after independence, Kenya launched its first major development policy paper, the Sessional Paper No. 10 “African Socialism and its Application to Planning in Kenya” (GOK 1965). The policy paper not only set out ambitious development targets and the role of the government, but also outlined the government’s intentions: “a desire to ensure Africanization of the economy and the public service” (GOK 1965: iii). The objective was to be achieved ‘without doing harm to the economy itself and within the declared aims of the society’.

After experiencing moderately high growth rates during the 1960s and 1970s, Kenya's economic performance during the 1980s and 1990s was far below its potential. From 1963 to 1973, Gross domestic product (GDP) grew at an annual average of 6.6%. But from that period forth the rate of annual economic growth of the country has generally declined. Per capita income declined from US $350 in 1980s to US $280 in the 1990s, with about 50% of the population living below the poverty line(Owino 2000). Therefore, it was not surprising that in 1986, barely two decades after the first policy, the Government released another policy paper: the Sessional Paper No. 1 of 1986 on “Budget Rationalization for Renewed Economic Growth,” whose fundamentals reversed the earlier one. It advocated for less government involvement in the economy, reducing the government wage bill through staff retrenchments and recognizing and harnessing the potential of the private sector as the engine for growth rather than the government.

The Africanization program, the centre piece of the 1965 policy framework, had become a disappointment, and the chicken had come home to roost. The civil service had become bloated, inefficient and unproductive mainly through politically inspired recruitments and patronage enjoyed by the top civil servants which even extended to some lower cadres (Odhiambo-Mbai 2003; Oyugi 2006). Since 1986, huge funds have been spent on various public service reform initiatives; however, the reforms have not always been very successful, mainly because of the vested interests of those in positions of power.

Whereas the processes of selection and appointment to the top executive positions in the public sector in Kenya are usually managed by the President and the relevant minister, senior management positions and below should be carried out by the respective independent commissions and services set up under the constitution, ideally as a safe-guard against outside interference. The subsequent sections will review three central institutions originally established to carry out appointments and promotions impartially in the public sector, to illustrate how political interference has over time hindered their abilities to discharge their responsibility as originally envisaged. Given the immense powers wielded by the president and the overbearing influence this office has on public affairs it is critical to understand powers and the privileges of the post-independent Kenyan presidents in more detail.

THE PRESIDENCY

Kenya's independence constitution of 1963 established a dual Executive: the Queen (represented by the Governor-General as Head of State and Commander-in-Chief of the Armed Forces), and the Prime Minister (Head of Government and leader of the largest political party in the National Assembly). This arrangement contained an element of check-and balance: the Head of State held a ceremonial position while the Head of Government was effectively the Executive organ. Under this arrangement the instruments of constitutional action were in the custody of the Head of State (United Nations 2004). Therefore, the real power–holder, the political head, had to work in consultation with the constitutional head (the Head of State).

But this arrangement did not last very long; as noted earlier, several constitutional changes, instigated by the prime minister—who wanted to consolidate his power,--took place from the date of declaration of independence on June 1, 1963 to the inauguration of republican status (December 12, 1964). These changes boiled down to one reality, in terms of governmental power: the pluralistic check-and-balance constitutional model of 1963 was debunked, and replaced with a monolithic constitutional structure in which Head of Government was merged with Head of State into an Executive President with the fullest control over government, and substantial influence parliament in addition to constitutional authority over the make-up of the judiciary (United Nations 2004). These changes in effect created an authoritarian-imperial presidency (Prempeh 2007).

The authoritarian presidency in Kenya as was in many African countries was therefore constitutionally sanctioned. The amendments brought to the independence constitutions allowed the president to legally become the supreme ruler, without having to share power with anyone. The amendments also altered arrangements of power within the state: parliament ended up under de facto or de jure control of the president's party, its primary purpose to provide a façade of institutional and procedural propriety to the president's decrees. Legislative initiative eventually turned out to be a presidential monopoly, who also had concurrent power to legislate by fiat (Prempeh 2007).

The amended independence constitution, the Constitution of Kenya 1963 (Government of Kenya 2008), bestowed upon the president, and to some extent even ministers, blanket powers to appoint persons to various positions without the need to seek the approval of parliament or any other institution. Chapter two (2) part three (3) of the constitution bestowed upon the president powers to constitute any office within the government, appointing persons to such offices without reference to any person or office. It further stated that all public servants held their positions at the pleasure of the president, which was interpreted to mean that the president could sack any public servant including those whom he did not directly appoint.

Under the old constitution the President was therefore not only at the centre of the system dominating the state apparatus: an immunity clause in the constitution, intended to protect the president from frivolous legal proceedings while in office, was interpreted, in reality, to mean that the president is above the law, and amounted to censorship of any criticism of the president (Bratton and Van De Walle 1997). The president used these vast powers to appoint his cronies to key positions. Key public sector institutions which were supposed to be otherwise independent institutions consequently ended up being filled by the cronies of the president. Despite recent counter-authoritarian constitutional reforms, most African presidents continue to be overwhelmingly powerful (Prempeh 2007). The politics of appointment in Kenya has not evolved much since immediate post-independence era to be significantly different from the rest of Africa, it remains not so much about the choices of the appointee, but the preferences of the appointing authority (Opanga 2012).

The Public Service Commission

Under the overbearing powers of the presidency, the Public Service Commission has not been able to exercise its mandate as envisaged according to the letter and spirit of the constitution since independence. Amendments in the constitution continuously gave the presidents more control over the country; in 1986, control of the civil service was transferred to the President's office (ICJ 2002). Consequently, the distribution of positions within the civil service is a manifestation of how politics has influenced employment in the public service. According to the Civil Service Audit Report of 2011, the Kikuyu constitute the largest single dominant ethnic group in the civil service, while the Kalenjins are the second largest group (NCIC 2011). On the overall, the five most populous and politically influential communities in the country out of forty two - the Kikuyu, Kalenjin, Luhya, Kamba and Luo - occupy almost 70 per cent of civil service employment (NCIC 2011). Table 1 below illustrates the ethnic representation of these five dominant ethnic groups.

Table 1: Top five ethnic representation in the Civil Service as per 2009 national population census

Ethnic Group	Population	Population %	Number in Civil Service	% in Civil Service
Kikuyu	6,622,576	17.7	47,146	22.3
Kalenjin	4,967,328	13.3	35,282	16.7
Luhya	5,338,666	14.2	23,863	11.3
Luo	4,044,440	10.8	19,025	9.0
Kamba	3,893,157	10.4	20,490	9.7

Source: NCIC 2011

Whereas several arguments can be made to explain the dominance by Kikuyus and Kalenjins—including willingness to seek employment in the civil service—the combined strength of these two communities, which make about 40% of the entire the civil service, is closely linked with the tenure of presidency by the two communities. Both have had a member of their community as president. The Kikuyu provided the first president, who ruled from 1963 to 1978, while the Kalenjin took over for the next 24 years. The neo-patrimonial authority exercised by the president within a context of modern state, blending elements of patrimonial rule and modern civil service (Kebonang 2004), allowed the president and his cronies to fill the public offices with members from their communities and also from those they needed for political support.

During President Jomo Kenyatta's reign, the Kikuyu and to a much lesser extent the Luo, as well as members of Kenya's other most educated groups, came to dominate the civil service, the state corporations, the professions, the army, and especially the small but emergent commercial middle class. After Kenyatta's death in 1978, his successor Daniel Arap Moi gradually introduced an unaccountable system of "personal rule" with kleptocratic and sycophantic excesses topped only in Mobutu's Zaire. In order to consolidate his position, Moi began to push the Kikuyus out of prominent positions in the civil service and state corporations, replacing them with members of what he called 'disadvantaged groups', a term which was meant to camouflage preferential treatment towards his fellow Kalenjin (Barkan 1993).

In both regimes, the skewed civil service representation was a colonial legacy of bureaucratic authoritarianism, pervasive patron-client relations, and a complex ethnic dialectic of assimilation, fragmentation and competition that had persisted. Patron-client networks remained the fundamental state-society linkage in circumstances of social crisis and uncertainty, and extended to the very centre of the state.

This accounts for the personalistic, materialistic and opportunistic character of Kenyan top public servants (Berman 1998). To date, ethnic identities constitute a critical basis on which clientelistic coalitions are built. Patronage provides the avenues for exercise of this influence in the civil service. Political leaders have allocated public resources and amenities to key intermediaries and their ethnic clienteles in ways designed to fashion a following and ensure political support (Ayee 2008).

THE JUDICIAL SERVICE COMMISSION

The Judicial Service Commission was established under Article 68 of the old Constitution of Kenya 1963 and Article 171 of the Constitution of the new Constitution of Kenya 2010. In both constitutions, and even with amendments of the first constitution, the functions of the Judicial Service Commission largely remained the same as stated in their website: "to promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice" (Registrar 2012).

In theory, the procedures for selection and removal and the conditions of service for superior court judges were guaranteed by the Constitution. But in practice, the prevailing political environment before the enactment of the new Constitution 2010 did not allow that independence. The African Executive issue of 16-13 May 2009 noted that:

> "A critical look at the Judiciary casts doubt on its sovereignty. When we (Kenyans) voted President Kibaki in to the Kenyan Presidency in December 2002, the Chief Justice was one Bernard Chunga. He was unceremoniously removed from office under frivolous circumstances. In the recent past, lawyers have made similar noise about the current Chief Justice (who replaced Chunga) and nothing has been done. It shows that the removal of Chunga was not made on the gravity of the law. It was made to allow for the domestication of the Judiciary. With this done, the Hon Kiraitu Murungi (former Minister for Justice and Constitutional Affairs) instituted what he called radical surgery at the Judiciary. The Judiciary reforms by Kiraitu and Hon. Aaron Ringera (High Court Judge selected to lead a special inquiry into the conduct of Judges) was neither radical nor was it a surgery. It was a move to domesticate the Judiciary. From thence on, the Judiciary will be the theatre of the absurd; all rulings friendly will be achieved and it would be used to stifle democracy in Kenya. ..
>
> The Judiciary would also play a crucial role in shielding all cases of corruption against the mighty. In short, a stage was set where all cases of corruption will be handled with kid's gloves, where the corrupt will face no justice. The Judiciary has largely remained ceremonial. The second part is about the appointment of officers to serve as Judges and Magistrates. Despite attempts by the Law Society of Kenya to have the process opened up, the Chief Justice has maintained a close lid. What secret is the Chief Justice guarding? If The Judiciary wants to help save Kenya from being tall amongst the failed states, it must reclaim its independence and stop bowing to The Executive. It must start obeying the law." (Oketch 2009).

This state of affairs was confirmed by the new Chief Justice appointed under the new constitution as he gave the first ever performance report of the Judiciary to the public. In the online edition of the October 20, 2012 Star Newspaper, he noted "The Judiciary had been characterised by chronic under-capacity in leadership and management offices, excessive centralisation and personalisation of leadership spaces, widespread nepotism, tribalism and clientelism within a highly patriarchal and paternalistic work environment" (Kadida 2012).

The Judiciary plummeted to that state of affairs due to constant interference by the president. To undermine its independence, constitutional security of tenure for high court judges was removed by the President in 1988, and was only restored in 1990 after the suspension of military assistance by the United States. Under the old constitution the Chief Justice of Kenya was appointed directly by the President, and all other judges in the superior courts were similarly appointed by the President acting in accordance with the advice of the Judicial Service Commission (JSC). The Judicial Service Commission consisted of the Chief Justice as chairman, the Attorney General, two other judges of a superior court designated by the President, and the Chairman of the Public Service Commission. The Attorney General and the chairman of the Public Service Commission are appointed by the President (ICJ 2002). With powers to appoint the members of the Judicial Service Commission being vested in the president, the original constitutional intention of freeing the commission from political influence was totally subverted.

The Judiciary has been used as an appendage of the Executive as the political class run the show in all sectors of the economy and run rough shod on those who stand in their way. Judges and magistrates had to kowtow to the whims of the president.

THE STATE CORPORATION MANAGEMENT BOARDS

The state corporations were created to meet both commercial and social goals of government. In order to maintain the overall functioning of the economy, as the British and other foreigners left after independence, the government had to step in to provide and keep up competition or control in various sectors of the economy such as the natural resources sector, which could have been exploited by a few individuals contrary to the interest of the public, and without long-term planning. The sector therefore grew rapidly after independence for various reasons including: to correct market failure, to exploit social and political objectives, and to provide education, health, redistribute income or develop marginal areas which had been neglected by the colonialists (Njiru 2008). In addition, state corporations were expected to facilitate indigenous Kenyans participation in industry, development of skilled labour and enhancing managerial capacity (Kantarelis, Puffer et al. 1982). Thus, majority of key state corporations that exist today were established in the 1960s and 1970s.

By 1992, at the beginning of the privatization program, there were two hundred and forty (240) commercially oriented public enterprises with direct or indirect government ownership through other entities. Of these the Government had designed thirty three (33) as "strategic enterprises" and intended to retain their ownership and active Board participation in them for the time being. The remaining two hundred and seven (207) were classified as "non-strategic enterprises" and constituted the Government's privatization Programme (Government of Kenya 1992).

State corporations therefore played a very critical role in the economy and development, in addition to providing avenues for rewarding political loyalty. By the early 1990s, state corporations handled about half of the country's exports and required large amounts of foreign exchange for the importation of equipment and machinery (Kantarelis, Puffer et al. 1982), thereby enhancing the need for their control. It is probably due to this strategic importance that the political elite (read: the president) ensured through legislation that their establishment and control as with any other important state institution was firmly placed under the president.

According to the State Corporation Act CAP 446, the president had the power to establish a state corporation, assign ministerial responsibility, and appoint the chairman of the board of directors and the chief executive. The same act also gave the president the powers to give directions of a general or specific nature to a board of a state corporation with regard to the better exercise and performance of the functions of the state corporation. This board then had to act upon these directions (GOK 2009). It has been invariably pointed out that the competition for patronage resources is the reason why the political elite in Kenya find themselves constantly engaged in a fratricidal zero-sum game for control of central government resources. Since independence, Kenyan politics has been perpetually marred in disagreements over distribution of public service appointments (Kisero 2010).

Therefore, appointments to executive positions in state corporations often reflect the politics of the land and the intentions of the appointing authority. It was through the ability to control state positions that successive presidents were able to manipulate state resources in clientelistic or corrupt ways. Studies in several developing countries show that using the state and its resources constitutes a vital form of consolidating power (Kemahlioglu 2005). It is also important to note that, because they controlled huge commercial interests, political patronage appointments to the state corporations constituted a huge percentage of the avenues for corruption and clientelism in Kenya.

PUBLIC SERVICE REFORMS IN KENYA

The classical solution that the Kenya public service reform programs have adopted so far in dealing with political influence has been to depoliticize the public service by introducing legislation to strengthen recruitment systems based on open competition and administered by a politically independent Public Service Commission, leading to the reduction of political influence through tenure of office and merit-based promotions. This has also been the trend in several other developing countries where the merit-system has been advertised as the antidote to patronage, nepotism, cronyism and other traditional practices that have undermined the public service (Keuleers 2004).

Repucci notes that public service reform is one of the most intractable yet important challenges for governments and the public today. It not only touches on government's very purpose for existence, but also on some of its most sensitive, protected areas. The public service is the backbone of the state, supporting or undermining the entire system of governance (Repucci 2012). Because of the closeness to the critical centres of power, Kenya has over the years had unusually powerful civil service. How powerful the Kenya civil service is nevertheless open to dispute, but Kenyans and the press give nearly as much attention to senior appointments in the public service as they do to those Members of Parliament named cabinet ministers (Leonard 1991). Successful implementation of reforms in Kenya are therefore closely tied to the interests of the bureaucracy and their benefactors. The highly respected African Peer Review Mechanism (APRM) Country Self-Assessment Report on Kenya rightly noted:

> "The civil service is the ultimate institution of governance and is the most critical mechanism of governance as far as implementation is concerned. However, the quality of recruitment to the civil service is compromised by dependence on extraneous factors such as bribery, nepotism and political influence"(Panel of Eminent Persons 2006) 92.

The same report in another section noted:

> "…the 1990s reforms in the civil service departments were not issues driven but rather based on predominantly political considerations, hence compromising efficiency, continuity and effectiveness while causing uncertainty among accounting officers" (Panel of Eminent Persons 2006).

The findings of the Panel of Eminent persons were similar to those contained in World Bank Report on the implementation of reforms in Kenya in 1999. The overall verdict of the report which reviewed reforms in the financial sector, the civil service and the state corporations- between 1993 and 1998 was that the implementation of reforms was 'disappointing', mainly because the authorities paid little attention to implementation (World Bank 1999). It would be anybody's guess who the report is referring to when it mentions 'authorities.'

Regarding state corporations, the report noted "…the reform of the large infrastructure entities slipped. Reaching a political consensus on actions took longer than envisaged; there was bureaucratic inertia, in addition to the slow pace of completing the technical work…" (World Bank 1999: iii). On the civil service front it stated that'the basic objective of creating a smaller, better paid and effective civil service were frustrated. In addition, the aspect of the program aimed at restructuring twelve ministries and their core functions made no progress beyond initiatives of the Ministry of Agriculture and, to a lesser extent, the Ministry of Health."

The findings of the Panel of Eminent Persons and the World Bank Report hence laid credence to the observation by (Polidano 2001), that in many developing countries reforms failed not because they were implemented and yielded unsatisfactory results, but because in most cases they were either not implemented, or only implemented in tokenistic, half-hearted manner (Polidano 2001) by civil servants and politicians who felt threatened. The manner in which implementation of structural adjustment credit was undertaken was one of the most vivid illustration of the observation by (Branch and Cheeseman 2006): "we do not dismiss the ability of Kenyans to manipulate, subvert or simply ignore the state and its institutions". Policy is thus implemented not through the established institutions of governance but through established network of patronage appointees.

It is a reality that plum and strategic positions in Kenyan public service are essentially political appointments (Editorial 2011). But the desire of most citizens has been that these top positions to be open for professional and merit consideration. Patronage appointments, and by extension therefore 'politicization' of the Kenyan public service, needs to be understood within the context of the values associated with a professional public service and those who benefit from the envisaged reform initiatives. Merit and competition are undermined when unqualified individuals are hired or promoted into posts for which they are unsuited (Orac 2000).

As the democratic space opens, even members of parliament and cabinet ministers who previously benefited from the ability to appoint people to public offices seem to be realising the dangers of politicising appointments. A minister was quoted in parliament saying that 'questionable appointments led to the bungled 2007 election' and cautioning those playing such games 'to be aware of the dangers of politicising appointments' (Nation Reporter 2011) . Without risking the danger of being seen as contradicting the position taken in this paper, it is important to point out that the civil service reform movements have significantly altered the legitimacy of patronage as an acceptable form of personnel management. In effect, politicians, reformers and scholars have demonised the concept, instilling it with a negative valence that remains the dominant perspective used in contemporary public administration (Bearfield 2009). The meaning and usage of political patronage has in essence undergone a change that is not evolutionary but accretionary, with each new idea adding to a growing pool of existing meaning.

Legitimacy arguments notwithstanding, patronage appointments suggest the transgression of real or perceived boundaries of legitimate political influence, the violation of principles of merit and competition in civil service recruitment and promotion (Orac 2000). Optimally, such an arrangement allows public administration to remain sensitive to political goals yet protected from political meddling in its day-to-day functioning. Public service reform, like all development in the public sector and otherwise, requires a systematic approach that takes account of many different factors and interests. Regardless of the specific reforms required (e.g. human resources management policies, legal and ethical framework, or institutional framework), professional practitioners have the ability to craft their approach to maximize their effectiveness (Repucci 2012) taking into account local contexts. However, this ability is critically compromised when those in position do not ascribe to the objectives of the reform agenda.

In order to offer the same degree of loyal service to governments of differing political persuasions, neutrality, in the sense of political non-partisanship in public administration, has been widely distinguished as a precondition for ensuring that, regardless of their political orientation, citizens are treated fairly and in an equitable manner (Mulgan 2006; Matheson, Weber et al. 2007). Professional public servants are expected to maintain a certain distance from the concerns of their political masters. Politicisation through whatever method, patronage included, is the term used to describe the erosion of such distance (Mulgan 2006). Findings from international comparative data strongly suggest that good state bureaucracy is likely to causally foster growth, development, and prosperity (Brosamle 2012).

Even if professionally qualified, patronage appointees are more likely to be inclined towards the appointing authority's interests. If that appointing authority is opposed to reforms—as was the regime in Kenya—then barriers will be erected on the path of reforms and implementation resisted or frustrated. In addition, while public sector reform initiatives are a long-term undertaking, patronage appointees have a short term focus and their tenure limited to the tenure of the government or the appointing authority. This has a negative impact on implementation of reforms.

CONCLUSIONS

Empirical evidence from research undertaken in several countries now show that increasing reliance on political appointees at the expense of career public servants hurts performance by reducing morale, shortening tenures among public servants and erecting barriers to effectively recruiting highly qualified individuals into government service (Krause, Lewis et al. 2006). Efforts to change or introduce reforms are inhibited by the extent to which patronage networks are coherent and the capacity of benefactors to have control of the state system (Grindle 2012). Bartley (Bartley 1999) notes that losses from reform for powerful groups (politicians, public sector workers, and sometimes the professionals and administrators) are more certain than the gains to an ill-served public. In such circumstances and conditions "the constituency for reform, in a new manager class and beneficiaries, takes time to emerge. Support for reform and especially for the losers from reform therefore requires long term commitment" (Batley, 1999: 762)

The merit principle has been the foundation of traditional public sector recruitment, and was the vehicle to overcome patronage and inefficiency (Colley 2001); however, many countries (particularly developing and middle-income) experience periods of ebbing and waning politicisation in the civil service. These influence public service delivery because the way in which the governing and administrative elites work together affects government performance as well as citizens' perception of the quality of public institutions in upholding the public interest (Armstrong and Matsuda 2003). The patronage laden Kenyan public service that has been operating for long periods since independence was neither organized for efficiency nor to serve the people, but 'to provide jobs for the boys' (Grindle 2012). Therefore reforms in Kenya have been consistently resisted, because patronage networks, which the reforms hoped to replace among others, offer political executives flexibility to achieve a wide variety of objectives (Grindle 2012).

For these reasons, in order to be successful, the proposed reforms require altering the internal incentive of the bureaucracy, which would in turn fundamentally alter the power controls and relationships on which a traditional bureaucracy is based. Dismantling the patronage networks to allow for implementation of reforms thus means breaking old structures and building new ones, this cannot be achieved in the short term as often attempted. It is a measure that requires long-term commitment and the cooperation of many players to take root.

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