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DEVOLUTION AND CORRUPTION IN KENYA: EVERYONE'S TURN TO EAT?

MICHELLE D'ARCY AND AGNES CORNELL*

Abstract. How does decentralization impact on patronage and rent-seeking? While centralization is seen to enable rent-seeking and ethnic patronage politics, many expect decentralization to reduce these practices. With few examples of meaningful reform it is difficult to establish if this is the case in the context of African states. We look at the impact of decentralization on rent-seeking and patronage in Kenya, where the devolution of significant powers to county governments has recently taken place. We suggest that devolution has not removed rent-seeking or patronage but rather brought it down to the local level in response to popular expectations that it is "everyone's turn to eat". The realization of this expectation for a broad constituency of ethnic groups and elites has, so far, facilitated the embedding of these reforms. Our findings thus suggest that the implementation of meaningful decentralization has been achieved via the decentralization of patronage networks meaning that the "our turn to eat" character of ethnic patronage politics persists. As a result, although a greater number of groups now have their turn, ethnic minorities within some counties feel marginalized, including certain trapped minorities from politically relevant groups.

DECENTRALIZATION IS OFTEN PROPOSED as a potential solution to the problems facing African states. As extreme centralization is seen to undermine democracy and development and enable debilitating forms of politics, like rent-seeking and ethnic patronage,¹ decentralization is suggested as the necessary corrective.² Decentralization is also advocated as a way to protect minorities, diffuse conflict,³ boost local development and bring politics 'within the people's reach'.⁴ For

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¹ Nicolas van de Walle, *African economies and the politics of permanent crisis, 1979-1999* (Cambridge University Press, Cambridge, 2001); Robert H. Bates, *When things fell apart: state failure in late-century Africa* (Cambridge University Press, Cambridge, 2008).

² World Bank, 'Sub-Saharan Africa: From crisis to sustainable growth' (World Bank, Washington DC, 1989); John Michael Healey and Mark Robinson, 'Democracy, governance and economic policy: sub-Saharan Africa in comparative perspective' (Overseas Development Institute, London, 1992).

³ Philip G. Roeder, 'Ethnofederalism and the mismanagement of conflicting nationalisms' in Jan Erk and Lawrence M. Anderson (eds), *The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?* (Routledge, Oxford, 2010), pp. 13–30.

⁴ John Joseph Wallis and Wallace E. Oates, 'Decentralization in the public sector: An empirical study of state and local government', in H. Rosen (ed.), *Fiscal federalism quantitative studies* (University of Chicago Press, Chicago, IL, 1988), pp. 5–32; Paul Seabright, 'Accountability and decentralisation in government: An incomplete contracts model', *European Economic Review* 40, 1 (1996), pp. 61–89;

these reasons, since the 1980s, decentralization has been supported by donors as an institutional “fix” for the problems of African states and has been implemented in a majority of countries.⁵ However, most of these reforms have been limited⁶ and there are few real success stories.⁷

Many hope Kenya, which introduced devolution in the 2010 constitution and voted for the first time for the devolved governments in March 2013, will be an exception. The devolution of political, fiscal and administrative powers to 47 counties has been presented as the solution to the underlying pathologies of Kenyan politics: the over-centralization of the state that allowed certain ethnic groups to dominate leading to inequitable resource distribution, politicized ethnicity in ways that fueled violence, and stimulated a political culture of “our turn to eat”.⁸ What is relatively distinctive in Kenya is that reforms emerged from a long historical discussion around federalism, and the constitutional process following the post-election violence in 2007-8. These origins have led some to cautiously hope that Kenya will be an exceptional case of meaningful decentralization in an African state.⁹

While equating centralization of power with political pathologies makes devolution a logical corrective, it gives rise to a number of additional important questions. If centralization led to rent-seeking and exclusionary ethnic patronage politics, will decentralization lead to inclusionary patronage politics or no patronage politics and lower rent-seeking? How have elites and electorates viewed devolution in terms of rent-seeking and patronage? How has devolution impacted on levels of rent-seeking and access to patronage resources, and how has this shaped the course of reforms?

Although it is difficult to give definitive answers to these important questions at this early stage, we use primary data from fieldwork conducted just before and soon after the 2013 election in four case study counties as well as; aggregate data on the backgrounds of all 47 winning gubernatorial candidates, ethnicity, and county-level expenditure; data on subsequent events over the last two years from newspapers; and secondary literature for comparative analysis with other countries to analyze how devolution has impacted on patronage and rent-seeking in Kenya in the run up to and in the year after the March 2013 elections. We examine how elites and electorates expected devolution to change their access to patronage resources. We then analyze levels of rent and patronage after the election, and discuss how these patterns have impacted on the course of devolution to date.

How have elites and electorates viewed devolution and responded to the new opportunities resulting from it? We find that during the first county election campaigns there were expectations that it was “everyone’s turn to eat”, meaning that a new cadre of the elite and every ethnic group saw it as their turn to “eat” state resources that were traditionally only available to those holding power at the centre.

Alexis de Tocqueville, *Democracy in America* (Doubleday Anchor Books, Garden City, NY, 1969), p. 63

⁵ Stephen Ndegwa, ‘Decentralization in Africa: A stocktaking survey’ (World Bank, Washington DC, 2002).

⁶ *Ibid.*

⁷ Ladipo Adamolekun, *Public administration in Africa* (Westview Press, Boulder, CO, 1999).

⁸ Susanne D Mueller, ‘The political economy of Kenya’s crisis’, *Journal of Eastern African Studies* 2, 2 (2008), pp. 185–210; Daniel Branch and Nic Cheeseman, ‘Democratization, sequencing, and state failure in Africa: Lessons from Kenya’, *African Affairs* 108, 430 (2009), pp. 1–26; Michela Wrong, *It’s Our Turn to Eat: The Story of a Kenyan Whistleblower* (Fourth Estate, London, 2009).

⁹ Yash Ghai, ‘Devolution: restructuring the Kenyan state’, *Journal of Eastern African Studies* 2, 2 (2008), pp. 211–226.

These expectations have been realized for a broad constituency of ethnic groups and elites.

However, not everyone's expectations have been realized. While devolution has given more groups access to resources, not all groups have benefitted equally. There are a few important exceptional cases of politically relevant groups with 'trapped minorities' residing outside of their home counties and the practice of 'winner takes all' politics in the counties may be creating new forms of exclusion from patronage networks in some counties. Other losing constituencies initially included senators and MPs whose access to patronage was diminished and who therefore initially aligned to insert themselves into county level politics.

Our findings make at least three important contributions. In the debate on Kenya they help to explain factors that facilitated the implementation of devolution. We suggest that the increased access to rent and patronage for a wider section of the elite and a larger number of ethnic groups, which our research indicates was anticipated during the campaigns, created a broad-based constituency incentivized to defend devolution against central state subversion. This constituency, who can be mobilized by governors in their struggle with central government, was an important factor facilitating the implementation of devolution. Although more research is needed to fully understand these historic changes, our research contributes an important piece in explaining this puzzle.

Second, our research makes a contribution to broader debates about reform in Africa as it sheds light on a rare instance where reforms that run counter to the interests of a central state elite have actually been implemented. Recently, research from the African Politics and Power Programme, such as Tim Kelsall's, have centered on whether or not reforms need to go "with" or "against the grain" i.e. with embedded beliefs and behavior, particularly patrimonialism, if they are to be implemented.¹⁰ Going "with the grain", in expanding rather than undermining patronage, has helped devolution to become embedded. However, in most Kenyan counties it seems to have entrenched at the local level the practices that have been so problematic at the national level: rent-seeking by politicians and ethnic patronage politics. Our findings both confirm the validity of claims that "going with the grain" can enable reforms to become embedded and highlights the pitfalls of this approach: that there can be reform without change.

Third, our research makes a contribution to the wider literature on comparative decentralization. It suggests that where power is exercised through patrimonial networks meaningful decentralization may lead, in the first instance, to the restructuring of rent-seeking opportunities and patrimonial networks downwards, particularly where significant resources are devolved. Some well-established political economy models predict that decentralization will lead to less corruption, however little empirical evidence confirms this. Similar to previous research we suggest that decentralization does not reduce corruption.¹¹ However, our findings also indicate that in patrimonial settings decentralization of corruption could actually be a first step for

¹⁰ Tim Kelsall, 'Going with the grain in African development?', *Development Policy Review* 26, 6 (2008), pp. 627–655.

¹¹ See for example Daniel Treisman, *The architecture of government: Rethinking political decentralization* (Cambridge University Press, New York, 2007), p. 5; Raymond Fisman and Roberta Gatti, 'Decentralization and corruption: evidence across countries', *Journal of Public Economics* 83, 3 (2002), pp. 325–45; C. Simon Fan, Chen Lin and Daniel Treisman, 'Political decentralization and corruption: Evidence from around the world', *Journal of Public Economics* 93, 1 (2009), pp. 14–34.

reforms to become embedded. In other words, the transfer of meaningful powers to the local level has been achieved by the decentralization of patronage resources.

The article proceeds as follows: in the next section we review the comparative literature on decentralization and corruption. Then we introduce the Kenyan case, explaining the ways in which, before the 2013 elections, devolution created the potential for the restructuring of access to patronage resources for ethnic groups. We then use four counties to explore, at the sub-national level, the impact of devolution on rent-seeking and patronage in the run up to and in the first year after the first county-level elections. In this analysis we highlight who the “winners” and “losers” from devolution have been and how the interaction between them has determined the course of devolution to date. We conclude by considering the broader implications.

Decentralization in comparative perspective

Some well-established political economy models predict that decentralization – understood as ‘the transfer of public authority, resources, and personnel from the national level to subnational jurisdictions’¹² – will address the pathologies of developing states.¹³ In theory, decentralization creates downward accountability mechanisms, which should motivate politicians to provide public services more efficiently.¹⁴ It enables electorates to monitor politicians and bureaucrats directly to ensure they are not engaged in corruption.¹⁵ Because voters are assumed to want public goods and to punish corrupt officials, making governance more responsive through decentralization is expected by these scholars to improve service delivery and boost local development.

Despite these theoretical reasons for expecting decentralization to impact positively on governance and development, Treisman has concluded that ‘almost no robust empirical findings have been reported about the consequences of decentralization’.¹⁶ In particular, the empirical evidence is ambiguous about the effects of decentralization on corruption in the African context.¹⁷ Although decentralization is supposed to decrease corruption by enabling electorates to hold politicians and officials to account, some found evidence that it does,¹⁸ while others showed that it either has no effect¹⁹ or even increases corruption.²⁰

¹² Ndegwa, ‘Decentralization in Africa’, p. 2.

¹³ John Joseph Wallis and Wallace E. Oates, ‘Decentralization in the public sector: An empirical study of state and local government’, in Harvey S. Rosen (ed.), *Fiscal federalism quantitative studies* (University of Chicago Press, Chicago, IL, 1988), pp. 5–32; Paul Seabright, ‘Accountability and decentralisation in government: An incomplete contracts model’, *European Economic Review* 40, 1 (1996), pp. 61–89; Fisman and Roberta, ‘Decentralization and corruption’.

¹⁴ Wallis and Oates, ‘Decentralization in the public sector’.

¹⁵ Seabright, ‘Accountability and decentralisation’.

¹⁶ Treisman, *The architecture of government*, p. 5.

¹⁷ Melissa T Labonte, ‘From patronage to peacebuilding? Elite capture and governance from below in Sierra Leone.’ *African Affairs* 111, 442 (2012), pp. 90–115; Richard Tambulasi and Happy M. Kayuni, ‘Decentralization Opening a New Window for Corruption: An Accountability Assessment of Malawi’s Four Years of Democratic Local Governance’, *Journal of Asian and African Studies* 42, 2 (2007), pp. 163–183.

¹⁸ Fisman and Gatti, ‘Decentralization and corruption’.

¹⁹ Treisman, *The architecture of government*.

²⁰ C. Simon Fan, Chen Lin and Daniel Treisman, ‘Political decentralization and corruption: Evidence from around the world’, *Journal of Public Economics* 93, 1 (2009), pp. 14–34.

One of the main criticisms that can be made of these models in the context of developing countries is the assumption that citizens want public goods and development, and so simply need to be empowered to make these demands. A long established literature has argued that under conditions of underdevelopment and inequality, voters often demand private rather than public goods.²¹ This literature points to the prevalence of clientelism, patronage and rent-seeking.

Although these terms are often used interchangeably, it is important to be clear about their meaning, and how they relate to the African context. In general, clientelism is an umbrella term for different practices that involve the targeted allocation of goods and services in exchange for political support.²² Clientelist goods can be either personalized goods that only benefit individuals, for example school fees, food, or grants to start a business, or club goods targeted at particular groups, for example scholarship schemes, community toilets, or roofing for a particular school.²³ Here we use the term patronage to describe a distinct form of clientelism where *public* resources, in particular public jobs, are exchanged.²⁴ Rent seeking is defined as the use of resources ‘unproductively to seek unearned personal benefits’.²⁵ Although patronage can be seen as a form of rent-seeking, where the personal benefits take the form of political support, we use the terms distinctly. We thus use patronage to refer to situations where public resources are used to buy political support, and rent-seeking to refer to scenarios where public resources are used to buy private goods that only benefit the office holder. In terms of how these behaviours relate to corruption, while most definitions of corruption refer to the misuse of public office for private gain, thus referring primarily to rent-seeking, patronage and other forms of clientelism are sometimes also referred to as corruption.²⁶

In the African context, clientelism has been seen as firmly embedded in what voters demand from politicians. A field experiment in Benin showed that clientelist messages to voters had positive effects in all regions for all candidates.²⁷ MPs in Ghana reported that the greatest demands from citizens were for personalized goods followed by narrow club goods, rather than performance of their responsibilities in legislation and executive oversight.²⁸ Part of the explanation for this, according to the MPs, dates from Nkrumah’s time, when MPs were seen as an extension of the state responsible for delivering development projects to communities.²⁹ Similarly, in Kenya after Independence, under Harambee – a system of self-help development projects – MPs were expected to contribute towards these club goods if they wanted to be re-

²¹ Herbert Kitschelt and Steven I. Wilkinson, ‘Citizen-Politician Linkages: An Introduction’ in Herbert Kitschelt and Steven I. Wilkinson (eds), *Patrons, Clients, and Policies, Patterns of Democratic Accountability and Political Competition* (Cambridge University Press, Cambridge, 2007), pp. 1–49.

²² Allen Hicken, ‘Clientelism’, *Annual Review of Political Science* 14 (2011), pp. 289–310.

²³ Staffan I. Lindberg ‘What accountability pressures do MPs in Africa face and how do they respond? Evidence from Ghana’, *The Journal of Modern African Studies* 48, 1 (2010), pp. 117–142.

²⁴ Hicken, ‘Clientelism’.

²⁵ Arye L. Hillman ‘Rent seeking.’, in William F. Shughart and Laura Razzolini (eds) *The Elgar Companion to Public Choice*, 2nd edn, (Edward Elgar Publishing, Cheltenham, UK and Northampton, MA, USA, 2013), p. 307. See also Randall G. Holcombe, ‘Rent seeking and constitutional political economy’ in Roger D. Congleton and Arye L. Hillman. *Companion to the Political Economy of Rent Seeking* (Edward Elgar Publishing, Cheltenham, UK and Northampton, MA, USA, 2015).

²⁶ van de Walle, *African Economies*, p. 51.

²⁷ Leonard Wantchekon, ‘Clientelism and voting behavior: Evidence from a field experiment in Benin’, *World politics* 55, 3 (2003), pp. 399–422.

²⁸ Lindberg, ‘What Accountability Pressures Do MPs in Africa Face?’

²⁹ *Ibid*, p. 125

elected.³⁰ Such historical legacies are seen to further embed clientelist demands in these countries.

However, the view of African voters as being only responsive to clientelist appeals has recently been challenged. It has been pointed out that, particularly in urban areas, the widespread distribution of private goods during campaigns does not automatically translate into votes.³¹ According to survey data, voter choice is more influenced by evaluations of performance than by clientelism.³² The existence of sizeable numbers of swing voters, and evidence that they are more likely to make their final decision on the basis of policy rather than clientelism,³³ at the very least suggests that clientelism is not the only determinant of voter choice, even if it is widespread and influential.

In terms of devolution in Kenya a first important question to ask concerns what demands we might expect voters to make of the newly devolved institutions? Harambee i.e. local self-help projects supported by politician patrons – a long established practice used by Jomo Kenyatta and Daniel arap Moi, in different ways, as instruments of rule and formally institutionalized in the form of Constituency Development Funds (CDF) after democratization – has encouraged Kenyans to evaluate their politicians in terms of their ability to funnel resources to local communities.³⁴ Given this tradition should we expect to see clientelist or programmatic appeals and, if the former, does this imply that there will be stronger demand for club goods more than private goods?

A second set of related questions concern the impact of decentralization on the extent to which clientelism is embedded in the institutional structure of the state. In the African context, the fusion of clientelist politics with access to state resources has most often been referred to under the overarching rubric of neopatrimonialism.³⁵ Thus in Africa a distinguishing feature of patronage is that it is the core of politics,³⁶ and it depends on public resources and powerful presidencies.³⁷ As such, there are important questions to be asked about how decentralization impacts on patronage networks and the underlying neopatrimonial structure of the state.

In addressing these questions, the literature on decentralization in Africa has emphasized that most governments have not implemented meaningful reform

³⁰ Jennifer A. Widner, *The rise of a party-state in Kenya: from "Harambee" to "Nyayo!"* (University of California Press, Berkeley, CA, 1992), p. 34

³¹ Keith R. Weghorst and Staffan I. Lindberg, 'Effective opposition strategies: Collective goods or clientelism?', *Democratization* 18, 5 (2011), pp. 1193-1214.

³² Staffan I. Lindberg, and Minion K. C. Morrison, 'Are African Voters Really Ethnic or Clientelistic? Survey Evidence from Ghana', *Political Science Quarterly* 123, 1 (2008), pp. 95-122.

³³ Keith R. Weghorst and Staffan I. Lindberg, 'What Drives the Swing Voter in Africa?', *American Journal of Political Science* 57, 3 (2013), pp. 717-34.

³⁴ For an extensive discussion of the role of Harambee in Kenyan politics see Nic Cheeseman, 'Kenya since 2002: The more things change, the more they stay the same' in Abdul Raufu Mustapha and Lindsay Whitfield (ed.s) *Turning Points in African Democracy* (James Currey, Suffolk, 2009), pp. 94-113.

³⁵ Nicolas van de Walle, 'Meet the New Boss, Same as the Old Boss? The Evolution of Political Clientelism in Africa', in Herbert Kitschelt and Steven Wilkinson (eds), *Patrons, Clients, and Policies. Patterns of Democratic Accountability and Political Competition* (Cambridge University Press, Cambridge, 2007), pp. 50-67.

³⁶ Michael Bratton and Nicholas van de Walle, *Democratic experiments in Africa: Regime transitions in comparative perspective* (Cambridge University Press, Cambridge, 1997), p. 3.

³⁷ van de Walle, *African Economies*, p. 125. For an alternative perspective on how patrimonialism can be developmental and centralized power in that context may be beneficial see David Booth and Frederick Golooba-Mutebi, 'Developmental patrimonialism? The case of Rwanda', *African Affairs* 111, 444 (2012), pp. 379-403.

precisely because it threatens their hold on power and means of rule. They have usually implemented limited decentralization only to the extent that it enables the consolidation of power.³⁸ In Uganda, Museveni transformed the National Resistance Movement dominated resistance councils into a local governance system designed to consolidate control.³⁹ In Ethiopia, the People's Revolutionary Democratic Front introduced a federalist system that splintered opposition from ethno-regional groups who could potentially secede.⁴⁰ In Nigeria, the military governments of the 1980s and early 1990s used decentralization as a means of creating loyal local bosses.⁴¹ In Côte d'Ivoire, Tanzania and Zimbabwe, ruling parties used decentralization to consolidate party control.⁴²

Where reforms have been introduced, central governments have instrumentalized their design and implementation for their own purposes. They have often minimized the power and resources of decentralized administrations. In Uganda, the high number of sub-national units has weakened their bargaining power.⁴³ In Ethiopia, the responsibilities given to sub-national governments were not matched by adequate resources, which weakened their credibility with electorates and increased their reliance on central government.⁴⁴ In Zambia, the Minister approved the budgets of local councils.⁴⁵ Even in cases where reforms were originally deemed meaningful, such as Uganda in the mid to late 1990s, when the power imperatives of central government changed in the 2000s, recentralization happened.⁴⁶

The literature on decentralization in Africa has found that in most cases governments have failed to transfer significant powers and create properly autonomous sub-national governments. This has meant that decentralization has had the effect of 'paradoxically reinforcing central authority'.⁴⁷ This demonstrates the difficulties of implementing decentralization reforms in a context of neopatrimonialism. As such it resonates with analyses on the failure of other reforms such as structural adjustment⁴⁸ and the assertion of Faguet that decentralization reform 'is not exogenous to the issue of who has the power and what they want'.⁴⁹ It raises questions about how decentralization will impact on patronage and rent-seeking but provides few empirical

³⁸ J. Tyler Dickovick and Rachel B. Riedl, 'Comparative assessment of decentralization in Africa: final report and summary of findings' (United States Agency for International Development, Washington, DC, 2010).

³⁹ Martin Onyach-Olaa, 'The challenges of implementing decentralisation: Recent experiences in Uganda', *Public Administration and Development* 23, 1 (2003), pp. 105–113.

⁴⁰ Elliott Green, 'Decentralization and political opposition in contemporary Africa: evidence from Sudan and Ethiopia', *Democratization* 18, 5 (2011), pp. 1087–1105.

⁴¹ Richard C. Crook, 'Decentralisation and poverty reduction in Africa: The Politics of Local–Central Relations', *Public Administration and Development* 23, 1 (2003) pp. 77–88.

⁴² *Ibid.*

⁴³ Janet I Lewis, 'When Decentralization Leads to Recentralization: Subnational State Transformation in Uganda', *Regional & Federal Studies*, ahead-of-print (2014), pp. 1–18.

⁴⁴ Lovise Aalen, 'Ethnic Federalism and Self-Determination for Nationalities in a Semi-Authoritarian State: The Case of Ethiopia', *International Journal on Minority and Group Rights* 13 (2006), pp. 243–261.

⁴⁵ Bornwell C. Chikulo, 'Decentralization Reforms in Zambia 1991–2010', *Journal of Social Science* 40, 1 (2014), pp. 95–105.

⁴⁶ Nicholas Awortwi, 'An unbreakable path? A comparative study of decentralization and local government development trajectories in Ghana and Uganda', *International Review of Administrative Sciences* 77, 2 (2011), pp. 347–377.

⁴⁷ Yonatan Fessha and Coel Kirkby, 'A critical survey of subnational autonomy in African states', *Publius: The Journal of Federalism* 38, 2 (2008), pp. 248–271, p. 248.

⁴⁸ van de Walle, *African economies*.

⁴⁹ Jean-Paul Faguet, 'Decentralization and Governance', *World Development* 53 (2014), p. 10.

examples in which to analyze these questions where decentralization reforms actually succeeded in transferring significant powers and resources.

Devolution in Kenya

Devolution – a more comprehensive form of decentralization that is always a form of power-sharing between central and sub-national government⁵⁰ – has recently been introduced in Kenya. It provides one of the few cases in the African context that allows us to examine how decentralization impacts on patronage and rent-seeking. In common with a small number of other cases such as South Africa, Nigeria and Ethiopia, Kenya's devolution reforms originated not in central government imperatives but from a constitutional process following political crisis. In comparative terms, the extent of the reforms is comprehensive, encompassing the devolution of political, administrative and fiscal powers, and reforms have actually been implemented, as described in more detail below.

While the instrumentalization of decentralization by central government marked earlier reforms in Kenya,⁵¹ the introduction of devolution came out of the constitutional reform process renewed after the 2007–8 post-election violence. Although devolution was not mentioned in the 2008 peace deal, it was a key part of the compromise that emerged and of the new constitution.⁵² The constitution was passed by referendum in 2010, with devolution being one of the main reasons behind the decisive yes vote.⁵³ It constitutes, to some degree, a return to the original federal *majimbo* constitution of the state under which Kenya became independent but which was rapidly dismantled by Kenyatta.⁵⁴ *Majimboism* remained a central thread in Kenyan politics, with excluded tribes calling for decentralization that could guarantee them resources they were unable to access through a centralized system.⁵⁵ In enshrining devolution in the constitution, Kenya is relatively unique: most decentralization reforms in Africa have not specified the roles and responsibilities of devolved governments or have done so in legislation that is easily amended.⁵⁶

⁵⁰ Richard C. Crook and James Manor, *Democracy and decentralisation in South Asia and West Africa: Participation, accountability and performance* (Cambridge University Press, Cambridge, 1998), p. 7. Sub-national units under devolution are usually larger than under decentralization. Both decentralization and devolution should be distinguished from deconcentration, the delegation of authority from central government to local unelected officials (*ibid.* p. 6-7).

⁵¹ Joel D. Barkan and Michael Chege, 'Decentralising the State: District Focus and the Politics of Reallocation in Kenya', *The Journal of Modern African Studies* 27, 3 (1989), pp. 431–453.

⁵² Nelson Kasfir, 'Agency across Changing Sites: The Path to Kenya's 2010 Constitution' in Lucy Koechlin and Till Forster (eds) *The Politics of Governance: Actors and Articulations in Africa and Beyond* (Routledge, New York, 2015); Franzisca Zanker, Claudia Simons, and Andreas Mehler, 'Power, peace, and space in Africa: Revisiting territorial power sharing', *African Affairs* 114, 454 (2015), pp. 72–91.

⁵³ *Ibid.* p. 96.

⁵⁴ Daniel Branch and Nic Cheeseman, 'The politics of control in Kenya: Understanding the bureaucratic-executive state, 1952–78', *Review of African Political Economy* 33, 107 (2006), pp. 11–31.

⁵⁵ *Majimboism* has been appropriated and understood differently at different points. Some groups interpreted *majimbo* in extreme ethno-federalist terms (see Gabrielle Lynch, 'Courting the Kalenjin: The Failure of Dynasticism and the Strength of the ODM Wave in Kenya's Rift Valley Province', *African Affairs* 107, 429 (2008), pp. 541–68.

⁵⁶ Dele Olowu, 'Local institutional and political structures and processes: recent experience in Africa', *Public Administration and Development* 23, 1 (2003), pp. 41–52.

Kenya's devolution is also relatively unique in its extent. The provisions for devolution include: the creation of elected county governments, with executive power exercised by governors, and legislative power exercised by assemblies in 47 sub-national units (counties);⁵⁷ the reassignment of key service delivery tasks, including healthcare, to the county administrations; the redistribution of fiscal resources to county governments, to be not less than 15% of national revenue; and the re-introduction of a bicameral parliament, with an upper house, the senate, designed to protect the interests of county governments.⁵⁸ These powers are more extensive than most decentralization reforms in Africa.⁵⁹

Although initially the central government showed resistance to implementing devolution, as described in more detail in the following sections, powers were fully transferred to county governments in August 2013 and 32% of national revenue has been committed to the counties, a higher allocation of resources than the 15% minimum threshold in the constitution.⁶⁰ Thus in its origins, form and implementation, devolution in Kenya is, so far, a relatively exceptional case of meaningful reform in which it is possible to analyze our questions about rent-seeking and patronage.

Devolution and ethnic group access to patronage resources

Critical to addressing our questions is an understanding of the way in which devolution created the potential for the restructuring of access to patronage resources for ethnic groups. In Kenya, as elsewhere in Africa, patronage networks have often been structured along ethnic lines.⁶¹ Part of the rationale of devolution was arguably precisely to increase rent-seeking opportunities for losing elites and patronage opportunities for traditionally marginalized groups.⁶² As one veteran politician said:

I have always suspected that the real logic for devolution was to allow ethnic elites a second chance to eat. After losing the contest at the national level for presidency and the national government, which left a lot of elites very bitter and organizing their people to fight and resist the results of the elections, somebody must have said: 'you know what, this devolution can help us. For all these guys who don't make it at the top, let's give them a second layer of something that they can take home.' And I think to that extent it has worked.⁶³

⁵⁷ The 47 counties adopted in the 2010 Constitution are based on the 46 administrative districts that existed as of 1992, along with Nairobi County.

⁵⁸ Constitution of Kenya, Chapter 11. Available at <https://www.kenyaembassy.com/pdfs/The%20Constitution%20of%20Kenya.pdf>

⁵⁹ Ndegwa, 'Decentralization in Africa'.

⁶⁰ *Daily Nation*, 'Counties to get cash as revenue law signed', 9 August 2013, <<http://www.nation.co.ke/news/politics/Counties-to-get-cash-as-revenue-law-signed/-/1064/1942806/-/t1o7tt/-/index.html>> (4 November, 2014).

⁶¹ van de Walle, 'Meet the new boss'.

⁶² Joel D. Barkan, 'Kenya: Assessing risks to stability' (Report of the Centre for Strategic and International Studies, Africa Programme, Washington DC, 2011), p. 10

⁶³ Interview 13, Politician, Nakuru, 19 July 2013. Our fieldwork and interviews are described in detail in the next section. We do not address in detail the constitutional negotiations and do not therefore make a conclusive argument that this was the case but it was a retrospective opinion among some interviewees.

Table 1 illustrates how devolution provided this ‘second layer’ and shows how groups’ chances of ‘eating’, were potentially reconfigured under devolution. When groups are in government at the central level and also in their home counties they have access to resources at two levels and in this sense become double ‘winners’ (Table 1, scenario 1). Thus devolution has the potential to amplify the relative gains for some of the larger communities. Those from groups in central government but outside their home counties who form minorities in other counties can also to some degree be winners in relation to other groups (Table 1, scenario 2). Even though national resources are smaller now than before devolution they still get more substantial access to resources compared to the losers (see below). For the Kikuyus an estimated 20% of group members live outside their home counties, compared to 24% of Luos, 20% of Kalenjin, 19% of Kambas and 23% of Luhyas.⁶⁴

Some groups who lose out at the national level can always be assured of being winners in their home county (Table 1, scenario 3). In this category are a number of smaller ethnic groups including the Kisii, Meru, Mijikenda, Embu, Maasai, Taita, Pokot, Turkana, Samburu, and the Pokomo. All groups potentially in scenarios 1–3, which constitutes the majority of the population, may therefore find themselves with access to public resources as a result of devolution.

⁶⁴ Authors’ calculations using data from the 1989 census: Central Bureau of Statistics, ‘Kenya Population Census, 1989, vol. 1’ (Central Bureau of Statistics, Nairobi, 1989). This was the last census for which there is publically available data tabulating ethnicity and district for all ethnic groups irrespective of size. The *Socio-Economic Atlas* uses data from the 2009 census but only provides the percentages of the biggest ethnic group in each county. The 1989 data obviously comes with a number of caveats. First, we cannot be sure that the broad proportions of groups is still exactly the same, as significant population movements have happened since and the relative birth rates in each group may have changed the ethnic composition of counties. To give a rough indication about whether the proportion of groups has changed at the national level we compared the aggregate shares of each group in 1989 with the 2009 census, which does publish the overall population share of each group. The average difference was .05%, suggesting that the overall group share has not changed significantly. However, it should be noted that the average difference between the census data from 1989 and 2009 was almost 7% for the biggest ethnic groups at the county level (the only county specific data on percentages of ethnic groups that is available from 2009). Second, the 1989 census was based on 41 districts. Thus we do not have data on 7 counties that were created out of larger districts (Tharaka-Nithi, Makueni, Nyamira, Migori, Homa Bay, Monet and Vihaga). Where possible we use the more up-to-date information from the 2009 census. However, where we need more detail data on the size of all groups within a county we use the 1989 data.

Table 1. Winners and losers under devolution

	Group members with home county who live in their home county	Group members who live outside their home county / groups who lack a home county
Groups in central government	1. Double winners: winner centre, winner county	2. Partial winners: winner centre, loser county
Groups out of central government	3. Partial winners: loser centre, winner county	4. Double losers: loser centre, loser centre

However, there are groups whose relative marginalization may be amplified by devolution as they are out of power at the national level and either lack their own home county or are minorities outside of their home county (Table 1, scenario 4). Many of the smaller groups fall into this category, for example the Kuria in Migori, Sabaot in Bungoma, Teso in Busia and Marakwet in Elgeyo-Marakwet.⁶⁵ This group can also include those who find themselves as minorities outside of their home counties, what could be termed “trapped minorities”. These “trapped minorities” will be double losers when their group is out of power at the centre.

To more clearly identify who these potential trapped minorities are we use available census data from 1989 to analyze the counties with significant minorities (defined as above 10% of the population of the county) from the five major groups (see Table 2). We exclude Nairobi and Mombasa since, as the two largest cities, they have the highest diversity of communities per sub-location in Kenya.⁶⁶ According to the data most “trapped minorities” do not fall along one of the significant ethnic fault lines in Kenyan politics. However, the three exceptions that do are the Kikuyu minorities in Kalenjin majority Uasin Gishu and Kajiado, and the Kalenjin majority in Kikuyu majority Nakuru. Later in the article, we discuss the position of these minorities in more detail using the example of the Kalenjins of Nakuru.

⁶⁵ Republic of Kenya, ‘Final report of the Taskforce on Devolved Government.’ (Nairobi, 2011) <<http://www.scribd.com/doc/64712979/Final-Report-of-the-Task-Force-on-Devolved-Government>> (4 November 2014).

⁶⁶ Urs Wiesmann, Boniface Kiteme, Zachary Mwangi, ‘Socio-Economic Atlas of Kenya: Depicting the National Population Census by County and Sub-Location’, KNBS, Nairobi, CETRAD, Nanyuki, CDE, Bern, 2014)

Table 2. “Trapped” minorities: Counties with significant minorities from five largest ethnic groups

County	Minorities (>10%)	Largest group
Bungoma	Kalenjin	Luhya
Kajiado	Kikuyu, Masai	Kalenjin
Lamu	Kikuyu	Swahili
Nakuru	Kalenjin	Kikuyu
Nandi	Luhya	Kalenjin
Narok	Kikuyu, Kalenjin	Masai
Taita Taveta	Kamba	Taita
Transnzoia	Kalenjin, Kikuyu	Luhya
Uasin Gishu	Luhya, Kikuyu	Kalenjin

Note: Authors’ calculations based on data from Central Bureau of Statistics, Kenya Population Census, 1989, Vol I (see footnote 58).

This analysis indicates that, even before the election, devolution had the potential to change the patronage opportunities of ethnic groups, giving a majority of the population increased access to resources. To explore how this potential was perceived and realized during and after the 2013 election we focus on four case study counties.

Case selection and data

Our analysis uses data from fieldwork conducted just before and soon after the 2013 election in four case study counties as well as; aggregate data on the backgrounds of all 47 winning gubernatorial candidates, ethnicity, and county-level expenditure; data on subsequent events over the last two years from newspapers; and secondary literature for comparative analysis with other countries. We chose our four county cases, Kilifi, Kiambu, Mombasa and Nakuru, on the basis of a ‘most different systems design’ (MDSD).⁶⁷ This involves choosing units that are as different as possible in terms of extraneous variables (i.e. variables that may influence the dependent variable).⁶⁸ If we find a similar outcome in settings that vary widely in terms of these extraneous variables, but where our main independent variable of theoretical interest does not vary, then we can be more confident in our findings. In other words, if devolution impacts on rent seeking and patronage in the same way across different settings, it does so regardless of these extraneous variables. Important factors identified in the literature as key determinants of rent seeking and patronage that can vary at the sub-national level are: level of development,⁶⁹ inequality,⁷⁰ and ethnic diversity.⁷¹ As shown in Table 3, our cases are different in terms of these variables.

⁶⁷ Henry Teune and Adam Przeworski, *The logic of comparative social inquiry* (New York, John Wiley & Sons, 1970); John Gerring, *Case Study Research, Principles and Practices* (Cambridge University Press, Cambridge, 2007).

⁶⁸ Carsten Anckar, ‘On the applicability of the most similar systems design and the most different systems design in comparative research’, *International Journal of Social Research Methodology* 11, 5 (2008), p. 390.

⁶⁹ Susan Carol Stokes, Thad Dunning, Marcelo Nazareno and Valeria Brusco, *Brokers, Voters, and Clientelism: The Puzzle of Distributive Politics* (Cambridge University Press, New York, NY, 2013).

⁷⁰ Thomas Markussen, ‘Inequality and political clientelism: evidence from South India’, *Journal of Development Studies* 47, 11 (2011), pp. 1721-1738.

⁷¹ William Easterly and Ross Levine, ‘Africa’s growth tragedy: policies and ethnic divisions’, *The Quarterly Journal of Economics* 112, 4 (1997), pp. 1203-1250.

Two of our cases are more developed than the Kenyan average (Kiambu, Mombasa), one is close to the average (Nakuru) and one is less developed (Kilifi).⁷² Three of our cases are more equal than the Kenyan average (Mombasa, Kiambu, and Nakuru), and one is more unequal (Kilifi). Kiambu and Kilifi are less ethnically diverse while Mombasa and Nakuru are more ethnically diverse than the Kenyan average. Moreover, our county cases contain ethnic groups in each of the scenarios outlined in Table 1; the Kikuyus in Kiambu and Nakuru (scenario 1); the Kalenjin in Nakuru (scenario 2); the Mijikenda in Kilifi and Mombasa (scenario 3); the Kamba, Luo and Luhya in all our cases (scenario 4). One case has a trapped minority outlined in Table 2: the Kalenjins in Nakuru.

Table 3. Potential confounding factors in the four counties

County	Development (GDP per capita, PPP (\$))	Inequality (GINI coefficient)	Ethnic diversity (Largest group's % share of total population)
Kiambu	High (1,749)	Low (.34)	Low diversity (81% Kikuyu)
Kilifi	Low (1,063)	High (.57)	Low diversity (86% Mijikenda)
Mombasa	High (2,286)	Low (.37)	High diversity (30% Mijikenda)
Nakuru	Average (1,322)	Low (.38)	Moderate diversity (52% Kikuyu)
Kenya (average)	1,436	.45	75%

Sources: GDP data from the United Nations Development Programme;⁷³ Inequality and ethnic diversity data from Socio-Economic Atlas of Kenya.⁷⁴

These counties also differ in national political salience. Kiambu and Nakuru are politically salient as the two counties with the largest number of voters after Nairobi.⁷⁵ In addition, Kiambu is the home of President Uhuru Kenyatta, and Nakuru was badly affected by the 2007–8 post-election violence. Both were strongholds of the coalition of president Uhuru Kenyatta, the Jubilee Alliance. Mombasa and Kilifi were strongholds for the coalition of Uhuru's main opponent in the elections Raila Odinga, the Coalition for Reforms and Democracy (CORD), with Mombasa being important as the second largest city, but Kilifi being relatively marginal in national terms. As discussed above, if we find evidence of common patterns across cases with such varied characteristics it could be suggestive of general trends. We also try to confirm our findings from the cases with aggregate data from all 47 counties. Although our case selection strategy adds credibility to our findings, we would need more systematic quantitative analysis to reach more definitive conclusions.

⁷² United Nations Development Programme (UNDP). *Kenya National Human Development Report 2009* (UNDP, New York, 2010).

⁷³ United Nations Development Programme (UNDP), *Kenya National Human Development Report 2009* (UNDP, New York, 2010).

⁷⁴ Wiesmann, Kiteme and Mwangi, 'Socio-Economic Atlas of Kenya'.

⁷⁵ Independent Electoral and Boundaries Commission, 'Summary of Results for Governor. March 4th 2013 General Election. Updated July 18, 2013' <<http://www.iebc.or.ke/index.php/resources/downloads/category/final-general-election-results-and-caw-nominee-list/>> (4 November 2014).

We focused on the gubernatorial campaigns, as governor is the most important and powerful new positions in county governments. Interviews were conducted during the campaigns in February and March and in July 2013 after the election.⁷⁶ Some of the information that the interviewees provided is sensitive and anonymity was often requested. We therefore refer to interviews using a coded number. The interviewees were mainly local journalists, campaign officials, and gubernatorial candidates. We triangulated information between interviewees and other sources, such as newspapers, to try to address the issues of validity and reliability inherent in using interview data.

Expectations of devolution: 'Everyone's turn to eat'

Our fieldwork suggests that devolution was accompanied by expectations among voters and local politicians that it was now “everyone’s turn to eat” as winning candidates in all our cases both provided targeted private goods during elections and promised that increased access to state resources would be turned into patronage for ethnic communities after the elections.

As ethnicity is a central part of Kenyan politics, expectations of patronage from devolution were shaped through the ethnic idiom, as described in Table 1 above. Although ethnic groups are not merely puppets of elites whose support can be taken for granted,⁷⁷ candidates were standing not only as individuals but also as representatives of ethnic groups. Ethnicity has been an important explanation for vote choice in all elections since the introduction of multi-party democracy,⁷⁸ and the 2013 county elections were no exception: from our interviews it was clear that ethnicity was at least one important factor for winning gubernatorial elections. The dichotomy between programmatic policy and patronage campaign promises was expressed with reference to ethnicity. . As one party official said: ‘People don’t go for manifestos they go for tribe’.⁷⁹ Perhaps one explanation for this could be that voters saw patronage resources as accessible through ethnic membership. In Kilifi, one candidate put it as follows in relation to the largest ethnic sub-group in the county; ‘If you get elected as a Giriama it’s time for Giriamas to eat the national cake.’⁸⁰ This suggests that ethnic groups expected increased club goods under devolution.

During the elections most of the gubernatorial candidates in our cases ran clientelist campaigns, distributing private goods. Voters expected electoral candidates to solve their immediate personal problems and to provide money during the campaigns.⁸¹ As a campaigner in Nakuru said: ‘people want money during election. They want money. Without money they cannot, cannot support you’.⁸² This sentiment was repeated across many interviews.

⁷⁶ The interviews from February and March were conducted by a research assistant and the interviews in July were conducted by the authors and a research assistant.

⁷⁷ Gabrielle Lynch, ‘The fruits of perception: “ethnic politics” and the case of Kenya’s constitutional referendum’, *African Studies* 65, 2 (2006), pp. 233–270; Gabrielle Lynch, ‘Courting the Kalenjin’.

⁷⁸ Walter O. Oyugi, ‘Ethnicity in the Electoral Process: The 1992 General Elections in Kenya’, *African Journal of Political Science / Revue Africaine de Science Politique* 2 (1997), pp. 41–69; Michael Bratton and Mwangi S. Kimenyi, ‘Voting in Kenya: Putting Ethnicity in Perspective’, *Journal of Eastern African Studies* 2 (2008), pp. 272–89.

⁷⁹ Interview 12, Party officials, Nakuru, 18 July 2013.

⁸⁰ Interview 18, Gubernatorial candidate, Kilifi, 24 July 2013.

⁸¹ Interview 5, Gubernatorial candidate, Nairobi, 13 July 2013.

⁸² Interview 8, Political party coordinator, Nakuru, 15 July 2013.

It was furthermore essential to have a reputation for being an experienced insider able and likely to deliver patronage.⁸³ Candidates often did this by referring to their past record. This quote from an interview in Nakuru describes the winning candidate Kinuthia Mbugua's reputation as a job-provider for the Kikuyu community:

So [during] that period Kinuthia was in AP (Administration Police). He had to employ youth to be in the police force. So he planned his ambition, maybe his ambition to be governor ... maybe you don't have job or you are a widow. You have your kid, he has performed well in high school. Maybe you don't have a job, you go there, "oh hi mzee, oh I want [to] ask for a request... Give my guy [a] job."⁸⁴

A national campaign official claimed Mbugua had been responsible for recruiting 3,600 Kikuyus into the AP.⁸⁵ The use of previous provision of patronage and club goods to ethnic communities, and other forms of clientelism like targeted private goods were evident in the campaigns of the winning candidates in all our cases.

Although candidates running primarily non-patronage campaigns got a substantial number of votes, finishing second or third in all our cases, the winning candidates were those who primarily ran patronage based campaigns and came from the ethnic majority.⁸⁶ In Kiambu, William Kabogo, a sitting MP and "self-made" millionaire, whose money was alleged to have come from drug trafficking,⁸⁷ defeated James Nyoro, an academic who had been involved in drafting the country's 'Vision 2030' development plan. One of the frequent comments made about Nyoro, according to a local journalist, was that his brother still worked as a watchman, and if he had not helped his own family member to get a better job, how could he be expected to help the voters of Kiambu.⁸⁸

In Mombasa, voters chose sitting MP Hassan Joho over Gulf Bank CEO Suleiman Shahbal. Joho was seen to have delivered patronage for his constituents as an MP.⁸⁹ In Nakuru, the Kikuyu candidate for governor with a reputation for defending the community during the 2007–8 electoral violence and providing jobs, Kinuthia Mbugua, defeated the Kalenjin ODM candidate Lawrence Bomett. In Kilifi, sitting MP Amason Kingi defeated fellow MP, Francis Bayah, because, according to some interviewees, even though he had not delivered much in terms of clientelistic goods 'at least he had done something on the ground' while Bayah 'had a record that he had not delivered on his constituency level'.⁹⁰

Aggregate data on the backgrounds of winning candidates for governor in all counties supports these case-specific observations that the majority of winning

⁸³ Agnes Cornell and Michelle D'Arcy, 'Plus ça change? County-level politics in Kenya after devolution', *Journal of Eastern African Studies* 8, 1 (2014), pp. 173-191.

⁸⁴ Interview 7, Party official, Nakuru, 15 July 2013.

⁸⁵ Interview 25, Party official, Nairobi, 15 February 2013.

⁸⁶ In Kiambu second placed Nyoro won 241,658 votes to Kabogo's 487,631. In Mombasa, second place Shahbal won 94,905 votes to Joho's 132,583. In Kilifi, Gona came third with 37,346 votes, Bayah second with 38,301 votes to Kingi's 94,868 votes. In Nakuru, Bomett won 118,965 to Mbugua's with 470,495 (Independent Electoral and Boundaries Commission, 'Summary of Results for Governor').

⁸⁷ *Daily Nation*, 'Revealed: US dossier on Kenyan drug-lords', 28 November 2010, <<http://www.nation.co.ke/News/politics/US%20dossier%20on%20Kenya%20drug%20lords%20/-/1064/1062196/-/hdkufe/-/index.html>> (4 November 2014).

⁸⁸ Interview 2, Journalist, Nairobi, 9 July 2013.

⁸⁹ Interview 14, Journalist, Mombasa, 22 July 2013.

⁹⁰ *Ibid.*

candidates were from the majority community and had held jobs within the state, meaning they could more easily demonstrate a record of delivering patronage. In all but four counties (Nairobi, Tana River, Marsabit and Kajiado) the governor came from the majority community.⁹¹ Overall 34% of the elected governors worked in public administration before being elected and 21% were elected political representatives. Only a small proportion worked outside the state: 17% in the corporate sector and 4% in civil society.⁹²

The expectations of devolution expressed during the campaigns in our cases were that it would now be “everyone’s turn to eat”. This was manifested both in the provision of private goods during the election and the promise of private and club goods in future. The interview material indicates that ethnic groups saw devolution as their turn to ‘eat’ state resources – both in the form of private and club goods – that were traditionally only available to those holding power at the centre. This expectation of widespread patronage and rent-seeking is also supported by survey evidence from Kenya.⁹³ The next part of our analysis explores the extent to which these expectations have been realized and how this has influenced the course of devolution to date. We suggest that the successful implementation of devolution to date has been achieved through pressure from the “winners”, whose expectations have been realized, and despite the opposition of the “losers”, who have less access to patronage resources.

Realizing expectations: ‘Winners’ under devolution

To what extent has devolution become “everyone’s turn to eat”? Are county governments using the newly devolved resources for patronage? Are they engaging in rent-seeking?

Evidence from our cases and aggregate data suggests that in most counties devolution has resulted in relatively high levels of rent-seeking. Table 4 outlines spending on domestic and foreign travel and Member of County Assemblies’ (MCA) allowances in our case study counties. We also compare the expenditures on travel with comparable figures at the national level. We see these expenditures as rent-seeking as the benefits primarily go to the individuals and they are unearned as they have been indicated as disproportionately high and above legitimate levels. For example, there has been controversy about the frequency of foreign trips seen as non-essential, with the top destinations being Israel, Dubai, Zanzibar and Rwanda.⁹⁴ Moreover, the Controller of Budget has stressed high expenditure on domestic and foreign travel as one of the main challenges to the counties’ budget execution.⁹⁵

The data presented in Table 4 shows that the proportion of recurrent expenditure spent by county governments on travel is higher in most cases than in national ministries, departments and agencies (MDAs). The proportion spent on travel is

⁹¹ Data collected by the Strathmore Governance Centre Nairobi, available at <<http://utawalafrica.org/>> (11 June 2015).

⁹² Aggregate data collected by the authors from Kenyan newspapers and websites.

⁹³ Cheeseman ‘Kenya since 2002’ p. 104; Dominic Burbidge, *The Shadow of Kenyan Democracy: Widespread Expectations of Widespread Corruption* (Ashgate, Surrey, 2015), pp. 61-91.

⁹⁴ *Daily Nation*, ‘Regional leaders burn millions of tax shillings on foreign travel’. 27 January 2014, <<http://mobile.nation.co.ke/news/County-leaders-burn-millions-in-joy-travels/-/1950946/2163000/-/format/xhtml/-/9t6u8dz/-/index.html>> (11 June 2015).

⁹⁵ Office of the Controller of Budget, ‘Kenya County Governments: Annual Implementation Review Report, August 2014’.

higher than the national MDAs in three cases. In Mombasa the proportion is less, but the average in the counties overall is higher. Thus, this data indicates higher levels of rent-seeking in most county governments compared to national MDAs.

Moreover, in three of our cases the monthly sitting allowances for MCAs exceed the maximum monthly sitting allowance, as outlined by the Salaries and Remuneration Commission, by between 26% and 86%. In Mombasa the average monthly allowances are lower, but the average in the counties exceeds the maximum allowance by 83%.

Table 4: Spending on travel and allowances, financial year 2013/14

County	Domestic and foreign travel (% share of recurrent expenditure)	Average monthly sitting allowance per MCA % difference to maximum allowance ⁹⁶
Kiambu	6%	+86%
Kilifi	6%	+26%
Mombasa	1%	-55%
Nakuru	7%	+77%
Counties in Kenya (Mean)	6%	+83%
National Ministries, Departments and Agencies (MDAs)	2%	

Note: Data for counties from the Financial Year 2013/2014, Office of the Controller of Budget, 'County Governments: Annual Implementation Review Report'. Data for MDAs from Office of the Controller of Budget, Kenya, 'National Government: Annual Budget Implementation Review Report'.

In addition to using devolution for their own benefit, elites have also faced pressure to use resources for their ethnic communities. The majoritarian voting system for gubernatorial elections, maintaining the importance of ethnic arithmetic, has led some majority groups to perceive themselves as the “owners” of counties. As a gubernatorial candidate in Mombasa said:

The problem with devolution is that now people ... feel that we should take our own space and run with our own space, and say that this is Mombasa, it belongs to X.⁹⁷

To what extent have governors responded to this and made their communities the “owners” of counties? To assess the levels of ethnic patronage in our cases, Table 5 compares the share of seats held by the largest community in the County Executive Committee (CEC), the cabinet at the county level appointed by the governor, to their share of population. Cabinet seats have been used as a measure of patronage⁹⁸ and their distribution as an indicator of ethnic favouritism.⁹⁹ The table presents a mixed

⁹⁶ The maximum monthly allowance for an MCA as outlined by the Salaries and Remuneration Commission is KES 48,000 (The Kenya Gazette, Vol. CXV-No.3, March 2013). These allowances do not include Ward Development Funds, where they exist.

⁹⁷ Interview 22, Gubernatorial candidate, Mombasa, 26 July 2013.

⁹⁸ Leonard R. Arriola, 'Patronage and political stability in Africa', *Comparative Political Studies* 42, 10 (2009), pp. 1339-1362.

⁹⁹ Robin Burgess, Remi Jedwab, Edward Miguel, and Ameet Morjaria, 'The Value of Democracy: Evidence from Road Building in Kenya' (National Bureau of Economic Research, No. w19398, 2013).

picture. In Kiambu, Kikuyus occupy a more than proportionate share of seats. The overlapping racial, religious and ethnic identities in Mombasa create a complex picture: Mijikendas, the largest ethnic community (according to census data), holds 20% of the seats, while Swahilis – an overlapping identity group that includes Governor Joho – hold 50%.¹⁰⁰ In Kilifi and Nakuru, the largest communities occupy a proportionate or lower share of seats. Thus, in terms of county executives, our cases suggest that some governors are fulfilling demands of their ethnic communities to maximize access to patronage resources, and others are not.

Table 5: Ethnic dominance in County Executive Committees (CECs)

County	Largest community share of population	Largest community share of CEC appointments	Governor from largest community?
Kiambu	81%	88%	Yes
Kilifi	86%	70%	Yes
Mombasa	30%	20%	Yes
Nakuru	52%	50%	Yes

Note: Sources are Hassan¹⁰¹; Socio-Economic Atlas of Kenya.¹⁰²

The aggregate trends confirm the picture from our cases that some county governments have pursued ethnic dominance, while others have not, but reveal that a majority of counties have pursued dominance. An ethnic audit by the National Cohesion and Integration Commission found that 29 counties had breached the specific legal requirements on ethnic balance in appointments to entry-level positions.¹⁰³ Furthermore, they found that 16 counties had mono-ethnic CECs. This aggregate data suggests that although a significant number of counties have followed the law, many county executives are not representative and a majority of the counties are practicing preferential ethnic patronage in recruitment.

Overall the evidence from our cases and aggregate data suggests that while rent-seeking and “winner takes all” ethnic politics has been lower in some counties, in most there is evidence for both practices. It is important to note that there is variation in ethnic patronage between counties but further research is required to examine the determinants of this variation. However, at this point these findings suggest that devolution has for many elites and ethnic groups, at least to some extent, fulfilled expectations that it would be their “turn to eat”.

¹⁰⁰ Whether or not the Swahili is an ethnic group is contested. See Justin Willis, *Mombasa, the Swahili, and the Making of the Mijikenda* (Cambridge: Cambridge University Press, 1993). Here we see it as a fluid identity that can become politically meaningful at particular moments. There is some evidence that this identity has become more politically relevant after devolution (Interview 15, gubernatorial candidate, Mombasa, 23 July 2013). This would be worth exploring further in future research.

¹⁰¹ Cabinet members’ ethnicity was coded from their surname using data from Mai Hassan, ‘The Strategic Shuffle: Ethnic Geography, the Internal Security Apparatus, and Elections in Kenya’, working paper. We would like to thank Mai Hassan for sharing this data. Missing values were filled in with data coded independently by two Kenyan research assistants.

¹⁰² Wiesmann, Kiteme and Mwangi, ‘Socio-Economic Atlas of Kenya’.

¹⁰³ *The Standard*, ‘Ethnicity Exposed as most county jobs shared among dominant tribes’, 10 May 2015. Available at http://www.standardmedia.co.ke/article/2000161672/report-ethnicity-exposed-as-most-county-jobs-shared-among-dominant-tribes?articleID=2000161672&story_title=report-ethnicity-exposed-as-most-county-jobs-shared-among-dominant-tribes&pageNo=1 (1 June 2015).

Unrealized expectations: 'Losers' under devolution

Not every group's expectations have been realized. This section considers the "losers" who have relatively less access to the new rent and patronage resources, focusing in particular on the "trapped minorities" described in Table 2. We suggest that the existence of "trapped minorities" and newly marginalized groups is an important facet of devolution that requires further research in future and should not be overlooked.

In terms of our cases, there are both partial and double losers. The groups losing at the county level but winning at the national level (Table 1, scenario 2) are the significant Kalenjin minority in Nakuru and the Kikuyus living in Kilifi and Mombasa. The double losers (Table 1, scenario 4) are the Kamba, Luhya and all other smaller minorities in Kiambu; the Kamba, Swahili and all other groups in Kilifi; Arabs, Kamba, Luo and other up-country groups in Mombasa; and all minorities other than the Kalenjin in Nakuru. In addition, the practice of "winner takes all politics" in some counties may create new minorities at the sub-national level. For example, in Kilifi there is evidence from our interviews of sub-tribe identities being strengthened within the Mijikenda.¹⁰⁴ This phenomena, of newly marginalized communities has been noted elsewhere and described as 'the paradox of federalism'.¹⁰⁵ As discussed earlier, in our cases minority groups are well represented in some counties, such as Kilifi and Nakuru, but not in others. The aggregate trends show that in most counties minorities are facing disadvantages in areas such as recruitment.

Of particular potential importance are the "trapped minorities" described in Table 2. Although currently partial winners because they are in government at the national level, our fieldwork in Nakuru suggests that devolution has made the Kalenjin minority feel "trapped" despite being given access to patronage resources with high representation in the CEC. Although Nakuru Kalenjins hold 40% of seats, well above their share of population, our interviewees emphasized that they felt vulnerable as a minority in a Kikuyu majority county.¹⁰⁶ Being given access to patronage resources, which arguably is only guaranteed by the Uhuru-Ruto alliance at the centre, has not allayed their fears. There is already discussion in the community about the desirability of changing boundaries to join Kalenjin-majority counties, and without the Uhuru-Ruto alliance underpinning their current cooperation, some warned that there could be a return to violence.¹⁰⁷ While patronage opportunities might be effective in containing ethnic tensions at particular points in time, for minorities within counties access to resources is not assured.

Devolution has been seen as a form of informal territorial power sharing that reduces the intensity of competition between ethnic groups at the national level by giving more groups access to patronage resources at the local level.¹⁰⁸ By doing so it arguably further entrenches ethnic politics and identities in ways that some see as

¹⁰⁴ Interview 18, Gubernatorial candidate, Kilifi, 24 July 2013 and interview 19, Gubernatorial candidate, Kilifi, 25 July, 2013.

¹⁰⁵ Jan Erk and Lawrence Anderson, 'The paradox of federalism: does self-rule accommodate or exacerbate ethnic divisions?', *Regional and Federal Studies* 19, 2 (2009), pp. 191–202.

¹⁰⁶ Interview 11, Politician, Nakuru, 18 July 2013 and interview 12, Party officials, Nakuru, 18 July 2013.

¹⁰⁷ Interview 11, Politician, Nakuru, 18 July 2013.

¹⁰⁸ Zanker, Simons, and Mehler, 'Power, peace, and space'.

mirroring colonial “tribal homelands”,¹⁰⁹ and ties access to patronage resources to ethnic group membership to an even greater extent than previously. According to one veteran politician the implicit logic is for ‘every ethnic community to deal with its own.’¹¹⁰ While giving access to patronage resources to more ethnic group may act to contain ethnic tensions overall, it leaves minority groups within counties exposed and without assurance of patronage opportunities. Of these minorities politically relevant groups trapped in counties with a majority tribe they have historical grievances with,¹¹¹ such as in Nakuru, are exceptional but important outliers. Given the politicization of resources and the escalation of ethnic conflict observed in other contexts,¹¹² these exceptional cases need to be taken into account, even if overall increased access to patronage for the majority of groups may stabilize inter-group tensions.

Defending devolution: “Winners” versus “losers”

The minority of groups who have more limited access to patronage are not the only ones who lost out under devolution. National level institutions also lost in the rerouting of patronage networks and have acted to insert themselves into the new networks. However they have not managed to recentralize patronage and the staunch defense of devolution by the broad constituency of winners has ensured it has been implemented.

National institutions were to some extent undermined by devolution as it rerouted resources and patronage networks downwards. Senators initially had no clear access to patronage resources. MPs were key figures in distributing the CDFs, the only source of fiscal decentralization before devolution. However these funds are now marginal compared to the significant resources of county governments: CDFs constituted only 2.5 % of government revenue, compared to at least 15% constitutionally guaranteed to county governments.¹¹³

The position of the central leadership has been less clear-cut. President Uhuru Kenyatta belonged to the “yes” campaign for the constitution, but only joined it quite late. He, and the Kikuyus, have incentives to support devolution, knowing they could be out of power in future, and for legitimacy reasons – noted by Dickovick and Riedl as an incentive for central governments to support devolution¹¹⁴ – particularly given its popularity. Deputy President William Ruto opposed the constitution, but now faces strong support for devolution from his own Kalenjin community. Although publically voicing support for devolution, the central government has tried to delay the process:

¹⁰⁹ Steve Ouma Akoth, ‘Challenges of Nationhood: Identities, Citizenship and Belonging under Kenya’s New Constitution’ (Constitution Working Paper 10, 15, Society for International Development, Washington DC, 2011).

¹¹⁰ Interview 13, Politician, Nakuru, 19 July 2013.

¹¹¹ David Anderson and Emma Lochery, ‘Violence and Exodus in Kenya’s Rift Valley, 2008: Predictable and Preventable?’, *Journal of Eastern African Studies* 2, 2 (2008), pp. 328–43.

¹¹² Roeder, ‘Ethnofederalism and the mismanagement of conflicting nationalisms’; International Crisis Group, ‘Ethiopia: Ethnic Federalism and Its Discontents’ (International Crisis Group, Nairobi/Brussels, 2009).

¹¹³ Constitution of Kenya, Chapter Twelve, Part 1, Article 203 (2).

¹¹⁴ Dickovick and Riedl, ‘Comparative assessment of decentralization’.

initially they were slow to agree to budget allocations and release resources.¹¹⁵ They protected the old provincial administration despite constitutional stipulations that it should be restructured in light of devolution.¹¹⁶

In the face of this opposition, the “winners” from devolution have had to act since 2013 to defend devolution and ensure its implementation. A rough estimate of the proportion of the population that can be counted as a “winner” under devolution using the categories outlined in Table 1 suggests that 24% of the population are “double winners” in power at both the national and county level.¹¹⁷ 69% are partial winners, in power at either the national or county level. This suggests that currently the overwhelming majority of the population have seen their access to resources improve under devolution.

With a broad constituency of popular support behind them, the governors and in particular their coordinating body, the Council of Governors (CoG), have emerged as strong and effective defenders of devolution. In the face of the central government resistance described above, the CoG, despite having a limited role and resources under the 2012 Intergovernmental Relations Act, pressured the government to transfer all the constitutionally enshrined powers, with considerable success and ahead of schedule. The Transition Authority was supposed to manage the process for three years but, under pressure from the governors, powers were fully transferred in August 2013. They succeeded in ensuring the commitment to transfer 32% of national revenue, a higher allocation of resources than the 15% minimum threshold.¹¹⁸ They also successfully pushed for provincial commissioners to be redeployed.¹¹⁹ They have been backed in these efforts by widespread popular support for devolution. The *Pesa Mashinani* (‘Money to the Grassroots’) campaign they launched, calling for a referendum to change the constitution to give 45% of revenue to county governments, was supported by the majority of the population according to an opinion poll.¹²⁰

After the implementation of devolution Senators and MPs aligned to pass legislation to insert themselves into the budgeting processes of county governments and thus give them access to county level patronage resources. Senators have been put in charge of county committees responsible for deciding on development projects, and involving all MPs within the county, including women’s representatives.¹²¹ Similar actions by central governments have been noted elsewhere: ‘central governments in

¹¹⁵ *Daily Nation*, ‘Central Government is Subverting Devolution’, 22 March 2013, <<http://www.nation.co.ke/oped/Editorial/Central-government-is-subverting-devolution/-/440804/1727922/-/15omjvcz/-/index.html>> (4 November 2014).

¹¹⁶ Hassan, Mai, ‘Continuity Despite Change: Kenya’s New Constitution and Executive Power’, *Democratization* 22, 4 (2015), pp. 587–609.

¹¹⁷ Authors’ calculations based on data from Central Bureau of Statistics Kenya, *2009 Population and Housing Census Results*.

¹¹⁸ *Daily Nation*, ‘Counties to get cash as revenue law signed’, 9 August 2013, <<http://www.nation.co.ke/news/politics/Counties-to-get-cash-as-revenue-law-signed/-/1064/1942806/-/t1o7tt/-/index.html>> (4 November 2014).

¹¹⁹ *Daily Nation*, ‘End of an era as Uhuru recalls all provincial commissioners’, 1 June 2013, <<http://www.nation.co.ke/news/politics/Counties-to-get-cash-as-revenue-law-signed/-/1064/1942806/-/t1o7tt/-/index.html>> (4 November 2014).

¹²⁰ *Daily Nation*, ‘Most Kenyans back referendum campaign’, 15 October 2014, <<http://www.nation.co.ke/news/politics/Ipsos-Survey-Referendum/-/1064/2487780/-/kykwd/-/index.html>> (4 November 2014).

¹²¹ County Governments (Amendment) Act 2014. Available at: http://kenyalaw.org/kl/fileadmin/pdfdownloads/AmendmentActs/2014/CountyGovernments_Amendment_Act13of2014.pdf (8 June 2015).

decentralized countries tend to compensate for their loss of direct control by stepping up their regulation of sub-national government'.¹²²

Although MPs and senators have succeeded in gaining access to the new patronage networks which devolution has created, this does not amount to the recentralization that has been seen in other countries or a return to patronage networks being centred on and derived from the national level. Previously, as in most African countries, patronage resources were highly centralized and thus operating mainly at the elite level.¹²³ Although some resources trickled down to the local level, for example through the CDFs, the apex of patronage networks was located at the centre. While MPs and senators have legislative and oversight powers, governors hold executive powers in county governments and so play the key role in how resources are disbursed. Under the Amendment of the County Government Act MPs and senators can only 'consider and give input on' county plans and budgets drawn up by the executive.¹²⁴ Although further challenges to devolution may emerge from the national level institutions in future, their actions in the first year after devolution were to reposition themselves rather than to recentralize patronage or arrest or reverse the implementation of devolution.

The victories of the "winners" in ensuring the implementation of devolution to date are significant. There are few examples of decentralization reforms in Africa that have not ultimately become tools for central government imperatives. Even where there have been cases of significant decentralization, such as Uganda, recentralization followed later.¹²⁵ Where decentralization has been put forward as a means of conflict resolution, as in Burundi, incumbent control can still result.¹²⁶ If these changes persist in Kenya they constitute major shifts in the distribution of power.

However, these changes have been achieved not through a comprehensive qualitative change in the nature of Kenyan politics. As described above, some degree of rent-seeking and patronage politics are evident in most counties. Devolution has been implemented not by removing rent-seeking or overturning the "our turn to eat" character of ethnic patronage politics but because more groups are now given their turn.

Conclusion

How has devolution impacted on rent-seeking and patronage in Kenya and what implications has this had for the course of devolution? We have suggested that decentralization has not removed rent-seeking or ethnic patronage politics from Kenyan politics. However, it has changed who has access to public resources. As a result of devolution, rent-seeking and patronage have been brought down to the county level. The majority of ethnic groups now have access to state resources. In this sense devolution has, to some extent, transformed "our turn to eat" into "everyone's turn to eat".

¹²² World Bank, 'World Development Report' (World Bank, Washington D.C., 2000), p. 120.

¹²³ Nicolas van de Walle, 'Presidentialism and clientelism in Africa's emerging party systems', *The Journal of Modern African Studies* 41, 2 (2003), pp. 297–321.

¹²⁴ County Governments (Amendment) Act 2014, Section 91a (2).

¹²⁵ Awortwi, 'An unbreakable path?'

¹²⁶ Devon Curtis, 'The international peacebuilding paradox: Power sharing and post-conflict governance in Burundi', *African Affairs* 112, 446 (2013), pp. 72–91.

We suggest that this devolution of rent and patronage resources to the county level has been central to the embedding of these reforms. Meaningful reforms have been successfully defended by the broad constituency for whom it has, often for the first time, brought increased access to state resources. In crude terms meaningful devolution has been achieved via the decentralization of corruption.

Given that devolution in Kenya is so new we should neither be complacent about what has been achieved so far, nor prematurely declare it a success. The threat of recentralization cannot be ruled out: Dickovick has argued that recentralization can happen when central governments recover their authority after the crises that caused them to decentralize.¹²⁷ As time elapses from the political crisis that led to devolution, and the next election approaches, central government could reassert itself. Nonetheless, the successful defense of devolution and extraction of greater-than-expected resources constitute meaningful achievements.

What lessons, then, does the Kenyan case have for the study of comparative decentralization in Africa and beyond? In terms of the decentralization in Africa, it should be noted that there are some points of commonality and contrast between Kenya and other cases of decentralization. The rationale behind devolution in Kenya matches that in other countries; in common with federalism in Nigeria, Ethiopia and South Africa there is a belief that sub-national governance can facilitate improved inter-ethnic group relations,¹²⁸ and as with cases of unitary decentralization in Uganda and Malawi there is an emphasis on development and service delivery.¹²⁹ In its origins as a post-conflict accommodation brokered by elites, it parallels Uganda, Nigeria, Ethiopia and South Africa. However, the extent of reforms are more far reaching than most, and these reforms have so far been implemented, realizing the transfer of significant powers to the sub-national level, with sub-national actors acting as a counter-weight to national ones. Although we need to move beyond seeing each reform as *sui generis*, these differences mean that the details of Kenyan reform may not travel to other cases but the general insights can still hold validity.

Our research suggests two key insights that, despite the specificities of the Kenya case, resonate with general findings on decentralization and reform in Africa. First, decentralization may not radically alter, at least initially, what voters demand from politicians. Kenyan voters demanded private goods during elections and promises of club goods for their ethnic group after. This suggests that, second, a shift in the balance of power from the centre to sub-national units does not necessarily equate to a dismantling of the neopatrimonial structure of the state. Rather patronage can persist as networks are restructured.

Decentralization, even when fully implemented, may have limited ability to engender fundamental alterations in the practice of politics, and in this sense achieves reform without change. While it is too early to hold too firmly to this view in relation to Kenya, it does accord with a long-standing view of African states that 'persistently exhibit deeply entrenched historical tendencies (and pathologies) even as new institutional forms are created and adopted'.¹³⁰ It also resonates with a broader

¹²⁷ J. Tyler Dickovick, *Decentralization and recentralization in the developing world: Comparative studies from Africa and Latin America* (Penn State University Press, University Park, PA, 2012).

¹²⁸ J. Tyler Dickovick, 'Federalism in Africa: Origins, Operation and (In) Significance', *Regional & Federal Studies* 24, 5 (2014), pp. 553-570.

¹²⁹ Fessha and Kirkby. 'A Critical Study'

¹³⁰ Dickovick, 'Federalism in Africa', p. 566.

position that has called for more emphasis on institutional endogeneity when we try to understand decentralization around the world.¹³¹

Decentralization has not changed the way in which politics is practiced in Kenya, but rather the levels on which it operates, bringing it closer to ordinary people. In most counties it seems to have entrenched at the local level the practices that have been so problematic at the national level: rent-seeking by politicians and ethnic patronage politics. As such, the Kenyan case illustrates both the potential for, and limitations of, decentralization in African states.

¹³¹ Erik Wibbels, 'Madison in Baghdad? Decentralization and Federalism in Comparative Politics', *Annual Review of Political Science* 9, (2006), p. 167.