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8 Establishing a Culture of Resistance

Monica Wamwere, a stout upcountry woman with little formal education, whose smile revealed her mostly missing front teeth, stood amidst the small group of elderly mothers in a park in downtown Nairobi. As the Kenyan police, armed with helmets, shields, clubs, and tear gas circled the mothers, she began leading them in a traditional Kikuyu song. Young male supporters, sitting on the ground in a larger circle around the mothers, locked arms in an attempt to provide a human shield against the impending attack.

It was March 1992. In the face of mounting domestic resistance and international pressures, Kenyan President Daniel arap Moi had reluctantly agreed the previous December to scrap the one-party system and hold multiparty elections in late 1992.¹ Opposition political parties were forming. But across the street from the protesting mothers, in the basement of a tall government building called Nyayo House, some of their sons and others had been tortured for advocating reform. They were still in prison. Recently rumors had spread that they might be executed as some others had been who had opposed the regime. Three mothers decided they must protest to try to save their sons' lives.² They met upcountry in Nakuru to plan their strategy. At first they had considered demonstrating outside the prison at the edge of Nairobi, but they settled instead on a more daring and visible plan: a hunger strike in Uhuru Park in the heart of the city.

In social movement terms, they were making a very public challenge of authorities in a noninstitutional way, framing their message as an appeal for justice and using one of the most potent forces in the world: mothers. Across Africa and in many other parts of the world, it was considered taboo to strike a mother, protesting or not. They were not an organization; they had only their own funds (at first). They were not skilled at mounting a protest. Driven by a passion to save their sons, they were using their own bodies to challenge a regime that had shown little respect for the law, torturing

1 Moi surprised delegates and even some of his close aides with his announcement at a national meeting of his party, the Kenya National African Union (KANU). "The power stems from the people," Moi told delegates in the modern Kasarani Arena in Nairobi. Just days before, donors had imposed a freeze on new aid. But Moi's decision also followed growing domestic resistance and two major rallies for multiparty which police had violently repressed (Press 1991).

2 Milcah Wanjiku Kinuthia, Rumba Kinuthia's mother, in an interview with the author, October 12, 2002 in Nairobi, Kenya. She said the original three were the mothers of political prisoners Koigi Wamwere, Mirugi Kariuki, and Kinuthia.

and sometimes executing suspected enemies. They were determined and unafraid.

What can I be afraid of when my son had been locked up? I decided to go there because I felt my son would be hanged. I went looking for Koigi's mother and the other mothers and that is when we came out with the plan to come to Nairobi. We went and told Mr. [Amos] Wako [then attorney general] that we were camped at Freedom Corner and we wanted to find out why our sons had been arrested.³

The previous chapter examined primarily individual, nonviolent resistance to the repressive regime of Kenyan President Daniel arap Moi in the 1980s, especially from 1987 to 1992. This chapter examines a somewhat overlapping period of nonviolent activism by small groups 1990-92; and a period of mostly organizational activism 1992-2002, the year the ruling party lost power for the first time. It also looks at mass demonstrations from 1990 onward. In a model developed in this book, each of these elements combined to establish in Kenya (and in Sierra Leone and Liberia), a culture of resistance. This study defines a culture of resistance as one in which public challenges to the abuse of power by a regime becomes a norm for activists and a visible segment of the general public. A culture of resistance can be blocked by overwhelming force as it was in Liberia under Samuel Doe (1980-90). But massive repression risks driving a nonviolent resistance underground. Doe was killed in a civil war. There had been at least some underground resistance in Kenya in the early 1980s, though the extent remains unclear. In Sierra Leone some people went to Libya for training in revolution, but only a few took up arms and initiated the civil war in that country.

The specific critical events highlighted in this chapter that added significantly to the resistance include (1) the daring protest by mothers of political prisoners demanding release of their sons; (2) two groundbreaking, illegal (in the eyes of the regime) political rallies, one in 1990 and the other in 1991, that changed the political landscape of Kenya and were key steps leading to adoption of multiparty elections in late 1991; and (3) mass demonstrations for reform in 1997, an election year.

It is worth repeating here key arguments of this study. The dominant attention in social movement studies is on organizations, often large

3 Milcah Wanjiku Kinuthia interview. Freedom Corner, as it was later designated in honor of the mothers strike, is within Uhuru Park at the junction of Uhuru Highway and Kenyatta Avenue.

organizations. But this misses important contributions of individuals and small groups. Their contributions can help keep a social movement going until it is safe enough for organizations to take the lead, as happened in Kenya in the early 1990s after multiparty elections were allowed. To help capture a broader sense of a social movement, especially in repressive settings, the analytical spotlight needs broadening to include a more complete range of participants. The focus should be more on the various sources of resistance – individual, group, organizational, and mass participation – and less on structure (formal or informal) such as membership or participation in a self-identified resistance organization, something Tilly emphasizes (e.g., 2008). Some key activists in Kenya, Liberia, and Sierra Leone never identified with a social movement organization yet played a critical role in the resistance. At times an independent publication run by a few individuals can become an important element in a resistance movement as was the case in Sierra Leone in the early 1980s and in both Liberia and Kenya. At other times opposition political parties may take the lead in a resistance as they did in Kenya in the early 1990s. This study also notes an entry path into the nonviolent resistance via commitment to one's profession (e.g., law, journalism, clerical) and not membership in a resistance organization. One could argue that there were several social movements in Kenya, starting at least in the 1980s and continuing to 2002. But with no obvious gap in the resistance during this period, the author has chosen to discuss the resistance in terms of a single social movement with cycles of activism that developed into a culture of resistance, each overlapping phase of resistance building on the previous: individual, small group, organizational, and mass participation.

Small groups played an important part of the process of resistance in Kenya and took center stage in the resistance in Kenya in the early 1990s, including the protest by the mothers. Because it represents a transitional protest from individuals to small group protest (it was both), their 1992 protest is presented out of chronological order, followed by an analysis of the two attempted mass rallies in 1990 and 1991 that are examples of small group initiatives that also involved mass participation.

Mothers' Strike

The mothers' strike illustrates how a few dedicated activists can attract supporters and sympathy and make a larger impression on the public than their numbers would suggest possible. The dozen or so mothers alone might

have had an impact by themselves. But in the first few days of their outdoor protest, sleeping overnight in the park, they began attracting considerable supporters in addition to coverage by the local and international press, including this author who was a journalist at the time based in Kenya.

The mothers strike quickly became a focus of the nonviolent resistance in early 1992, just as opposition political parties were forming. Earlier the mothers had approached environmentalist and political activist Wangari Maathai for advice. She had stood up to the Moi regime over a plan to build a sixty-two-story building for the ruling party and a six-story statue of Moi in *Uhuru Park*. The mothers met several times in Dr. Maathai's home in Nairobi planning how to proceed. They met with the Attorney General Amos Wako to inform him that they would be waiting in the park until the prisoners were released. They ignored his advice to go home and await a government decision on their appeal. As night approached the first day of the protest, the mothers lit candles, one for each of the approximately fifty political prisoners whose release they were seeking. An Asian woman loaned the mothers an open-sided canopy, the kind used in garden dinner parties. As night approached, a group of men led by Ngonywa wa Gakonya, then leader of a religious group known as the Tent of the Living God, arrived to provide protection. At first members of the public came just out of curiosity, but by the second or third day, other Kenyans came to tell their story of how they, too, had been tortured. The crowds grew.

Once we went there we opened a flood ... We provided a forum that so many people needed but didn't have. So by the second day people started coming to visit, to look, to see: "Look at this bunch of crazy women who are sleeping outside!" and to hear our story. By the 3rd day some people started telling their story.⁴

The police were now closing their circle tighter and preparing to attack. I had been reporting on the strike but was also responsible for covering the news across East and West Africa and could not remain on-site with the mothers as much as my wife, Betty, could. Betty Press, a professional photographer, was documenting the mothers and the police that day as she had every day since they began their protest. I was in our nearby apartment in Nairobi writing another story when a foreign journalist called and said she had some film from Betty who had asked her to keep it safe in case police attempted to destroy film at the site of the protest. The journalist said the

4 Wangari Maathai, in an interview with the author, September 23, 2002, in Nairobi, Kenya.

police were closing in on the mothers. I ran to our car and drove as quickly as I could to the site, parked on the grass and threaded my way through the now-tightening circle of armed police to stand with the mothers and Betty. I found myself standing next to Dr. Maathai and only a few feet from one of the mothers, Monica Wamere, who started to sing as the police got closer.

Then the police attacked. Some later reports claimed police beat the women: I saw no evidence of this firsthand, though I couldn't see everyone. The police did attack the would-be protectors who had formed a ring around the mothers who themselves sat in the shade of the canopy. The protectors quickly fled for safety toward the mothers, piling under the roof of the canopy and falling in a pile on and round the mothers. I found myself buried under their bodies with just my head protruding, feeling the crush of their weight. Just then a Kenyan policeman tossed a tear gas canister toward the women under the canopy. The canister hit my head, bounced off, and exploded, sending a cloud of gas through the area. It actually helped: the supporters fled the gas, freeing those of us underneath. Betty meanwhile had sidestepped the cloud of teargas and managed to keep photographing. Some of the mothers stripped at least partially as a cultural protest sometimes used in Africa. "That is a curse, a way of cursing those people – the president and the people who had imprisoned our sons unfairly," one of the mothers said.⁵

The police won the day, but the mothers achieved their goal, eventually. The police took the mothers to their upcountry homes but they immediately returned to Nairobi and started a year-long protest in the basement of the nearby All Saints Cathedral with the support of the clergy there. By the end of the year, all but one of some fifty political prisoners had been freed.⁶ The regime had been caught off guard by a protest by mothers and shown itself weak enough to be cajoled by domestic and international criticism into a political action they had not planned. The regime showed signs of nervousness but had not backed off the use of force to break up the protest. Nor had the regime fully renounced torture. Margaret Wangui, the sister of Rumba Kinuthia, who acted as a liaison between the mothers and their supporters in the city, was detained for more than two months and tortured for her part in the mothers' protest.

5 Margaret Wangui Kinuthia, in an interview with the author, October 12, 2002, in Nairobi, Kenya.

6 Unfortunately, according to a human rights group established in conjunction with the mothers' protest, Release Political Prisoners, the number of detained prisoners reached approximately that number again within a year.

They continued beating me and asking me whether I had been feeding the mothers ... whether we wanted to overthrow the government. I stayed one day [in a water-flooded cell]. I could not sleep or sit down. They beat me with small sticks ... I never knew where I was because I was blindfolded [during interrogations].⁷

The mother's strike was the first time Kenyans had seen such a direct and public protest of ordinary people that was not put down immediately against a regime many feared. It was "a real milestone" that helped to further break a wall of silence with regard to public protest.⁸ The two earlier public rallies that preceded the regime's acceptance of multiparty elections had been broken up almost immediately with force. But, the rallies and the mothers' protest showed how small group resistance can play an important role in rousing public awareness in a social movement when it is too dangerous to have a central organization.

Small Group Strategic Choices and Tactics: "Exciting the Masses"

Ultimately it doesn't matter what power the government has. If you can succeed in exciting the masses, the masses rise up against the government; the government has to give way. It cannot imprison everybody; it cannot kill everybody. We came very close to it in 1990-91.⁹

Activist Kenyan attorney Paul Muite was speaking of the two public rallies of 1990 and 1991 which the government broke up with force. "You can say the government saw the people were uprising and they were prepared to escalate the uprising," Muite added, offering that, and not donor suspension of new aid shortly after the second rally, as an explanation for why Moi gave into mounting calls for switching to multiparty elections. Muite also referred to calls for strikes by the operators of the mini taxis in Kenya and efforts to achieve strikes by cash crop growers and civil servants as part of a civil disobedience campaign whose aim was not human rights but "pluralism." The nonviolent resistance movement in Kenya gained further

7 Margaret Wangui interview.

8 Binaifer Nowrojee, in a telephone interview with the author, June 5, 2002, in the United States. At the time, Nowrojee was legal counsel for the Africa Division of Human Rights Watch.

9 Paul Muite, in an interview with the author, July 13, 2003, in Nairobi, Kenya. Muite, a human rights attorney, was later elected to Parliament.

momentum in the 1990s as small groups began to form that took the lead from individual activists. Opposition political parties and other organizations soon followed, supported by an increasing mass participation in public rallies and demonstrations. The model put forward in this book leading to a culture of resistance involves three somewhat overlapping phases: individual activism, organizational activism, and mass public support. In the 1990s, individual activism was replaced by organizational activism as opponents to the Moi regime won concessions that reduced the fear though not the danger of resistance.

Breaking the “Wall of Fear:” Saba Saba Rally 1990

The Kamkunji site for the first planned opposition rally in July 1990 that would shake the status quo is an open space at the edge of Nairobi central business district, partially ringed by small shops. On the eve of independence in the early 1960s, Kamkunji was the political meeting ground for African anticolonialists. It has symbolic political value beyond its geographic location. Over the years important political speeches had been given there. On a busy street nearby, men push and pull overloaded wooden handcarts piled with vegetables or other goods purchased nearby and being delivered to stores or homes, some at the top of hills that leave the laborers covered in sweat and straining to reach their destinations. Matatu minibus taxis stream by jammed with passengers who can afford the relatively cheap fares, while rivers of workers pass by on foot walking to or from their tin-shack homes in Kibera and similar slums, where toilets and fresh water are scarce. The wealthier speed by in comfortable cars on their way to their modest, multistoried apartment buildings in complexes sprouting outward for miles from the city center, or to expensive houses with guarded gates.

As I witnessed Kenya's growing political resistance to authoritarian rule, I sometimes wondered how much of it was driven by a sense of human rights, a longing for democracy and justice, and an end to the torture of politically marked dissidents and how much of it was driven by a desire of those out of power to get into power. Or was the nonviolent resistance more basically driven by a hunger for food, jobs, and a sense of dignity among the poor? One day, riding with an educated Kenyan friend who directed a research organization, I asked him as we stopped outside his small but solid, two story home near downtown Nairobi, what was his primary concern as a Kenyan. His answer came quickly: “Putting food on our table.”

It was against tough economic conditions, with economies slipping all across Africa in the late 1980s, that a small group of Kenyan activists challenged the government's legitimacy, using the courts to seek an end to illegal detentions and mistreatment of prisoners, and to widen the sense of freedom of press and expression. But individual activists can only achieve so much. It takes more organized efforts to carry a resistance further. In 1990, plans were underway to move to the next step in the pressure for the regime to adopt multiparty elections which activists hoped would open the system and lead to a change of regime. The momentum came almost exclusively from Kenyans who were not members of the president's ethnic grouping, the Kalenjin. There was some Luo and other participation in the resistance, but the leaders were mostly Kikuyus, an ethnic group which had lost power when vice president Moi became President upon the death in office of Kenya's first president, Jomo Kenyatta, in 1978.

Businessman Kenneth Matiba, a former Moi cabinet member, and Charles Rubia, a former mayor of Nairobi, who had a falling out with the ruling Kenya African National Union (KANU) party, both Kikuyu, gave a press conference in May 1990 announcing plans for a public rally on July 7. The announcement was well covered by the Kenyan and international press. In an interview, Rubia laughed as he recalled that the stated purpose was "to discuss development of the country and the economy. The strategy was we would have eight public rallies, one in every province. We would start with Nairobi." The two men held a second press conference soon after the first one, laying out in detail the issues they hoped would become the basis of a public debate on governance. Rubia said he hoped to avoid a mere personal attack on Moi. But everyone knew the real reason for the planned rallies was to open up the political system to competition.

I felt, having been expelled from that party, I couldn't just keep quiet. Not just myself. There were many people who felt the same thing. And I thought perhaps if Kenya assumed a multiparty political situation, then there would be more political parties formed, and I, for one, would perhaps find a "home." It's like if somebody kicks you out of his house, you'll come later on ... to think of building your own house. That in a nutshell was the main reason I felt, as a duty to myself as a Kenyan, to campaign for a multiparty situation.¹⁰

10 Charles Rubia, in an interview with the author, October 8, 2002, at the Nairobi Club, Nairobi, Kenya. Rubia added that he actually applied for a license for the rally but was turned down.

There was no organization behind the planned rally, only a small group of activists working together, including Raila Odinga. "In those days there were no proper structures for organizing protests. Mr. Matiba had contact with *matatu* operators which he said he would mobilize and I would organize the fans, my link there, so that we take them to Kamkunji."¹¹ The announcement by Matiba and Rubia of the planned rally sent a fresh burst of hope through the country for those hungry for change. "Everybody begins to gather courage, mainly because there was an example set when nobody else could wait and this is when Matiba became critical in people's minds."¹²

The Moi regime knew the real purpose of the rally and didn't like it. The president quickly warned that the rally would be unlicensed, illegal, and halted by force. The regime broke up the rally with force, attacking the large crowds that had showed up even though Rubia called off the rally, which had not been licensed, just before he and Matiba were arrested. Forced to sleep on the concrete floor of their cells, conditions that contributed to health problems of both Matiba and Rubia, they learned from sympathetic guards that there had been several days of demonstrations and clashes with police in various parts of the country following the aborted rally. Though the rally had been blocked, it had sent a signal through the country that change was needed and people were willing to stand up for it. In social movement parlance, this is both *relative deprivation* (realizing there is a problem) and *cognitive liberation* (seeing a way out of the problem). Despite the dangers, many people had come to the intended rally in Nairobi and many others had protested in various other parts of the country.

"Over a few weeks, Matiba and Rubia effectively transformed the long-repressed underground movement for multi-party democracy into a mass movement which for the first time threatened the government's control" (Throup and Hornsby 1998, 61-2.) Moving beyond what individual activists could accomplish, a small group of activists, supported by mass popular participation, had broken the wall of fear, though Kenyans were always aware of the dangers of protesting. The rally and the repressive response by the regime had attracted widespread domestic and international attention. Kenyan historian Munene (2013) notes, "Thereafter, the public lost fear of government. With the fear factor broken, the number of activists increased as the initiative for political action shifted from Moi to his opponents.

11 Raila Odinga, in an interview with the author, October 30, 2002, in Nairobi, Kenya.

12 Macharia Munene, in an interview with the author, September 9, 2002, in Nairobi, Kenya.

The government pays attention when the activists attract mass following. As long as they are not attracting international concern, they can be ignored.¹³

Widening the Resistance: Kamkunji Rally 1991

A single photograph from the second major attempted rally on November 16, 1991 captures the spirit of protest better than the brief, soon-forgotten words by activist leaders who ducked police barricades and got to the site. The photo shows several opposition politicians¹⁴ riding in a small pickup truck racing through downtown Nairobi with police in hot pursuit. One of them, Martin Shikuku, is sitting on the roof flashing the then-popular sign for multiparty, a two-fingered 'V.' As the van sped through working-class neighborhoods, shots were fired at the pickup, according to Shikuku. The photo was broadcast domestically and internationally. It was a stunning, bold, in-your-face challenge to the Moi regime, and a cold reminder that change was probably inevitable without massive use of force to stop it. Large crowds of Kenyans had shown up at the rally despite warnings from President Moi and despite a huge presence of riot police clubbing and chasing those who came. Some who showed up said they were no longer afraid of the regime; some who escaped tear gas then returned to the site a second time. The Kamkunji rally drew considerable international attention, especially when police moved in to violently suppress it.¹⁵

This marked a turning point in the nonviolent resistance in Kenya. For the second time in two years, the public had been invited to physically express their discontent with the Moi regime, a dangerous proposal at the time. For the second time, large crowds of Kenyans had responded, this time not to a call from two former Kikuyu members of government seeking a way to open up and get back into politics, but from a broader representation of Kenyans from different ethnic backgrounds. This posed a much greater threat to the Moi regime, signaling that it was not just the largest ethnic group against him but a potentially strong coalition of Kenyans from various ethnic groups. Given that political voting in Kenya was largely ethnic based, the coalition of organizers was a much broader challenge to the legitimacy

13 Macharia Munene, in a personal e-mail to the author, November 18, 2013.

14 They included, Martin Shikuku, James Orenge, Masinde Muliro, and Philip Gachoka.

15 Being more cautious than some of my fellow international reporters at the time who ended up injured by the police, I interviewed Kenyans near the rally site until a truckload of police ran toward me and a correspondent for Voice of America, forcing us to jump in my car and flee along the median strip to get our stories out to our editors.

of the Moi regime. Later that month, international donors meeting in Paris froze new funding to Kenya pending economic reforms. Days later Moi accepted multiparty elections, leading to the impression that it was the donor freeze that pushed him over the line. This study, however, argues that it was the growing domestic unrest, not the aid freeze, which led him to make the decision to allow multiparty voting, an argument with which an academic study of donors to Kenya agrees (Brown 2000).

A social movement whose supporters find little in the way of political “opportunities,” or external advantages encouraging a movement can still move forward if enough people are willing to risk the dangers in an authoritarian setting. The first rally, *Saba Saba*, had been a bold attempt to push the regime into accepting multiparty politics, but the base from which that challenge came was narrow enough that the regime could afford to suppress the supporters who showed up for the planned event and not make any concessions. The tactics behind the Kamkunji rally were different. This time opponents created the outlines of a rival political party, calling it the Forum for the Restoration of Democracy (FORD). By limiting its charter members to a maximum of nine, they were technically in compliance with the law at the time that organizations with ten or more members had to have a government-approved license. There was no way a group of rival politicians could get a license for an organization.¹⁶

The fact that the individual politicians who stepped forward as members of FORD were of an older generation did not mean that younger political opponents of the regime were hesitant. It was intentional, according to one of the members, Shikuku. “We were old enough to die. We didn’t want kids around who still have got hope of living; we had already brought people in this world and we were ready to die.”¹⁷ Behind this united front were younger political activists eager to find their place in government. “We were the Young Turks behind the movement,” said Raila Odinga. He mentioned others, including James Orendo, Paul Muite, Peter Anyang’ Nyong’o.¹⁸ Raila Odinga said he had met with Allan W. Eastham in the United States Embassy who had encouraged formation of some kind of united front which would

16 The original members of FORD included: Oginga Odinga (Raila's father), Martin Shikuku, Masinde Muliro, Philip Gachoka, George Nthenge, and Ahmed Salim Bamahriz. The formation of the group was announced at a press conference July 4, 1991 which was widely covered by both the local and international press.

17 Martin Shikuku, in an interview with the author, October 3, 2002, in Nairobi, Kenya.

18 Raila Odinga interview.

make it easier to garner international support.¹⁹ A former US diplomat at the embassy in Nairobi later recalled:

We [the US Embassy] were encouraging the opposition, if it wanted to make a difference, to present some sort of a united front. It was not so much to attract US support, although the context was twofold: First, to overcome Moi's biggest advantage, the ability to divide the opposition and prevail. Second, to convince the world outside Kenya that they [the opposition] were serious. The problem was that the opposition [was] divided as Kenya was, by ethnicity.²⁰

In organizational terms, the establishment of FORD represented a further shift from individual activism to small group activism. Its members represented a broad range of political resistance to the regime from various parts of the country. It was the rebirth of institutionalization of political pluralism in Kenya. In the model introduced in this book of a culture of resistance, it represented the second phase, organizational activism, after individual activism, and it was connected to the third phase, mass public support. The number of Kenyans participating in the rally, like the number of Kenyans who stepped forward as members of FORD, was relatively small. A social movement rarely involves most people in any cause but it can focus public attention on an issue; its strength lies in the potential to rally a significant portion of the general public to that issue.

What Quantitative Studies Miss

In their quantitative and archival study of political transformation in thirty-one African countries from 1985-94, Bratton and van de Walle provide important information on regime change. Among other insights, they concluded that political protests were important markers in the process. But such studies from afar cannot be expected to detect the importance of non-events, or attempted protests, nor the significance of any single protest. For Kenya, if one were to do a count of major protests, as many social movement studies do around the world, the count, assuming attempted

19 At the time, the ambassadors from the United States and Germany were both showing support for the opposition and political pluralism.

20 Allan W. Eastham, Jr., in a personal e-mail to the author, June 24, 2013. Eastham was political counselor at the US Embassy in Nairobi, Kenya 1988-92.

events were included, would be only two between 1990 and 1991. But the two attempted rallies, both violently suppressed by police, marked a political ground shift in Kenya from individual activism to small group activism – and the first indications that a mass support for change was welling up with no certainty of how far it would go. A quantitative analysis of Kenya at the time would have missed the groundswell of support for multiparty elections which many Kenyans hoped would bring a better economy, more jobs, and dignity for the individual. That support was first evident at the Saba Saba rally July 7, 1990, the day a wall of fear was cracked in Kenya, and then at the November 16, 1991 rally, both at Kamkunji grounds in Nairobi. After the aborted rally of 1990 there were riots across parts of Kenya. After the 1991 rally, there were further demonstrations in various cities, indicating a broad opposition to the regime.

Organizational Resistance

The nonviolent social movement in Kenya continued but in a different form as a culture of resistance grew. Individual activism had gained important ground in focusing attention to a domestic and international audience on the excesses of the regime. The torture of dissidents had not stopped, but it had been sharply reduced. Small group activism had gained some initial mass public and international support in the form of illegal rallies. Now the regime had reluctantly agreed to allow multiparty elections. This opened the way for political opposition parties to take the lead in organizational resistance to the regime. In this phase of nonviolent resistance to the continuing authoritarian regime of Moi, it took on the form of more classical social movements with organized public rallies, growth of nongovernment organizations advocating for improved human rights, and widespread public commentary critical of the president. Many of the individual activists from the earlier phases of resistance joined the opposition parties; some were elected to Parliament; others assumed leadership positions in an NGO.

Ethnic Divisions

Despite the hope of a united opposition with the formation of FORD, the group very quickly split. The euphoria of a possible united front quickly dissolved as the group divided into a number of political parties formed primarily along ethnic lines. Activist Paul Muite notes that ethnic politics “has terribly hurt and slowed down democratization. It is the most tragic

issue, not just in Kenya, but I would say in Africa. Also in human rights. It's the most divisive issue."²¹ Ethnic politics, a feature of African politics, proved divisive in the 1992 and 1997 presidential elections when Kenyans mostly backed a candidate of their own ethnic group. It was not until the 2002 election when rivals came together under a united platform that they defeated the ruling party for the first time. Moi exploited this feature of Kenyan political life to help bolster his argument that a multiparty system would cause ethnic tensions. His regime fanned ethnic fears and rivalries around the issue of land which led to a series of deadly ethnic clashes from November 1991 to 1993 and again in 1997 in a coastal region. The coastal clashes were aimed at forcing Luo to move out of the area. Moi hoped to clear rival ethnic groups from areas he wanted to win electorally, according to Muite. "He [Moi] started it [ethnic clashes] even before elections, as a way of resisting the mounting pressure for multi-partyism for election purposes. He wanted to kick out the non-Kalenjin [primarily the Kikuyu] from Rift Valley so that they don't vote against the government."²²

Cycles of Activism

In Kenya there were peaks and valleys in activism. Tarrow (1998) writes of a cycle of activism. Though his analysis does not preclude multiple cycles, it primarily theorizes about a rise and a fall with activists eventually growing tired or disillusioned. In Kenya there were multiple risings and fallings with the decline in activism coming between election years of 1997 and 2002. The multiparty reform had not been accompanied by other constitutional reforms that would diminish the power of the president who had the power to appoint officials from top to bottom in Kenya. Nor was there a change in the repressive laws the president used to attempt to control freedom of speech and assembly. Looking back, some activists said they should have pushed for greater reforms. Underneath the drive for multiparty politics there was little push by leading opposition figures for a reduction in the power of the presidency. The silence of leading presidential candidates on this issue showed their real intent: to win with such powers intact.²³

21 Muite interview.

22 Muite interview.

23 It was not until 2010 that a constitution was finally adopted by public referendum that reduced presidential powers by establishing a system of shared governance of locally elected officials.

New Tactic: National Citizen's Convention

It was against this background that another attempt was made by civil society for a new constitution. This required open, organized activism, wider alliances that activists hoped would transcend ethnic rivalries. The new drive for constitutional change began taking shape as the 1997 election drew closer. The focus: a national convention to push for reforms before the election so that the winner would not carry on with the same authoritarian powers. There were public meetings to choose delegates to the convention. Movement leaders framed their message in a way designed for mass appeal: the rallying cry was “no reforms, no elections.” A National Convention Planning Committee was organized during 1996 to prepare for a National Convention Assembly (NCA) in April 1997 in Limuru, outside of Nairobi. The plan was to develop “a new constitutional order ... a transitional constitution to democracy ... and that was considered treason,” according to one of the organizers.²⁴ The convention, unlike the politics of the day, was not designed for elitists. It drew on people across the country, rich and poor, urban and rural, to generate new ideas: students, teachers, farmers, laborers, minibus taxi fare collectors (*touts*), and roadside craftsmen (*jua kali*) as well as politicians. There were grassroots preparatory meetings.²⁵ At the convention, the assembly elected a National Convention Executive Committee (NCEC).

“Foot Soldiers” for Freedom

A generational gap soon developed amongst the delegates at the National Convention. “The politicians during the first National Convention Assembly were asking for minimum reforms ... to facilitate a smooth election. But we [the youth activists at the convention] were telling them there is no way we can have a free and fair election without comprehensively overhauling the

24 Davinder Lamba, in an interview with the author, September 28, 2002, in Nairobi, Kenya. Lamba, a public policy analyst with two master's degrees and one of the organizers of the national convention, is a Sikh, and was unaffiliated with any political party. He mentioned that the years of activism had a physical and emotional toll on the families of activists, including his own.

25 Some Kenyan observers characterized the preparatory meetings/assemblies as elitist-run and accomplishing little, while defenders such as Lamba argue they were a grass roots exercise in developing a participatory sense of democracy that was new to Kenya.

constitution of the Republic.²⁶ Young delegates at the National Convention, many of them former university student activists, began pushing for public demonstrations in 1997 instead of just resolutions. At the same time, they began to acknowledge that in many cases they were being “used” by the older politicians and activists at rallies, serving as organizers and bodyguards instead of speakers.²⁷ They were, in effect the “foot soldiers” in Kenya’s struggle for greater human rights and democracy. The younger generation (under thirty), while admiring the courage of the better known veteran activists, including Willy Mutunga, felt they were not getting a chance to develop their own voice in the struggle for political reform. Some of them would later go into nongovernment organizations working on justice issues or run for Parliament themselves, with limited success, usually due to lack of funds. The table below shows the difference in the activities of the two generations with regard to public demonstrations.

Table 1 Veteran Activists v. “Foot Soldiers” in Kenya’s Political Demonstrations

veteran activists/politicians	youth activists: “foot soldiers”
middle class or above	often poor
lawyers; politicians; clergy	students; former students; unemployed
sometimes had bodyguards at	unprotected; sometimes served as bodyguards for
dangerous protests	veteran activists/politicians
legal representation if arrested	minimal or no legal support
planned protests	carried out the plans; recruited participants
highly publicized in media	mostly ignored by media
more conservative demands	more radical demands

Source: Press (2012, 7), based on interviews conducted by the author in Kenya, 2002; plus archival materials

Growing Support for Mass Public Demonstrations

At the National Convention in 1997 the younger generation of activists managed to help persuade delegates to endorse and carry out a series of monthly public demonstrations starting in May 1997 and ending in October.

26 Njoroge Waitera, in an interview with the author, November 7, 2002, at the NCEC office in Nairobi, Kenya.

27 Ndung’u Wainaina, in an interview with the author, December 15, 2005. At the time, Wainaina was program manager for NCEC.

To the delight of veteran activist Mutunga, the middle class began coming to the demonstrations, a contrast to the first two big opposition rallies in 1990 and 1991. This was an important expansion of the mass public support for the nonviolent social movement against the Moi regime, a point Mutunga made in both his book (1999) on the middle-class connection to the push for a new constitution, and in an interview.

[I]f you're going to get anywhere in this country you've got to convince the professionals. The middle class as a social group is so important ... And in '97 we were almost getting there because the accountants would come to the mass action, they park their little cars very far, they take off their ties and they march with everybody. There were certain issues that we were pushing forward: issues of power rationing, issues of water, a decayed infrastructure; we're getting punctures [from bad roads] and what not.²⁸

The expansion of the resistance to include members of the middle class was further evidence of the growth of a culture of resistance in Kenya. Activists who had been elected to Parliament or taken up leadership positions in NGOs had been unable to wring substantive reforms out of the administration since its reluctant agreement to adopt multiparty elections starting in 1992. Opposition rallies were drawing huge crowds, sometimes interrupted by police. Now the middle class, an educated and vocal group were beginning to risk the ever-present threats of force by the regime at unsanctioned public rallies. A younger generation of activists was pushing for more demonstrations and starting to map out other strategies for expansion of rights. It was possible that all these sources of energy, like small streams would coalesce into a river that could further erode the regime's pillars of power, though an outright violent revolt seemed not to be in the cards. As the demonstrations began in May, the regime appeared uncertain of how to respond but it soon made its intentions clear.

The first demonstration in 1997, aimed at forcing the Moi regime to agree to constitutional reforms before the election late that year, was May 31. Demonstrators were met with only a mild (by Kenyan standards) response by police using teargas. Once the regime realized that the protests had the potential of growing as they continued, it responded with excessive force for the second demonstration, July 7, the familiar Saba Saba date that evoked memories of the 1990 initial mass rally. Hundreds of police and paramilitary

28 Willy Mutunga interview. Mutunga is one of the few scholars to recognize the important role of the youth activists in the reform process.

personnel were sent into the intended rally sites of Kamkunji grounds, Uhuru Park, and around the downtown business district. Some of the same veteran activists from earlier protests, James Orengo, Martin Shikuku, and Paul Muite, managed to get to one of the demonstration sites. Police showed no mercy, charging into the crowds “in a mad frenzy,” using “unprecedented violence.” At least fourteen people were killed (Peters 2001, 42). Police even chased people into the supposed sanctuary of the All Saints Cathedral, where the mothers in 1992 had stayed during their year-long vigil to win release of political prisoners. Among others attacked in the cathedral was human rights activist Rev. Timothy Njoya. He credits the fact that he was not killed to several courageous journalists who spontaneously shielded him from police blows with their own bodies.²⁹

Still, the demonstrations continued – and grew beyond the planned monthly protests – with a boldness that could only have stunned the regime and given new hope to Kenyans eager for regime change, nearly two thirds of whom had voted against the president. Kenyans were still living under the control of an authoritarian regime; the economy was slipping, and legitimate protests were being met with violence. Release Political Prisoners (RPP), a human rights group that grew out of the mothers’ vigil, staged a demonstration. Large crowds gathered twice at All Saints Cathedral to reclaim its sacred role as sanctuary and to pray for those killed in the demonstrations. Other demonstrations were held elsewhere in the country during July and August, and later in the year. “The defiance reflected by the mass action had confirmed the growing *culture of resistance* in the country” (Mutunga 1999, 189).

Counter Tactics by the Regime: the Chess Game Continues

Resistance in a repressive setting is triggered by the repression itself. The response by an authoritarian regime, if not overwhelming enough to crush it, can lead to a new round of resistance/repression/resistance and so on until one side gives in or gives up. When individual activism was at the forefront of the resistance, the regime played a chess game of tactics, with each side learning from the other how best to proceed. This is what Dodd (1994) refers to as “institutional learning.” It is a game both sides played well in Kenya. Some organizers of the National Convention were hoping it could transform itself into a “sovereign” national convention with the authority

29 *Weekly Review*, July 11, 1997, 5

to form a new government as had occurred in several West African nations, including Benin. In the face of international condemnation of the renewed regime violence, a determined segment of the public who did not back down and in the face of another funding freeze, this time by the International Monetary Fund (IMF), the Moi regime made its next move with cunning.³⁰

What happened next shows (1) the strength of a nonviolent resistance to force a determined regime to make compromises; (2) how a regime can temporarily demobilize a resistance movement with partial concessions; and (3) how a regime can skillfully use rivalries within a resistance movement to split it and avoid further concessions.

Moi signaled a willingness to adopt some reform legislation prior to the upcoming election. He asked the clergy to withdraw from the reformist movement and mediate between them and the government. Religious leaders welcomed the chance to get back into a neutral role and withdrew from the National Convention structure. Once they had, the president ignored them. Most of the members of Parliament who were part of the National Convention quickly abandoned the convention and returned to Parliament with an eye to the upcoming elections and their record as politicians able to bring real reform. Moi backed the establishment of an Inter-Party Parliament Group (IPPG) to negotiate the reform laws. Donors who had been supportive of the Convention process quickly pulled back and expressed support for compromise in Parliament. Ironically, given his history of detention in years of struggle against the regime, the negotiations were headed by former activist and now member of Parliament, George Anyonya.

Moi had successfully neutralized a growing civil society drive for a new constitution, removed the clergy from their supportive role of reform, and quieted rebellious members of Parliament with the reward of some incremental reforms, and pleased international donors – all in one swift countermove that essentially left him with his powers intact. Looking back, one of the key, nonelected activists who helped organize the national convention, academic Kivutha Kibwana said:³¹ “We invested so much power [in] civil society. We were leaders by default. And we developed a following. And then there was rivalry.” The rivalry was essentially between elected politician/activists and unelected activists, a rivalry Moi exploited

30 The temporary suspension came with criticism from the IMF about personnel and other bureaucratic issues which caused one writer to complain that while Rome was burning, the IMF was merely examining the strings on the fiddle (*Weekly Review*, August 8, 1997).

31 Kivutha Kibwana, in an interview with the author, July 22, 2002, in Nairobi, Kenya.

skillfully.³² Member of Parliament Kiraitu Murungi, who participated in the NCEC at first, later wrote (2000, 78-9): "I felt that academics leading NCEC were getting carried away from political realities. The MPS were worried that the stand-off between NCEC and KANU hardliners would increase the political temperatures and drive the country into civil war."

In Parliament, KANU and opposition MPs negotiated a series of legislative reforms lowering barriers against freedom of speech and assembly which easily passed. Assessments differ on the importance of those reforms. "IPPG was a regression. Although there were some positive things that came out, we got a fraction of what we could have gotten. So we put back the reforms by five years."³³ MP Murungi (2000, 81) noted that the reforms had "little impact on the elections, but they definitely opened some political space." In the election of 1997, opposition parties nearly won a majority in Parliament. President Moi was reelected against a divided opposition and amidst some charges of voter fraud. Others were stronger in their criticism, calling the abandonment of the national convention process by activist members of Parliament a "betrayal" of the reform movement.³⁴ Public disillusionment with elected officials led to the further discussions on constitutional reforms as the Ufungamano Initiative, named after the meeting site in Nairobi, guided by religious bodies. "[Moi's] control of the judiciary hadn't changed; his control over the Army hadn't changed; his control over Parliament hadn't changed. And so what was different from a one-party state, except a lot of people speaking, which he learned how to live with."³⁵

The sedition law banning what the government could interpret loosely as liable criticism against the government was abolished, but the law against incitement remained and "replaced the law of sedition in terms of being a convenient tool for harassment." The Public Order act was amended to allow, in theory, public demonstrations but police continued to treat police approval as a privilege and not a right and often stalled on issuing permits. The Preservation of Public Security Act was annulled, ending detention without trial. "That one has been observed." The Chiefs act which essentially gave the local chiefs appointed by the president the power to compel donations for public projects and to require labor on those projects was dropped. The

32 Macharia Munene in an e-mail to the author, November 18, 2013.

33 Lamba interview.

34 Pheroze Nowrojee, in an interview with the author, August 3, 2002, in Nairobi, Kenya. Nowrojee, an activist attorney, was highly regarded as a model for many of the younger activist attorneys in the late 1980s and 1990s.

35 Nowrojee interview.

law limiting licensing of new radio or television stations was amended, but the government continued to stall on issuing them.³⁶

All in all it was a “very, very, very, very false reform. It was part of the tricks that KANU [the ruling party] really had used to get the pressure that was building from mass action off its back. In reality, things did not radically change the way they were because the laws that had been used for this repression continued in place, and they continued being invoked.”³⁷

Further Growth of a Culture of Resistance: A “Psychological Revolution”

As stated earlier, this study defines a culture of resistance as one in which public challenges to the abuse of power by a regime becomes a norm for activists and a visible segment of the general public. The resistance had begun through “individual courage ... I think some of these people who took up positions, irrespective of what happened to them, were very courageous people, I think they were very principled people.”³⁸ Their example in the 1980s and early 1990s inspired other acts of resistance. Small groups had joined the resistance, including the mothers in their protest against political detentions, and the political figures who organized the two rallies in 1990 and 1991. The 1997 mass demonstrations in the face of threats and violence from the regime was another sign of a growing culture of resistance, especially as it began to involve the middle class. And with the easing of restrictions in 1997 on freedom of assembly, leaders of opposition parties, especially James Orengo and later Raila Odinga and Mwai Kibaki, took full advantage of the concessions, holding political rallies across the country, often massively attended despite a police presence and occasional interference. The regime’s reluctant acceptance of multiparty elections in late 1991, and the partial concessions in 1997 on speech and assembly “add up to a point where they become irreversible ... [part of an] historic buildup of changes that occurred in the last 10 years [1992-2002].”³⁹

36 Kathurima M’Inoti, in an interview with the author, July 18, 2002, in Nairobi, Kenya. At the time, M’Inoti was the junior law partner in the firm of Kuria and Murungi.

37 M’Inoti interview.

38 Munene interview.

39 Munene interview.

Democratization did make halting progress through the 1990s, however, as Moi's grip on power started to slip and political momentum gradually shifted to the opposition. With a narrow parliamentary majority after the 1997 elections, KANU could no longer legislate as Moi pleased. More important, a new generation of politicians, in alliance with a cohort of the old guard, began to assert its independence and openly defy Moi ... The tide was beginning to turn (Barkan 2004).

There were other signs of a growth in the culture of resistance. In the 1992 election, for example, there were five thousand Kenyans monitoring the election (Barkan 1998); for the 2002 election there were nearly twenty-eight thousand (Barkan 2004). Some tactics from the early 1990s became less potent as they became more commonplace under a more relaxed political environment. "You find that demonstrating as a tactic has been watered down. I mean everyone is holding processions in Nairobi nowadays, including church people, holding processions, urging people to attend their crusades."⁴⁰ There was a proliferation of nongovernment advocacy organizations (NGOs) in the 1990s: "professional associations ... civil society organizations like the church – and basically groups of organized citizens and committed individuals using established and credible organizations."⁴¹ Rural residents were also beginning to exercise more freedom:

People are opening their mouth now. Even when you have development meetings, the Chief will call the chairman of the ruling party, the chairman of the main opposition parties. So there is also an acceptance, I think, largely, in many parts of the country, of multi-party system. And people can express opinions freely.⁴²

The occasional dramatic legal challenge to the regime was now a thing of the past: law suits against the government became common. Public criticism of the regime also grew commonplace, including television comedy acts, newspaper cartoons, and open discussions. When the author first reported on political events in Kenya in the late 1980s, informants would call but not

40 Muthoni Kamau, in an interview with the author, December 21, 2005, in Nairobi, Kenya.

41 Mutuma Ruteere, in an interview with the author, August 21, 2002, in Nairobi, Kenya. At the time Ruteere was a researcher for the Kenya Human Rights Commission, a private organization.

42 Ruteere interview. Ruteere had carried out research on human rights in several rural areas of Kenya for the Kenya Human Rights Commission. According to Ruteere, by 2002 there were approximately fifteen small human rights groups in rural parts of Kenya. But it was still dangerous as police would sometimes try to block their work.

give their name over phone lines they thought might be tapped. Kenyans as a rule seldom spoke in public against a regime that was known for having many undercover spies. After the rallies of 1990 and 1991, especially after 1997, many Kenyans spoke their minds freely. Examples of resistance as a norm includes these culled from the *Nation* daily newspaper in 2002.

- (Sept. 27) “The High Court yesterday confronted a tidal wave of protest by issuing an order stopping public debate on the judicial reforms proposed in the Constitutional review report.”
- (Oct. 4) “The President was jeered and at a political rally in his own territory, Eldoret. Crowds along the road waved the two-finger multi party salute as Moi’s choice for President to succeed him in the 2002 election, Uhuru Kenyatta, drove by.”
- (Oct. 10) “Most of Kenya’s 3,000 lawyers held prayers and demonstrated in the streets, shunning the courts for one day to protest Judiciary attempts to block the work of a constitutional review team.”

Shortly before the 2002 election in which the ruling party candidate for president was defeated for the first time, a former individual activist attorney said: “There’s [been] a *psychological revolution of the people*.”⁴³

International Resistance against Kenya

Domestic protests can win international support that helps add pressure on a repressive regime to adopt reforms. That much is clear. What isn’t clear is under what circumstances that support is forthcoming. Cliff Bob (2005, 4-6) argues that international support from developed countries is not so much a product of “top-down” assistance as it is a “marketing” process involving efforts by insurgents to attract support and choices by NGOs abroad to choose causes that fit their own criterion. Domestic activists in the country of repression have to take the initiative to “raise international awareness” about their cause. The current study concurs with this argument. Kenyan activists, especially during the period of primarily individual activism, assiduously courted international support by relaying details of the oppression

43 Kiraitu Murungi in an interview with the author, July 18, 2002. Murungi was the law partner of Gibson Kamau Kuria who, after Kuria was detained in 1987 for filing a legal challenge to detention and torture, courageously refiled the same challenge. But after accepting a key post in the Kibaki government after 2002, Murungi became, in the eyes of some former activists, an obstruction to reform rather than an advocate.

under the Moi government. It was such reporting that enabled Amnesty International to document its important report in 1987 about torture in Kenya. It was because various other human rights organizations in the West were kept informed by activists that they were able to provide quick and public condemnations of the Moi regime that no doubt helped win the release of some well-known activists who were detained.

The dynamics of support are different, however, when it comes to bilateral assistance programs being used as leverage for human rights and democracy. For one thing, even repressive regimes can lobby for support, as Kenya's did. Such aid usually falls within the parameters of political expediency and changes in global politics. Until the end of the Cold war, symbolically fixed in the minds of many by the tearing down of the Berlin in 1989, there was little Western support for nationalist movements or domestic human rights campaigns in Africa. South Africa became an exception despite the reluctance of President Ronald Reagan to apply sanctions on the white regime to dismantle the apartheid system and to allow blacks to vote. The release of Nelson Mandela in 1990 after nearly twenty-seven years in prison stirred hopes across the continent that change was possible.

In Kenya it was the Americans and the Germans, especially – not the British – who pushed for multiparty elections and an improvement in human rights. The British played down the human rights issue because Kenya was already pro-Western at a time when the West was playing a political chess game in Africa for allies against the Soviet Union. “It [Kenya] was a friendly country. You had instability in Ethiopia, you had instability in Somalia, you had instability in Sudan, you had ... the [Idi] Amin years in Uganda and the post-Amin instability. Kenya was seen as a haven. And [British – and other Western] business and other interests wanted to keep it that way.”⁴⁴

The Kenyan government also wanted to keep things that way. As a former British foreign service official from that period noted, Kenya used a “well organized lobby in London” to make their case for a single party regime to avoid what Moi often referred to as the risk of ethnic political splits that could tear the country apart. There was also a “sort of built in Kenya lobby of former colonial figures” within the British government. As a result, Britain tended to send pro-Kenyan diplomats to Nairobi to represent the

44 Malcolm Harper, in an interview with the author, July 2, 2002, in London. From 1968 to 1971, Harper was the field director for Oxfam in East Africa.

government.⁴⁵ But democracy was far from a buzz word in the halls of the US State Department in the 1980s with regard to Africa.

I would argue that the US didn't have any problem with the single party states. There were single party states that were their friends and single party states that weren't. But that was based on whether these folks were lined up with the US or the Socialist Bloc. So this [the start of multiparty elections in Kenya] was not a gift from the donors by any stretch of the imagination and that point needs to be emphasized.⁴⁶

A "Rogue" US Ambassador Supports Kenyan Human Rights

The US, like Britain, was a player in the same political chess game of the Cold War. As a former journalist covering East and West Africa for *The Christian Science Monitor* from 1987-95, I had trouble getting any US ambassador in the region to go on record in support of democratic governance before the early 1990s. I literally chased one ambassador in West Africa down the hall as he strode rapidly away from my questions without uttering a single word in favor of democracy. Fortunately, there was at least one exception: Ambassador Smith Hempstone in Kenya. Hempstone, a former journalist who had reported on Kenya pre-independence and author of two history books on the region, arrived in Kenya as a "conservative cold war warrior. Over time, as he accumulated experience with the repressive and rapacious practices of that government, Smith went in the other direction."⁴⁷ The start of Hempstone's shift apparently came when the popular minister of foreign affairs, Robert Ouko, was murdered and his body burned in 1990 shortly before Ouko was to report to the president about government corruption he had detected. The murder also came after Ouko had received

45 Christopher T. Hart, in a personal e-mail to the author, 2002. From 1985-90 Hart was head of Africa research section of the Foreign and Commonwealth Office; he also served in Nairobi 1974-76. Hart added that President Moi in the eyes of the diplomatic community was "underrated. He was very, very, energetic; gets up early, works very, very hard; very assiduous in visiting all around Kenya."

46 US House of Representatives International Relations Committee staffer, who requested anonymity, in an interview with the author, May 21, 2002, in Washington.

47 Allan W. Eastham, Jr. interview.

special attention from US officials as part of the delegation of President Moi's official visit to the White House.⁴⁸

"I suppose the scales first fell from my eyes when Ouko was so cruelly murdered," Hempstone wrote in his book about his time in Kenya: *Rogue Ambassador: An African Memoir* (1997, 167). He began meeting with opposition activists, shared a meal with them in a local restaurant, and offered refugee protection in the US Embassy for attorney Kuria when the government was seeking to arrest him. The US Embassy, as noted previously, encouraged opposition figures to form some kind of united front which would make it easier to support them.⁴⁹ Hempstone and the German ambassador, Bernard Mutzelburg, whom Hempstone called "a courageous fighter for freedom" (95) worked together to support an expansion of democracy, sometimes pressing their points jointly in meetings with Kenyan officials. At one point Hempstone called the international and local press to accompany him to a very public and somewhat confrontational meeting with the Kenyan attorney general to complain about lack of human rights. Despite the public denouncement of Hempstone by the Moi regime, "I think he had an effect" in helping push the Moi regime toward reforms.⁵⁰ The State Department, particularly the Africa Bureau, was "lukewarm" and somewhat reluctant regarding Hempstone's statements for human rights and democracy.

We were still in the Cold War and the uncertain transition out of it, and of course there was also the first Gulf War; and Kenya was our best friend in East Africa, with a [military] access agreement in force. We kept asking them [the Kenyan government] big favors and they were very helpful. So what we did on human rights and with opposition figures was not explicitly blessed by Washington, nor was it prohibited.⁵¹

A speech Hempstone gave in May 1990 to the Rotary Club in Nairobi nearly got him recalled to Washington. He said in part: "A strong political tide is flowing in our Congress, which controls the purse strings, to concentrate our economic assistance on those of the world's nations that nourish democratic institutions, defend human rights, and practice multiparty politics" (Hempstone 1997, 91). Unbeknownst to him, the same day two

48 The Moi regime refused to release a report by Scotland Yard that pointed to two top aides as the "principal suspects" (*Weekly Review*, November 29, 1991).

49 Allan W. Eastham interview. Two Kenyan activists received similar advice from a British politician (Throup and Hornsby 1998, 76).

50 Hart interview.

51 Allan W. Eastham interview.

former members of a Moi cabinet who had been expelled from the ruling party, Kenneth Matiba and Charles Rubia, held a press conference in Nairobi also calling for multiparty elections. Both the Moi regime and the US State Department were angry with the American ambassador. Hempstone found himself on thin ice and was nearly recalled to Washington.⁵²

From Regime Reform to Regime Change: Who gets the Credit?

Activists had won important concessions in 1992 and 1997 but they were not successful in achieving regime change until rival candidates came together in a united slate in 2002. Political science professor and member of Kenya's Parliament Peter Anyang' Nyang'o worked hard behind the scenes to achieve that unity. The unity agreement finally came in the form of the National Alliance Rainbow Coalition (NARC) with Moi's former Vice President Mwai Kibaki as the winning presidential candidate. Kibaki easily beat Moi's handpicked KANU candidate, Uhuru Kenyatta, son of Kenya's first president, Jomo Kenyatta. Looking back, one could ask, who gets the credit for the regime reforms and ultimately for the regime change: domestic activists? International actors? Both?

Did the US and other international pressures on the Moi regime cause the president to reverse himself and accept, in a speech to his party in early December 1991, multiparty elections? Most analyses conclude, given the time of the decision shortly after donors froze new funds that the answer is yes. This study, however, after an examination of the domestic buildup of pressure for change starting in the mid-1980s, including the two politically ground shifting attempts at national opposition rallies, argues that it was primarily domestic pressure that tipped the scales. The funding freeze alone would not likely have pushed him to make the decision; it probably influenced the timing of his decision.

The funding freeze came at a meeting of World Bank and bilateral donors in Paris in late November 1991. A World Bank official at the Paris meeting recalled that human rights and other political abuses were not discussed at the meeting, which focused on economic issues.⁵³ Donors were

52 Allan W. Eastham interview. At the time of Hempstone's death in 2006, then-Secretary of State Lawrence S. Eagleburger described him as "a man of real courage" and said that "to have pulled him out or to have disciplined him would almost certainly have created real problems politically at home" (Bernstein, *Washington Post*, November 20, 2006).

53 Stephen O'Brian, in an e-mail to the author, 2002. At the time of the freeze, O'Brian was head of the World Bank delegation in Kenya.

inconsistent before and after this freeze, sometimes increasing funding at times of serious human rights abuses; sometimes reducing it; sometimes praising Moi and at other times criticizing him. An examination of donor funding compared with the record of human rights abuses from 1987 to 2002 shows an inconsistent relationship. It also shows that Moi was in no apparent hurry to restore aid, either in 1991 or in 1997 when the IMF froze new funds at a time when the regime was killing some unarmed protestors in public demonstrations for constitutional reform. If the president had felt so crucially vulnerable to funding shifts, he might have moved quicker to meet the demands behind the two freezes – but he did not (Press 2006, 124-5, 182). Donors took too much credit with regard to the adoption in Kenya of multiparty elections and gave too little heed to the mounting domestic pressure. A former British diplomat familiar with Kenya noted: “The role of external donors has been grotesquely exaggerated. Donors claim great credit from their aid: Everyone is so vain.”⁵⁴ A study of donors concluded, “In the case of Kenya, the reform movement was mainly domestically driven, with donors lending their support after a critical mass had already been achieved and actually discouraging more fundamental political reform” (Brown 2000).

Domestic pressure had been growing since the 1980s as a range of activists using different tactics and strategies challenged the power of the regime and called for a multiparty system. Moi could afford to ignore the activism by individual or even organizational activists who were mostly “elitist” middle and upper-class, well-to-do people; he could not afford to ignore protests where the elitists began mobilizing mass demonstrations – nor could the international community.⁵⁵ The rallies in 1990 and ’91 were the culmination at that time of this pressure with major potential consequences which the Moi administration recognized. One of the most prominent activists at the time, attorney Paul Muite, offered this analysis of why the Moi regime adopted multiparty elections.

Human Rights Watch, donors, agitation by lawyers, critical statements by the churches; they were all there. But the last straw that made the government give in was the defiance, first in July 1990 and November of 1991 ... [T]hat sent the message to the government that her own people are

54 A former British diplomat, who requested not to be named, in an interview with the author, November 18, 2002, in London.

55 Munene interview. Historian Munene argued that it was the “convergence” of domestic mass demonstrations and international actions that pushed Moi to make the reform.

prepared to rise up and defy the government. It was when, in July of 1990, despite the detention of people like Matiba, people went to Kamkunji [site of the rally]; that frightened the government. The government saw there was going to be chaos, general chaos across the entire [country]. So here were people jumping out into the streets who were prepared to be killed. That is what frightened the government. And we repeated the same in 1991. So it is that defiance. That is what does the trick in the end.⁵⁶

The view from within the administration is a harder one to assess. Moi had a tendency to criticize outside pressure from groups such as Amnesty International then quietly respond to at least some demands for human rights improvements. He verbally and publicly clashed with US Ambassador Hempstone on numerous occasions. One of President Moi's close aides during the buildup of pressure for change said, "I find it very difficult to see which one [was more significant: domestic or international pressure]." He cited the activism of "marginalized" politicians including Oginga Odinga, son Raila Odinga, Kenneth Matiba and the vocal criticism from Bishops representing at least their own dioceses – and the mass demonstrations. This provided a handle for the international community to grasp and apply pressure for reform. "You see if there is no internal pressure, it is very difficult for the West now to put too much pressure."⁵⁷

Implications of a Culture of Resistance

This study offers a model for the growth of a culture of resistance involving three primary and sometimes overlapping elements: individual activism, organizational activism, and mass popular support. Kenya had all three phases. The nonviolent social movement in Kenya, whose visible roots can be traced back at least into the 1980s (and earlier in historical studies) had grown from mostly individual activism (1987-91) to small group (1991-92) then organizational activism from 1992 onward. After the adoption of multiparty elections and formation of opposition parties, the focus of the resistance shifted to these parties. Some former individual activists became leaders in opposition parties, running for president or winning

⁵⁶ Muite interview.

⁵⁷ Bethuel Kiplagat, in an interview with the author, October 7, 2002, in Nairobi, Kenya. Kiplagat served as Moi's permanent secretary in the Ministry of Foreign Affairs and International Cooperation from 1983 to 1991.

parliamentary seats. Others moved into leadership in advocacy NGOs or returned to their professional careers.

The organizational phase of activism drew mass support, most visibly in rallies across the country. In a repressive setting it is not surprising that there may be no formal organization or central organization. While most studies of social movements try to identify organizations that scholars can focus on to measure and analyze their growth, their use of exogenous opportunities, and their eventual decline, the broader model of a social movement presented in this book enables the scholar to detect a more flexible range of strands of a movement. At times there was a predominant strand; at other times not. Though the strands may have appeared isolated when viewed separately, they were usually connections between them as activists shared information and sometimes jointly planned acts of resistance. Muhula (2005, 326) notes in his study of social movements in Kenya: "Social movements are not permanent entities with structured leadership like the rest of civil society. They might even appear transitory in nature."⁵⁸

In his famous poem "The Second Coming," W.B. Yeats (1920) penned the oft-quoted line: "Things fall apart; the centre cannot hold;" In Kenya, even after it became safer to organize openly, there was no "centre" or central organization that emerged as politically ambitious politicians split the nonviolent resistance along ethnic lines. There were peaks and valleys in the resistance. The drive for a wider campaign for constitutional reform, for example, only peaked in election years and even then without the support of leading opposition presidential candidates.⁵⁹ Without a center, a resistance risks failing to achieve its goal, in this case regime change. It took until 2002 to replace the regime and then only because of the temporary unity among rival candidates. But support for the rival candidates had grown as popular resistance against the regime grew into a culture of resistance.

Though this study of Kenya focuses on the period 1987-2002, it is essential to add that the election of Mwai Kibaki in 2002 brought mixed changes. There was an important easing of restrictions on freedom of speech and assembly. Corruption remained a major problem. Some human rights abuses persisted. Several human rights/democracy activists from the resistance

58 Muhula identifies three social movements in Kenya 1988-2002: the formation of FORD, which quickly split into ethnic groups; the formation of the NCEC, which was undermined by Moi's counter-tactics; and the brief coalition of parties that agreed to support Kibaki but quickly dissolved after the election.

59 This was not resistance movement in abeyance; it was the ebb and flow of interest and critical events.

years accepted appointments to the cabinet, where their actions brought strong criticism from some former activists. Two human rights investigators were murdered in 2009, spreading fear among the human rights community. In the disputed presidential election in 2007, opposition candidate Raila Odinga, who was well ahead at one point, lost to Kibaki, who was hurriedly sworn in for a second term. After the results were announced, the country was torn apart by violence. A group of local and international mediators forged a shared governance plan in which Kibaki and Odinga both ruled until the 2013 election which Odinga lost to Uhuru Kenyatta. The International Criminal Court indicted several Kenyans for crimes against humanity for their alleged involvement in fomenting the postelection violence, among them Uhuru Kenyatta and William Ruto, who nevertheless were elected president and deputy president in 2013. Meanwhile, in 2010 a new constitution had been adopted that finally reduced the concentrated powers of the president and brought new hopes to Kenyans of a more stable, democratic future.

Figure 12 Slum and downtown skyline, Nairobi, Kenya, 2006

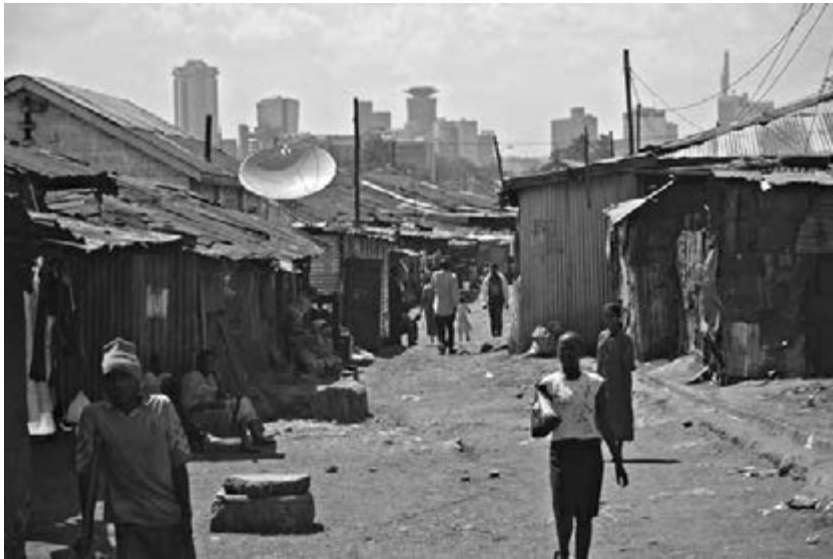


Photo by Betty Press

Figure 13 Police attack mothers and supporters protesting for release of political prisoners, Nairobi, Kenya, 1992



Photo by Betty Press