ASR Forum: The Life and Work of Joel Barkan

Devolution and the New Politics of Development in Kenya

Karuti Kanyinga

Abstract: Joel Barkan had a special interest in decentralization and local development. He was persuaded that decentralization, and devolution in particular, had the potential of addressing Kenya's longstanding challenges in regard to equity, ethnic inequalities, inclusion, and service delivery. Although political patronage and ethnic interests historically had hindered efforts to introduce decentralization, Kenya's 2010 Constitution promised a devolved system of government to address regional imbalances in development, promote equitable access to basic services, and give powers of self-governance to the people. Will devolution under the 2010 Constitution succeed, or will it fail just like the other initiatives before it?

Résumé: Joel Barkan avait un intérêt particulier pour la décentralisation et le développement local. Il était persuadé que la décentralisation et la dévolution en particulier, avait le potentiel de faire face aux défis de longue date du Kenya en ce qui concerne l'équité, les inégalités ethniques, ainsi que l'inclusion et la prestation des services. Bien qu'historiquement les intérêts ethniques et favoritisme politique ont entravé les efforts visant à introduire la décentralisation, la Constitution de 2010 du Kenya a promis un système décentralisé du gouvernement pour résoudre les développements d'inégalité régionales, promouvoir un accès équitable aux services de base et doter des pouvoirs d'autonomie gouvernementale au peuple.

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Une question se pause : Est-ce-que la dévolution, en vertu de la Constitution de 2010, réussira ou échouera-t-elle exactement comme les autres initiatives avant elle?

Keywords: Decentralization; devolution; governance; local development; patronage; ethnicity; Kenya

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Introduction

Joel Barkan had a particular interest in the politics of local development in Kenya, particularly the equitable provision of basic services for the peasantry, equal opportunities for all, and policies to address regional inequalities in development. Barkan also believed that meaningful development required the active participation of *wananchi*—a Swahili term for ordinary citizens—in making decisions on development that affected their lives, although the existing system of political patronage prevented them from doing so (Barkan 1989, 1992). He believed that decentralization had the potential to address Kenya's development problems, even though Kenya's past efforts to implement devolution had failed. Now, however, there is a new effort anchored in the 2010 Constitution. Will decentralization succeed this time? Will devolution under the new Constitution bring about the desired changes, or will devolution fail, just like past initiatives?

This article, written in memory of Joel Barkan, examines the prospects of local development in Kenya through devolution. It looks at the devolved system of government as it seeks to promote democratic and accountable exercise of power, give local communities powers of self-governance, address regional disparities in development, provide equitable access to services, and address perceptions of marginalization of some communities by providing them with the resources to "catch up." These issues were at the heart of Barkan's interest in the politics of development in Kenya.

Decentralization and Development: An Overview

Much of the debate on Africa's development has tended to focus on how decentralization can address development and governance challenges.[1] Devolution, which represents the transfer of political power and resources from the central government to democratically elected (and largely independent) subnational units, is one type of decentralization that has gained attention in this respect (Mutahaba 1996; Manor 1999; Oyugi 2005). It is an important measure for promoting democratic development and governance, and includes procedures for empowering citizens and increasing their participation in decision-making. It also involves giving the democratically elected subnational units the power to raise revenue to carry out specified development and governance functions in their legally defined jurisdictions (Cheema & Rondinneli 2007). Through decentralization, the central government cedes influence over budget-making and financial decisions to the subnational units. Devolution is a comprehensive form of decentralization because it involves transfer of authority in fiscal, political, and administrative decision-making matters.[2] It gives the citizens and their elected officials power to make decisions on public affairs. In this regard, devolution enhances democracy and self-governance by giving people a voice in the making of decisions regarding public policies that concern them.

Some refer to devolution as “democratic decentralization” because it encompasses two features that are critical for promoting development and governance.[3] One is transfer of resources and authority for decision-making to the devolved units, which are democratically elected and largely independent of the central government. This builds the capacity of these units to undertake development without being wholly dependent on decisions from the center. The second element concerns the potential of devolution to democratize society—to provide citizens with opportunities to influence decision-making, give them powers of self-government, and bring government and services close to the people.[4] On the whole, devolution enhances democratization of society by providing a framework through which people’s voices and interests are heard and negotiated and resources are allocated to address their concerns.

In Kenya, as well as the rest of Africa, decentralization reforms have gained considerable attention because they are seen as the solution to problems arising from postcolonial centralization of state power. Notably, Kenya inherited a highly centralized system of government at independence in 1963. Powers were concentrated in the executive based on the argument that a strong center would foster national unity, build a nation-state, and support rapid social-economic development. However, centralization of power and authority undermined prospects for both democracy and development. A centralized executive resulted in political patronage and deepened divisions along ethnic lines. It also prevented active participation of the citizens in public affairs. Public policy decisions could be imposed from the center with limited or no participation of the people. As Barkan (1992) observed, the executive tended to exercise control and power in determining people’s choices in policies and in the interactions between the government and the citizens.

Under these circumstances, the rules of the game were not clear; the president could issue directives on public policies without consulting citizens and without notice even to the bureaucrats who were expected to implement those policies. This approach to public policy resulted in deepened inequalities in development—the state distributed resources largely on the basis of political considerations. This approach also disempowered the citizens and constrained the space for participation. As the popular discontent grew, demands for decentralized government gained momentum based on the argument that decentralization would promote equity in delivery of basic services (Ng’ethe & Kanyinga 1998).

It is important to note that regimes representing ethnoregional groups with enormous resources have no incentive to share resources with subnational units or other groups (Barkan & Chege 1989). If such groups do embrace decentralization, then, they tend to do so in the context of maximum devolution. By contrast, ethnoregional groups that lack power and resources tend to view decentralization, especially deconcentration, as a way to enable the government to redistribute resources from the rich regions to poor areas. Thus the form of decentralization that is favored—whether devolution or deconcentration—depends on the political and economic capability of the ethnoregional base on which the regime rests.

In Kenya the demands for devolution have been associated historically with ethnic minorities and other marginalized groups. National development under a patrimonial state bypassed such groups because they were numerically too small to count as vote baskets. Mobilization of numerically large groups for electoral competition meant that those large groups and regions received exclusive benefits such as increased allocation of development resources.

The first attempt to introduce devolution, regional governments, or *majimbo*—a Swahili term for "regions" (singular, *jimbo*)—was in the early 1960s, immediately after independence. The pressure for a devolved form of government came from the numerically smaller communities organized around the political party KADU (Kenya African Democratic Union).[5] Fearing that large groups would dominate them and their land after independence, they supported a regional form of government to avoid the dominance of these groups (Ghai & McAuslan 1970; Harbeson 2012).

The first postindependence government of President Jomo Kenyatta and KANU (Kenya National African Union) consolidated political power and dismantled regional governments. The central government withdrew financial support from the regions and introduced administrative challenges to prevent their effective functioning. The government also dismantled institutions that promoted the interests of regional governments. The Senate was dismantled to create a unicameral Parliament answerable to the executive. More powers were given to the executive, which, in turn, became increasingly involved in development.

A second comprehensive attempt to decentralize government came during the regime of President Daniel Moi in the early 1980s. Moi, from Tugen, a numerically small subgroup of the Kalenjin community, had supported the regional majimbo governments in the 1960s. His ascendancy to power in 1978 was seen as an opportunity to direct resources to underdeveloped communities, including his own community in the Rift Valley. Aware of the need to have numerical strength in "new politics," he brought together the Kalenjin subgroups and added related nomadic and pastoralist groups to create a new ethnic platform. In 1983 he introduced the District Focus for Rural Development, which, he argued, would give wananchi opportunities to participate in development planning, implementation, and management (Barkan 1992; Barkan & Chege 1989). This decentralization

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reform focused on the transfer of authority for planning and budgeting to the districts, which were administrative units under the control of the central government and staffed by the line ministries. While the Focus did provide new space for wananchi to make decisions on the type of development projects they wanted government to support, it did not invigorate the local government units that had been in place under the central government, and it did not involve a sharing of power between the center and the local governments. The central government still exercised control and power in determining how the local governments would operate, the policies they would enact, and the key decisions on development planning and budgeting that they would implement. Although Members of Parliament participated in the District Development Committees (DDCs), the central government, through the provincial administration, had overwhelming influence on the operations of the committees. As Barkan (1992) argued, the strategy did not empower the citizens.

It also turned out that the District Focus strategy was devoted mostly to transferring resources to areas marginalized under the Kenyatta regime. It was an instrument to deconstruct the Kenyatta state and create a new group of political elites from among the Kalenjin subgroups. Through this new strategy, Moi established his own patron–client structure to control the development space and to benefit his own region just as Kenyatta's regime had benefited his Central Kenya region. Barkan and Chege (1989), analyzing data on public expenditure for roads, rural health, and rural development, showed that during Kenyatta's era his home region had received the highest share of development expenditure on roads. This situation was reversed when Moi took power. In 1986–87, for example, the Rift Valley, Moi's home base, received as much as 52 percent of total road development expenditure and 49 percent of rural health spending. Provision of basic services on the basis of political considerations intensified after the return of multiparty democracy in 1991. Opposition political parties formed to challenge President Moi and the ruling party, KANU. To limit the influence of the opposition, President Moi used the District Focus strategy to deny resources to areas controlled by the opposition political parties. Thus what was meant to serve as a strategy to distribute development resources equitably became a tool to punish opposition groups and their elites.

President Mwai Kibaki's first government (2003–2007) did not embrace devolution, even though his government had come to power on the promise to finalize the review of the new constitution—a process that President Moi had terminated toward the end of his tenure. The draft constitution included devolution of power as a central element. However, after Kibaki took office a group allied to the ruling coalition argued for the reduction of powers that would be transferred to the devolved units under the provisions of the proposed document. This split the government along ethnopolitical lines and prevented the proposed constitution from passing muster with the voters in the referendum held in November 2005. Nevertheless, in Kibaki's first term there were huge demands for devolution, especially by groups that felt marginalized by the existing political system, and in August 2010, during his second term, a new constitution embracing devolution was promulgated.

A number of questions still remain, however. Why did efforts to introduce decentralization by both President Jomo Kenyatta and Moi fail? Why didn't the Kibaki administration itself attempt to introduce devolution, even though it was a running theme in politics during his tenure? And to what extent can the current devolution under the 2010 Constitution be considered a success? The answers to these questions, as argued below, are connected to the larger political economy of Kenya.

The Political Economy of Kenya and Devolution

Kenya's political economy has influenced implementation of decentralization reforms in several ways. First, as we have seen, the Jomo Kenyatta administration inherited a strong state, and specifically a highly centralized executive, from the colonial era, when a strong administrative arrangement was required to maintain control over the colony. The postindependence government retained the system through which the powers of the centralized state reached the base of the society in order to help the new political elite consolidate power and control society.

Second, sharp inequalities in development characterize Kenya's different regions, which also implies imbalances among different ethnic groups. The areas that have relatively more basic services include Central Kenya, whose land was expropriated for the colonial settler economy. The colonial government neglected areas that were far away from the former White Highlands and the railway line that was developed to serve the settlers. The policies included in the first independence government's Sessional Paper No. 10, "African Socialism and Its Application to Planning in Kenya" (Republic of Kenya 1965), reinforced these inequalities by directing investments to areas that had already been developed.

Third, patronage is a central feature of Kenya's politics of development. With limited or no checks by other arms of the government, the president and the centralized executive have been using state resources to create patron–client networks comprising the president at the center and ethnic elites and their regions as key clients. These networks have been the avenue through which development resources trickle down to the local level.

Fourth, ethnicity is the fulcrum on which major political and economic events revolve. The ethnic structure in which there is no particular group that is large enough to dominate others has motivated groups to form alliances on ethnic bases to outcompete others in the struggle to access and control the presidency. The continued use of a majoritarian electoral system has reinforced this form of competition; the "first-past-the-post" electoral system has ensured that ethnicity remains a dominant feature because it motivates the mobilization of ethnic constituencies. The winners include some of the numerically large groups that are able to form alliances and outcompete others in presidential elections. The losers are the more than thirty small groups that are also marginalized in terms of development, since they cannot access and control the centralized executive.

Finally, Kenya's economy is agriculture based. Two crops, coffee and tea, have been the major export and cash crops and are predominant in Central Kenya. The government of President Kenyatta gave incentives to the region to support the growth of these crops. President Moi's leadership shifted attention to cereal crops—maize and wheat—to benefit his own region. This switch meant reduced earnings from exports and a reduction in the state's capacity to deliver basic services. The coming to power of President Kibaki, another Kikuyu, in 2003, saw the revival of coffee, tea, and dairy agricultural subsectors, an increase in economic growth, and an increase in the service capacity of the state. And during the period of President Uhuru Kenyatta, beginning in April 2013, there has been even more diversity in Kenya's economy and relatively better economic growth compared to other periods.

These elements of Kenya's political economy have been affecting implementation of devolution and decentralization in general. The politics of patronage that President Jomo Kenyatta adopted prevented meaningful devolution. The incentives and interests of the Kikuyu elites to consolidate political power were served by government control of the provincial administration and the patron–client structure already established. To them, devolution prevented effective control of the society and meant ceding some powers to other ethnic groups and regions, including those that were not loyal to them. In addition, President Kenyatta came from Central Kenya, an already developed region of smallholder farming where the Kikuyu elite had no incentive to decentralize or devolve power. They also feared majimbo would lead to eviction of the Kikuyu settled in different parts of the country, particularly in the Rift Valley. The need to deconstruct the Kenyatta political and development arrangement and to direct resources to his region were the factors that inspired President Moi's interest in and incentive for decentralization. The Kalenjin and the pastoralist groups he assembled did not have a strong economic base, and they therefore supported decentralization as a means of accessing national resources.

However, the patron–client network around which regional development and politics revolved during the time of both Presidents Kenyatta and Moi collapsed in 2003 when the National Rainbow Coalition (NARC) came to power under President Kibaki. The alliance limited the space through which the president could employ patronage. In addition, a new policy framework guiding national development planning and allocation of development resources—the "Economic Recovery Strategy for Wealth and Employment Creation" (ERS) (Republic of Kenya 2003)—led to the recovery of the economy and the ability of the state to provide basic services, including infrastructure. Nevertheless, regional imbalances in development remained an important discourse that informed the making of political alliances during President Kibaki's first five years. Some groups felt the NARC government was not inclusive and argued that elites from the president's Kikuyu and allied communities (Meru and Embu) again controlled state resources in favor of their Mount Kenya region (Muhula 2009). New divisions emerged along ethnic lines, with many groups opposed to the president's Kikuyu ethnic community. Many Kikuyu who had settled in the Rift Valley and had suffered waves of evictions around election time were worried that devolution would lead to ethnic cleansing in some regions.

The December 2007 election was thus held against the backdrop of deep ethnoregional divisions in which groups not allied to President Kibaki's ethnic region felt marginalized and excluded from political power. The election itself was too close to call, especially with leaders mobilized along ethnic lines.[6] A violent civil conflict between the government/ruling party and the opposition followed and threatened to tear the country apart. International mediation resulted in the formation of a coalition government in which the government and the opposition shared power. The parties also agreed to initiate a review of the constitution. During consultations around the constitution, several issues were identified as the main causes of the 2007 postelection violence. These included imbalances in regional development, feelings of exclusion from power by many groups, and the central government's bias in favor of regions and districts that were the president's home base.

Regional disparities in development and the spread of basic services presented a stark reality. The Kenya Integrated Household Budget Survey (KIHBS) for 2005–2006 (Republic of Kenya 2007) showed, for instance, that 93 percent of adult women in North Eastern Province had no education at all, but 97 percent of adult women in Central Province had been to school. In North Eastern Province 34.6 percent of the residents had access to safe clean water compared to 63 percent in Coast Province and 52 percent in Central Province (Republic of Kenya 2007).

The reality of such imbalances in development and the general marginalization of certain areas in terms of development led many to support devolution under the proposed constitution. They viewed devolution as a policy measure that would provide solutions to the problems inherited from the centralized government. Devolution was seen as providing for equitable sharing of national resources, limitations in the use of power by the center, and the promotion of inclusion and local self-governance, especially by allowing people to democratically elect their own governments at the county level. Devolution became the centerpiece of the Kenya Constitution which was approved by a majority of voters, 67 percent, in the referendum of August 2010.

Devolution under the 2010 Constitution

The 2010 Constitution establishes two distinct but interdependent levels of government—national and county—which are required to operate on the basis of consultation and cooperation. The county governments, therefore, are neither agents nor subordinates to the center.[7] Article 10 identifies sharing and devolution of power as one of the national values and principles of governance, binding to everyone tasked with implementing public policy decisions. Devolution is intended to promote the democratic and accountable exercise of power, social and economic development, the provision of proximate, easily accessible services throughout Kenya, and an equitable sharing of national and local resources (Article 174). Article 203 (2) stipulates that in every fiscal year the national government will allocate not less than 15 percent of the revenue raised nationally to the county governments and that 5 percent of national revenue will be used as an "equalization fund" to assist previously marginalized groups. Devolution is thus expected to promote development in all regions of the country, address the challenges of exclusion, and limit the powers of the center. The policy is based on a recognition of the need to address the problems of the centralized state and to enable communities through county governments to exercise and benefit from self-governance. Importantly, devolution is now anchored in the Constitution. This is an established policy that cannot be evaded, even though President Uhuru Kenyatta's power base rests among the most well-resourced communities, the Kikuyu in particular.

This new policy is a "game changer" in Kenya's politics of development. In 2014 transfers to county governments for infrastructure projects to enhance economic growth accounted for about 20 percent of total expenditures.[8] These grants have had the effect of extricating the local elites from the patronage of the center. Since the president personally has little to offer local constituencies, they are now free to ignore him without any consequences in terms of regional development. Opposition-controlled areas have the same access to state resources as those that are loyal to the ruling elites. The new bicameral Parliament and an independent judiciary also checkmate the president's decisions and promises, a new level of oversight that operates in addition to the checks by independent bodies such as the Commission on Administrative Justice (the Ombudsman) and the National Commission on Human Rights.

The unconditional grants are rapidly changing rural Kenya in terms of access to basic services. Counties are prioritizing their own local projects and allocating resources where they are needed most. County governments have embarked on rural infrastructure projects such as improving access roads, providing water services, and establishing and improving health care facilities. The democratically elected officials generally live among the people and they are consulting citizens on development projects to be initiated. Some counties, for example, have introduced programs specifically to increase agricultural production. They buy and provide quality seeds and fertilizer to farmers at subsidized prices and they plough land for smallholder farmers. In pastoralist communities, counties have built abattoirs and introduced measures to link farmers to markets. In some areas, such as Wajir, Mandera, and Turkana, the development infrastructure laid down in the last two years of county government—including medical facilities, rural roads, and classrooms for early childhood education—is arguably greater than what successive governments have accomplished in the last fifty years.

This is not to suggest that devolution has not presented some challenges. A recent World Bank (2015) review of public expenditure by the county governments shows that the devolved units are indeed allocating resources to development, but the amount each county spends in this respect varies. Some are spending more than 30 percent of total budget on development as required, although some are spending even more than this on administrative expenses. In addition, while the new county governments are administered by many newly elected and appointed officials who come from the private sector and civil society, others have been inherited from the central government and the former local government units. To a large extent the elected governors and other officials in the county executive, and the new Members of the County Assemblies, comprise the new political elites at the local level. Although they do not represent the presidency, they are themselves a new center at the county level, irrespective of political party, and it is through them that new forms of patronage are emerging. In many cases the governors' control of the local development space resembles the presidents' actions in the past.

Nevertheless, the mixed nature of political interests and incentives at the county level means that local elites cannot virtually run errands for the national-level political elites. In addition, the oversight by the county assemblies is relatively more intense than that exercised by the national Parliament and the national government, resulting in relatively more fiscal transparency (though not necessarily accountability) at the county level. And where disagreement between the county assembly and the executive is not resolved, most county governments have resorted to impeaching governors. The threats of impeachment have forced a new mode of working between the governors and their county assemblies as the governors are providing the assembly members with resources for development projects in their areas.

Conclusion

Devolution under the 2010 Constitution is a work-in-progress, but there are signs that implementation is eroding the basis for patronage-based development. There are also signs that, if well executed, devolution will address longstanding challenges in regard to equity, ethnic inequalities, inclusion, and service delivery, and that eventually these improvements will minimize ethnic-based conflict. Since the second half of 2013, when actual implementation of devolved programs began, there have been limited, if any, demands by communities for the national government to provide development resources. This result does suggest that enhanced and equitable access to basic services is reducing the need for bargains and pleas for the president to help a certain group or region.

While in the past political patronage transformed state-driven development into a privilege for those close to the center of political power, devolution has transformed development into a right and made resources accessible to all regions. Importantly, the democratically elected county governments are providing wananchi with opportunities to participate in decisions regarding the planning and implementation of local development projects. Central government officials have lost what Barkan (1992) referred to as the "power to orchestrate development planning and budgeting at the local level." At the same time, it must be acknowledged that the gains of devolution would be more pronounced if wananchi exerted themselves in the evolving space to hold their leaders accountable and to ensure that the form of patronage that existed at the national level is not reproduced at the county level. In other words, Barkan would likely have been excited to see devolution at work, but perhaps would urge that there is still more to be accomplished.

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Notes

1. The definition of "decentralization" has been expanding over the years. In the 1970s and '80s the term was used to refer to the transfer of authority, responsibility, and resources from the center to lower levels of government through various forms of deconcentration, delegation, and devolution. The concept now encompasses, in addition, the sharing of power, resources, and authority for shaping policies in the society (see Rondinelli 1981; Sheema et al. 2007; Kessy 2013).
2. Other forms of decentralization include deconcentration, delegation, and fiscal decentralization. Deconcentration, or administrative decentralization, involves shifting of administrative responsibilities from the central government to the field administrative units. Delegation includes transfer of responsibilities for decision-making and administration of specific functions to semi-autonomous public bodies. Fiscal decentralization involves transfer of fiscal resources from the center to the subnational units; it also involves establishing mechanisms for fiscal cooperation in the sharing of revenue among various levels of government (see Olowu 1997; Cheema & Rondinelli 2007).
3. The meaning of devolution has been expanding over time. It is often referred to as political decentralization or democratic decentralization because of its emphasis on the transfer of power for decision-making to elected subnational units and for creating mechanisms for self-governance and accountable governments.
4. Ghai (2008) observes that devolution in Kenya has the potential to de-ethnicize the state and democratize the society because political competition is not

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focused on one office, as had been the case under the centralized executive. Also, devolution opens up opportunities for citizen participation in debates about the use and abuse of state power. Hope (2014) makes similar observations through comparison of the devolved governments under the current Constitution and the local government units in the previous constitution (see Hope 2014).

5. KADU membership comprised ethnic minorities such as the various Kalenjin subgroups, the Maasai, and the Miji Kenda groups at the coast. These are also the groups that favored devolution of power to the region because they feared domination by the large groups, such as the Kikuyu and Luo, who were in KANU.
6. The opposition, the Orange Democratic Movement (ODM), comprising leaders from numerically large groups other than the Kikuyu and allied groups, claimed that the president's party, the Party of National Unity (PNU), had stolen the election through government officials. This triggered violence in opposition areas.
7. Article 6 identifies devolution and access to services as one of the defining characteristics of the Republic of Kenya. With regard to the two levels of government, Kangu (2015) observes that the manner in which devolved governments are provided for in the Constitution suggests that devolution is not based on the principle of absolute autonomy but on interdependence and cooperation. What Kenya has, therefore, is a cooperative devolved government.
8. The World Bank (2015) public expenditure review shows that county governments are allocating more resources to infrastructure. Importantly, a review of the Kenya government budget statement from fiscal year 2013–14 shows that the transfers to county governments, in absolute terms, have increased: from KSh 195.7 billion in 2013–14 to KSh 272 billion in 2015–16.