

# The Urgency For Federalism In Africa: As A Panacea For Ethnic Conflicts And Development In Kenya

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*Abstract: From the time of independence era to this century, serious conflicts have dominated the political scenes in Africa with no proper solutions. Whereas it has been theorized and it seemed true that the interplay of ideologies of communism and capitalism engineered most of these conflicts, and by extension the nature of colonial rule; For Kenya and many African multinational states, on the other hand, it is becoming clear that though ethnicity has often been tagged negatively by politicians and many scholars, there seems to exist much evidence that ethnicity is the likely panacea for most problems leading to conflicts in African states. Conflicts, however, will always continue, as they are part of society dynamics, their escalations again is a question of methods among which governance systems such as federalism falls. Which solutions would work for such multiethnic based states? Is it; institutional based solutions or structural based solutions or rather system based solutions? This paper attempts to make this clear by use of case studies across the world, examining critically the drives to federalism in Asia, Europe, America, and Africa. The study will try to find out the early agitations for federalism in Kenya, and finally make conclusions as to which between Linguistic/Community based federal states or Regional based federal states can change political dynamics in Africa. In overall, it is our thoughtful conclusion and conviction to emphasize that African countries need political system based solution. Thus, the need for federal republics urgently on Linguistic basis will be the paradigm shift in her peace and development agenda.*

*Keywords: Federalism, Federal States, Linguistic States, African States, African Nations, Conflicts, Development, Majimbo, Political systems, Kenya*

## I. INTRODUCTION

In many constitutional processes, conceptions of the systems of governance to be used always take centre stage. There are many merits attached to either unitary or federal systems. Reasons for preference can be historical, interests of political elites, or the nature of the interactions of societal elements. Unfortunately, the latter reason has often looked as peripheral yet it is a mainstay for proper long-term societal stability. Kenya like other countries world over made a debut into this systemic conception of state opting for devolution. Power dimensions of the office of the presidency guided the thinking and the change since independence but it ended up with a shadow of this through one positive leap into federalism, it attained economic federalism. In as much as it

failed short of addressing its unique desires in federalism embedded in ethno-nationalism, this devolved system is under serious attack by centrists who would wish it dead.

Facts and file show however, that decentralization is irreversible once attained. The best that Kenya may now opt for is having federal states as most serious states are operationally acting on this framework. Rodden, Eskeland, and Litvack (2003) assert that, decentralization is, quite possibly, the dominant political trend of our time. Significant devolutions of authority from national to sub-national levels have occurred in Africa, Asia, Europe, and Latin America. Gerring, Thacker, and Moreno (2007), note that new democracies have emerged with explicit constitutional guarantees for sub-state authorities as in Russia and among the European Union. Older federal polities such as Germany,

India, the United States, and Switzerland continue intact. We are aware of no democracy that has moved from the constitutional status of “federalism” to that of its contrary, “unitarism.” Most large democracies (in population and/or by land area) are now constitutionally federal.

Federalism must be clearly distinguished with other closer terminologies such as federation and devolution. Starting with devolution, we borrow the definition by Juma, Rotich, and Prof. Mulongo (2014) which assert it to mean it is a political and financial issue that involves election of local representatives by local people and giving those lower levels of government a budget normally administered by central government. To this thinking, there are levels of government closely linked and symbiotically related but one supersedes the other. In other words, it is *decentralization of resource use* and this applies to the Kenyan case. Other decentralization may not necessarily be of expenditure orientation. Moyo (2014) in giving clarity to confusions in the terminologies federalism and devolution points there is a world of a difference between devolution and federalism there is a world of a difference between devolution and federalism.

Federalism as Elazar (1987, 1993, 1994) comments in political science leaning is a genus of political organization containing “a variety of species including federations, confederacies, associated statehoods, unions, leagues, condominiums, constitutional regionalization, and constitutional ‘home rules’ ” (cited by Watts 1998: 120). From the citation, we find that federalism is a composite and complex terminology that encompasses devolution. Its use is determined by the state objectives within a political solution making at different part of their civilization. The Kenyan 2010 constitution mildly sorted the economic issue without the political problem among Kenyans. In theoretical understanding, suggestions about “coming-together” and “holding-together suffice” Stephan (2001: 320-323). Coming-together federations appears when sovereign states decide to form a federation voluntarily due to various reasons such as security purposes, governmental efficiency and so on whereas holding together, mostly emerge after a bigger polity consensually decides to continue existing as a state under one territory but autonomously for different multi-ethnic states within to avoid or settle ethnic, regional and other type of group conflict within the present state.

In the cold war era, fears about federalism were much synonymous with secession thus in totality they were a means to an end. This can still be a reality today when desires to attain political benefits of being in a state are inhibited and postponed by existing regimes. However, identities long formed by people are attached to their borders and they would be willing to co-exist than to just break up. One of the most controversial issues in conflict studies (Teshome and Záhooók, 2008) is the role of federalism. Federalism in the two Socialist countries (the Soviet Union and Yugoslavia) was the cause of their disintegration that later on led to the emergence of new independent states. Federalism prepared ideal conditions for conflicts that later on led to the collapse and the disintegration of these countries. According to Saideman et al (2002: 118, 122) and Brancati (2006), federalism and political decentralization contribute for the reduction of ethnic conflicts in many countries. The best example in this respect is Quebec

of Canada. For Hechter (2000: 142-143) and Lustick et al (2004: 209), federalism helps in solving secessionist movements. Additionally, Kimenyi (1998: 45) points, “Since ethnic groups associate with particular territories, African States are naturally suited for the establishment of federal systems of government.”

The nature of African conflicts and socio-economic justice reflect a dire need of a solution that cannot be achieved by incompatibilities and foundational errors of unitary system except by proper foundations built on federal systems constitutionally mandated for any meaningful development to be witnessed in the decades to come. It is true without doubt that among the many tough conflicts in Africa, development has suffered at high costs and was experienced extremely during the ideological wars of communism and capitalism. Yet, in a close analysis of their form and nature internally, observation reveals their nexus to divisions along ethnic basis where other communities have advanced to dominate others. This at political levels has progressively matured beyond the demise of communism, a time when infant democratic ideals do not change but strengthens the demerits of unitary systems because of creeping over dominance of some communities in both political and economic spheres leading to injustice in governance. A remedy for this is the urgency of recreating federal republics since governments are constitutional organs.

Failures by many countries in Africa such as Nigeria in addressing the bedrock existential problems of multiethnic (multinational) states instead are now moving to other more harmful levels – the demand for breakups. Ebiem (2016) asserts emphatically that;

*“All advocates for Nigeria’s unity are rather feeble in their reasoning. A society’s welfare and that of its human members is its ultimate end. The existence of any society can only be justified if it is preserving and catering to the wellbeing of the members. When all these very basic elements that should establish a society are absent from a society as in the case of Nigeria then under what basis do we continue to hope to maintain such a country. Break up Nigeria today so that we can all move on in our separate ways and you will see how that one act will be the one cure for Nigeria. Confederation or true federalism and all such things are actually anathema and abomination to mention in reference to the current Nigerian question. Right now as situations stand we had long past the stage of referendums and all those South Sudan, Scottish, Welsh, etc experiences. On the whole, Nigeria is a failed experiment of piecing together a mish mash, incongruent and very dissimilar and irreconcilable peoples with nothing in common in one space.”*

Why? His point is supported by the reasons such as; the union from the onset is faulty because the fundamental ingredients that make any social contract or society work were lacking, and for a relationship or union to work there must be common objectives, goals, or destiny that everyone in it must subscribe to or aspire toward.

## II. OBJECTIVES

Guided by the following objectives, this study will;

- ✓ Examine critically the drives to federalism in Asia, Europe, America, and Africa,
- ✓ Find out the desires for federalism in Kenya and in post independence politics, and
- ✓ Evaluate application of Linguistic/Community based federal states and Regional based federal states for Africa.

### III. METHODOLOGY

This study employed causal-comparative research design. It is realized that the application of this design covers a wide spectrum scope. The authors have applied it to the extent that is suitable to the variables of the study. Groves (2016) describes the design in its operational context thus, In this type of research investigators attempt to determine the cause or consequences of differences that already exist between or among groups of individuals.

### IV. THEORETICAL FRAMEWORK

This paper proceeds to lay an empirical foundation to certain core variables that button and unbutton conflicts and development in Africa; these three broad policy areas dominating politics of states include; political, economic, and human development. In the light of ethno-nationalism amidst the complexity of multicultural and multinational states environments, social justice and equity among them can be a cause of conflict(s). This leads us to advance our argument on the primordial's and socio-biological theory. Our thoughts anchor on primordialism in explaining the need for federalism because governments exist for the people, to the people's good, and virtually by the people (democracy). The basis of people in multiethnic states is ethnic community interests. This has and continues to display itself in leadership and power issues despite pretence of expensive designs such as national cohesion outfits in Kenya.

Among the few Universalist theories of nationalism, one should mention the primordialist and the socio-biological perspectives as the best in advancing imperatives of ethnicity (a people). Primordialism assumes that group identity is a given. That there exist in all societies certain primordial, irrational attachments based on blood, race, language, religion, region, etc. They are, in the words of Clifford Geertz (1973), ineffable and yet coercive ties, which are the result of a long process of crystallisation. Modern states, particularly, but not exclusively, in the Third World, are superimposed on the primordial realities which are the ethnic groups or communities. Primordialists believe that ethnic identity is deeply rooted in the historical experience of human beings to the point of being practically a given. Socio-biologists take this perspective a step further and assert the biological character of ethnicity. Being ineffable does not apply to Kenya as an entity but the different communities within it. In fact, it is wrongly thought that it is the developing states that are more attached to ethnic realities. Throughout the world these are more pronounced and this is where euro-centrism misrepresents afro-centrism. A notion that has lingered and swayed many readers of our time.

Primordialist approaches as we also believe contend that ethnic bonds are 'natural', a product of experiences that human beings undergo in families and within other primary groups. These are the essence of identity, which is depicted essentially by; a person's name, the language of a people, history and origins of a group, geography of a person's birth place, and ones culture. In as much as primordialism theory contributes to the reality of ethnicity, it has been subjected to extensive criticism. This is strengthened by the belief and reality that cooperation continues to take place between kin and widely extending beyond the ethno-circle (man is not an island). The term defines and justifies coercion and imbalances of power occurring within ethnic groups voluntarily or involuntarily yoked together as in many countries of Africa. Ethnicity thus is not bad as it is a person's existence. States in drafting systems of governance in most developing countries have failed to take this seriously. They have tried to invent a wheel where others like in the Western states saw virtually no need of invention in their quest for harmony of bigger polity through harmony of 'nations'.

Justifiably again, though not our theoretical proposition herein is that the desire to build model constitutions like other states has been Africa's undoing without knowing their histories or rather utterly ignoring what ought to be done because of political latent weapons for particular personalities or particular groups. Unlike ethno-nationalism, the normative theory of federalism asserts its strength on existing laws. Proponents think, "A constitution is federal," writes William Riker (1964: 11), "if 1) two levels of government rule the same land and people, 2) each level has at least one area of action in which it is autonomous, and 3) there is some guarantee (even though merely a statement in the constitution) of the autonomy of each government in its own sphere."

From Riker's thinking, we develop an understanding of the binary concepts (federalism/unitarism) to mean constitutional features of a polity, not its administrative or fiscal arrangements. On this premise, a polity is unitary if constitutional authority (sovereignty) is centrally vested that is in a national government, and rather not to imply all decision-making, tax collection, and national expenditure being centralized. The onerous distinction is that power delegation in a unitary polity is at the mercy of a centrist office (President, Prime Minister, or even King). Federal systems, on the other hand, give regional authorities more constitutional autonomy thus inherent not delegated power.

Another theory that attempts to evaluate ethno-nationalism is instrumentalist school of thought. Some instrumentalists (Llobera, 1999) insist that ethnic affiliation is simply a ploy to promote economic interests, and that individuals are ready to change group membership if that suits their sense of security or their economic interests. Marxists have tended to see ethnicity as false consciousness, as a ruse of the dominant groups to hide class interests of a material kind. The two viewpoints have augured well with some political posturing in Kenya and this justifies why federalism is good for the individual 'Kenyan'. Though Llobera continues to suggest, furthermore, the persistence of ethnic ties in modern societies does not quite tally with the expectations of Marxist theorists, who predict that these ties will eventually fade away and be substituted by working class solidarity. In

the Kenyan context, instead the ties are meeting with acceleration of ethno-nationalism more than it was at independence making the country be at the verge of genocidal pit.

Modernization theories which has been much misused to discredit African nations (initially called tribes) maintain that nationalism emerges as a result of the process of transition from traditional to modern society; some of these theories focus more specifically on the spread of industrialization, and on the socio-economic, political and cultural conditions functionally associated with it, as the main cause for the development of nationalism. It has created stigma among others to their root of belongingness yet in practice they have remained not even members of decent nations associated with people's cultural origins but to lower primitive societies in dealing with others within the moribund multinational states.

#### V. THE DRIVES TO FEDERALISM: A CRITICAL GLOBAL VIEW

Many examples exist of countries and multinational states that have tried to force their elements on each other with no success and again others attaining some degree of success. The latter are scarce though. By going unitary in political systems as in many African 'states', Kenya among them, the idea has been to create a workable harmony from its diversity given that Africans are social by nature. But how do they socialize? The fight against colonialism made socialization extend into a big unity, which has since been moribund. Despite their desires, the interactions within the states as it is means failure of disappearance of "tribes", thus to develop beyond this and as a solution for ethno-nationalism suppression means painfully adopting federalism, it does not in any way mean internal displacement of populations who might want to be residents of particular federal states because of acquisition of property or birth rights as it is currently. A secret rule for co-existence will however be respect of the local nations within the federal state(s) of residence. Neither will some states have enough manpower, indeed others will have excess thus reasons for relating meaningfully with respect in the bigger weaker polity that will arise (federalism).

According to Chandigarh, (2013), Sikh human rights groups launched a global signature campaign on the birth anniversary of Guru Nanak Dev, in support of the "1984 Genocide" petition pending before the United Nations Human Rights Council (UNHRC). The 'Sikh Genocide Complaint' filed on November 1 by SFJ, AISSF, 'Movement Against Atrocities and Repression. These organizations had filed a complaint with the United Nations pursuant to resolution 5/1 urging it to investigate the "systematic, intentional and deliberate killing of Sikhs carried out across India during the first week of November 1984 and to recognize these attacks as "Genocide." Several avenues exist within the states (constitutionally) and also with the United Nations for expression of dissatisfied unions among states on the basis of human rights violations against a population and a people expressing their internal allowable freedoms against injustices. Where hostilities become catastrophic, self-determination is allowed for international peace to exist. This direction (the

Sikh way) should not always be the first step of addressing such calamities as the international organs and law must check the anyhow sprouting of states even though states themselves are ephemeral.

In Mr. Pannun's words (Chandigarh, 2013), "Twenty nine years of denial of justice and impunity to those who orchestrated genocidal attacks on Sikhs compelled the victims to file the complaint before United Nations". "Since the Sikh community has exhausted all judicial remedies in India, the Human Rights Council is likely to take up the complaint and is likely to hold hearing to allow the 1984 victims to present evidence related to Genocide," he said in a statement. The Sikh groups say that "the gravity, scale, organized and intentional nature of these genocidal attacks was concealed by the Indian Governments by portraying them as "Anti-Sikh Riots of Delhi". The recently discovered evidence shows that more than 37,000 claims for deaths and injuries were filed by the victims of November 1984, out of which more than 20,000 claims were by victims who were attacked outside Delhi."

Another hard example of extreme positions taken within state politics is what took place on 9 August 1965. Singapore separated from Malaysia to become an independent and sovereign state (UN, 1965). The separation was the result of deep political and economic differences between the ruling parties of Singapore and Malaysia (Chan, 1969), which created communal tensions that resulted in racial riots in July and September 1964 (Turnbull, 2009). At the height of never ending political tensions in Singapore that seemed to weigh down peace and development, Dr Goh proposed: (Lim, 2015) "Well, we leave Malaysia, become an independent state, and you will be relieved of all these troubles, and we would also be relieved of troubles from you. All these tensions that have built up (communal) will all be over. We are on our own; you are on your own." To Malaysia and Singapore, the hard decision was reached to sever relations.

We note here an example of leaving together for long in hostility yet in futility. Malaysia and Singapore though were once a single entity, it is reported that at their proclamation of the formation of the Federation of Malaysia on 16 September 1963, Singapore and Malayan leaders were mindful that the differences in the political approach and economic conditions between the two countries "cannot be wiped out overnight". At the political front, the grossly imbalanced Malay-Chinese population in both countries made each vulnerable to communal prejudices which were played up by political leaders. The two major political parties in Malaysia, the People's Action Party (PAP) and the United Malays National Organization (UMNO), were soon accusing one another of communalism. The accusations escalated into tensions until they erupted into racial violence in Singapore (Ministry of Information and Arts, 1965). Though this case took multiracial differences, it is a case that points to avoidance of wasting much economic time and lives in forced existentialism as states yet in reality there is none.

The same Ministry source reports that by the second half of 1965, the stormy political climate in Malaysia showed no signs of easing. Tunku Abdul Rahman, who had become the Malaysian Prime Minister, was pressed to intervene to avoid a repeat of the communal clashes that had taken place in 1964. During his London trip to attend the Commonwealth Prime

Ministers' Conference in June 1965, the Tunku decided that severing Singapore from the federation was the only course and communicated this to his deputy, Tun Abdul Razak, who was instructed to sound out the senior Malaysian ministers and lay the groundwork for separation. Political expediency played a very positive role in creating peace to avert more conflicts through separation. Whereas they took this path, in our opinion, those multiracial and multinational (multiethnic) entities that have existed together can mutate into a new system of polity – federalism (often called majimboism in Kenya and Swahili context) as opposed to full secessions.

Sotirovic (2015) points issues surrounding Belgium federalism as; The Kingdom of Belgium as a multilingual and multicultural society is today a federal type of the experimental laboratory of the European integration. Belgium with its 10 million is divided into two main linguistic groups: the northern Dutch speakers (the Flemish/Flanders) – 6 million and the southern French speaking population (the Walloons) – 4 million. The main third speaking group are the Germans (67,000) living on the German border. The capital Brussels upsets this neat division as it is mainly French-speaking city within the Dutch-speaking Flemish part of Belgium on the north. Belgium illustrates how the deep-seated tradition of local autonomy and suspicion towards state authority go hand in hand with a strong sense of individual tolerance and solidarity, with a rejection of violent confrontation and a continuous search for consensus between the Flemish and the Walloon parts of the country. The federalism answered (answers) crucial question: Why does a government, unified for more than 150 years, no longer seem capable of holding together a linguistically divided country?

India succumbed to federalism on clear circumstances similar to many African 'states'. Its case is historical origins which were later altered by centrist political order over time. According to (Singh, 2016), the 1773 "Regulating Act" by the British had set her on federal path. Subsequently, the Government of India Act of 1919 provided for this system by providing for a dual form of government called dyarchy, shortly thereafter in 1929 Indian Statutory Commission proposed advancement from dyarchy to fully responsible provincial governments. The governments of Mrs. Indira Gandhi and later her son marked the height of centrist supremacy ignoring past attempts including even the much later State Reorganization Act (1956) under Nehru of creating linguistic states (developing a habit of cooperative working). Nehru and initiatives before attempted to address cooperation in multi-diverse environments. In other words, he engineered disintegrating to work together for more output, peace, and respect.

The further experience of India's move to cooperative federalism indicates how they overcame the issue of their vernaculars as an important tool for identity and development in their federal states. Why use other vernaculars and suppress yours in thinking and believing ethnicity is bad? They used their vernaculars in translating and understanding the constitutions to deal with the imposition of Hindi. According to Singh, they also expressed that states should discuss mutual problems at their own levels amongst themselves. The reasons behind the Indian agitation and adoption of federalism bare semblance with Kenya; they experienced periods of one strong

party rule, disunities among the communities, engaging coalition governments to sort differences, and the rise of many regional parties (linguistic based). In 1989, under a minority government (National Front), India took a serious commitment to true federalism (cooperative federalism) to scatter centralization of many years. The slogan was federating without a centre and successful inclusion of language use in their polity and development.

The degenerations that manifest in African constitutions where attempts at decentralizing power become muzzled through systems shows why federalism seems urgent for multiethnic (multinational) states. The justification for this is its nature of being a breeding tool for oppression and silencing of opponents from systems dominated by personality syndromes and ethnic dominance. Politicians have attempted even to suggest that the states are bigger than the people. They forget stipulations such as; "all sovereign power belongs to the people..." and the concept of sovereignty (R2P) which makes citizens the determinants of their own destiny. Ethnic dominance coupled with centralization of power further alienates linguistic groups not in power to the periphery of political and economic controls in states thus serious inequalities. Kenya through the reigning Jubilee regime's episodes of transformations of the Constituency Development Fund (CDF) into National Government Constituency Development Fund Board (NGCDFB) and enhancements of National Administration (formerly Provincial Administration) may seem good in the short run. Again, the serious militarization of the police force points to high centrist endeavours. A deeper analytical observation based on Kenya's past dictatorial regimes would then confirm that it is not for the interest of Kenya and the non-ruling nations who would challenge the tilted justice repeatedly. Sholle and Juma (2015) conceptualize that unequal resource access tends to build into increased instability in political environment, which has been a source for weakening of states and ultimately a ground for conflicts.

Certainly, to the dismay of Africa, no society that has successfully developed has depended as heavily on foreign resources, foreign political models, foreign languages, and foreign laws as fragile states typically do today. They abhor exclusive use of European languages (vernaculars) as the basis of education and government, thus entrenching elites in power, and reduce the ability of the general population to advance knowledge and technology. Half a century after colonialism ended in Africa, for instance, English, French, and Portuguese still matter much more than African languages in most countries even though they are not well spoken by the rural population and urban underclass. Apart from languages, a majority of states in governance are often affected by the challenge of form of the state. Likewise, in Africa, the challenges of Kenya seem to emanate from the 'form' – state. Whereas a close look at Kenya like many Westphalia order would show that the idea and concept state is well functional, yet the 'form' – state lacks which then has a misbalance on the 'form' – state (Juma and Kiplagat, 2016). This then necessitates why – federalism!

Describing the attributes of federalism in Switzerland, Mafos (2016) narrates, The Swiss Confederation is a federal republic consisting of 26 cantons with Bern as the seat of the

federal authorities. It is a landlocked country spanning an area of 41,285km<sup>2</sup>, with the population of approximately 8 million people. The country comprises three main linguistic and cultural regions: German, French, and Italian to which the Romansh-speaking valleys are added. Switzerland as a federation conforms to Karl J. Federick's definition of a federation (a union of groups united by one or more interests or common objectives *but retaining their group character for other purposes*). While the rest of Europe was plague by revolutionary uprising, the Swiss provided for a federal layout inspired by the American example. Their constitution provided for a central authority while leaving the cantons the right to self-government. Unlike the USA, the Swiss Constitution can be changed much more easily at national and/or cantonal level. It has since changed federal constitution many times - more than a hundred in total, giving important new powers to the federal government.

Canadian experience according to (Juma and Kiplagat, 2016) assert the reasons behind federalism as; fear by residents of Lower Canada (Quebec) and those of Maritime province that their culture, institutions, laws and religion could be at stake to the majority English-speaking Protestants. The two authors point contrastingly that German federal state is the result of an historical process, making federalism an instruments/ tool to achieve political unity but anchored in the constitution. Thus for Kenya, federalism lies in the need for a system of government that will reduce misuse of ethnicity into rivalries, address deep historical inequities, and demystify issues of leaderships especially the presidency politics.

Leaving alone the European and Asian practices of federalism, next door country to Kenya that has attempted the same system with successes can be points of reference. Denbegna (2015) narrates the Ethiopian experiences as;

*"Ethiopia has had three forms of social engineering. The first social engineering was designed by Emperor Menelik (1889-1913) but significantly elaborated by Emperor Haile Selassie (1930-1974). It attempted to create a unitary state on the basis of cultural assimilation. Cultural and structural inequalities typified the imperial rule, with ethnic and regional discontent rising until the revolution of 1974 overthrew the monarchy. The second ethnic social engineering (1974-91) was the military government's attempt to retain a unitary state and address the "national question" within the framework of Marxism-Leninism. The military regime created 24 administrative regions and 5 autonomous regions within the unitary form of state, but no devolution of authority was discernible. In the last decade of its rule, ethnic-based opposition organizations had intensified their assault on the military government leading to the regime's demise in 1991. The third ethnic social engineering (1991-present), the issue of this article, is the efforts exerted by the current government of the Federal Democratic Republic of Ethiopia to maintain the Ethiopian state on the basis of ethnic federalism as well as cultural, language and political autonomy at regional and sub-regional levels. Apart from language pluralism, Ethiopia's ethnic federalism after 1991 is marked by regional autonomy."*

To reach this far, Samara (2016) notes that Ethiopia had for long had bitter seeds of inequality and mutual mistrust among these nations, nationalities and peoples sown by those irresponsible unitary regimes to consolidate their own rule at the expense of unity and solidarity of Ethiopians. These harsh seeds had their own contribution in maintaining and elongating the exploitative and oppressive regimes in the nation for they put meaningless hurdles against the unity of the Ethiopian nations, nationalities and peoples which made 'Ethiopians' to fight each other for ages while in fact they did never have irreconcilable interests between/among themselves. The assertions by Samara, Denbegna, and others on Euro-Asian experiences have commonalities; dominance, oppression, and stagnation of identity in unitary systems. Their arguments can be a basis for consideration by multinational states in unitary dilemma.

#### VI. THE DESIRES OF FEDERALISM IN KENYA: AT INDEPENDENCE AND IN POST INDEPENDENCE POLITICS

One of the long term causes of ethnic conflict in Kenya is attributed to the colonial legacy which has been perpetuated and enhanced by all the successive post independence governments of Kenya. It is historical fact that all the post independence governments of Jomo Kenyatta, Moi, Kibaki and now Uhuru Kenyatta have administered ethnicized and divide and rule strategy which has polarized the various ethnic groups in Kenya. This in turn contributed to the subsequent incompatibility of these ethnic groups as actors on one nation-state called Kenya. It is a fact that early political parties in Kenya that championed the nationalist struggle against colonial establishment were basically "regional distinct ethnic unions". These were; Kikuyu Central Association (KCA) for the Kikuyu, the Kamba formed the Ukambani Members Association (UMA), the Luhya Union (LU), the Luo formed the Young Kavirondo Association (YKA), the Kalenjin Political Alliance (KPA), the Coastal tribes formed the Mwambao Union Front (MUF), and the Taita Hills Association (THA) in the order of ethnic conglomeration (Stanley, 1966). As a result of the foregoing ethnic trends, a situation prevailed in Kenya in which a common political voice was not possible and will not even in foreseeable future.

At dawn of independence African leaders ascended to governmental structures which had been intended to preserve the colonial administrative legacy. The scramble for the national resources and facilities intensified and ethnicity became the main vehicle through which the dominance and preservation of power as well as resources could be achieved (Nyukuri, 1995). Indeed the leadership and ruling elite in post-independence Kenya has often relied heavily on ethnicity to remain in leadership positions or settle a dispute with their perceived enemies from other ethnic groups.

The issue of unequal distribution of resources is yet another source of potential instability in Kenya. Apart from the easy access to land, the perceived economic success of the Kikuyu community within the first ten years of independence was envied by other community groups. Nyukuri (1993) points, the same trend of unequal distribution of land,

infrastructure and other national resources have been witnessed during the Moi Regime; where the Kalenjin ethnic group have been perceived to have benefit more than the other ethnic groups. However just like for the Kikuyu community, not all the Kalenjins have enjoyed in the Moi era and then yet again Kikuyu community during in Kibaki and Uhuru eras.

By 1960, Legislative Council (LEGICO) had an African majority a time when Kenya African National Union (KANU), architect for unitary government was formed. The following year in 1961, Kenya African Democratic Union (KADU), which advocated for Majimbo (Federal) government was formed. Just as today, the two emerged as the dominant political parties that would eventually shape the destiny of post-independence Kenya. As a political phrase, since it does not exist in Swahili dictionary, Majimbo was introduced into the country following the Lancaster House Constructional Conference in 1962. In Uganda it was called *federo*, while in Nigeria it is simply called federalism.

Majimbo envisaged a system of government where executive, legislative, and financial powers were shared between central government and regional (state) governments. The bulk of the financial powers, however, still remained with the central government. The regional boundaries were loosely based on the existing provinces boundaries curved up by the colonial government. The Majimbo issue had split the emerging regional African leadership down the middle in the run-up to independence in 1963. To a large extent the federal system was predicated on fear by the leaders of “smaller” ethnic groups that their communities would be dominated by the “larger” groups on national matters-political, social and economical.

KADU drew its major support from communities in Western, Rift Valley and Coast regions. In its leadership were Daniel Moi (Rift Valley), the late Ronald Ngala (Coast), and the late Masinde Muliro (Western). KANU on the other hand, commanded the support of the “larger” groups. It was the party of influential trio of Jomo Kenyatta, Jaramogi Oginga Odinga (Raila’s father) and Tom Mboya (assassinated in July 1969 and was among those tipped to succeed Kenyatta as president). Muliro and Jaramogi were later in history to be instrumental in agitating a return to multi party pluralism in 1992. On December 12th 1963, Kenya attained independence with Majimbo (federal) constitution which conceded much autonomy to the regions or state (Jimbos). Majimbo was scrapped barely a year before it was properly implemented, according to many observes. KANU, which won the first full franchise General election held in 1963, never really wanted the federal system as it considered it complex and threat to national unity in a country of 42 tribes (Musau, 2009).

Musau continues to point, there were to be seven Jimbos (regions) including Nairobi, constituted a long ethno-linguistic line. Tribes with close similarities were put under one region e.g. Coast and North Eastern provinces were put under one state as the two are predominantly Muslim, while Kikuyus, Embu, Meru and Mbere were put under one in Central Region. The Jimbos debate died after President Kenyatta coerced parliamentarians to reject multi-partism and subsequently regional governments. The vice-president, Jaramogi Oginga Odinga resigned in 1966 and formed the Kenya Peoples Union (KPU) briefly re-introducing multi-party politics albeit for

only three years before he was put in detention without trial and Kenya was saliently declared one party state. Six months after Odinga resignation, the upper house (Senate) and the lower house (House of Representatives) were merged to form the National Assembly, technically ending federalism.

In (GOK, 1965), Sessional paper No.10 written in 1965 by the first independence Economic and Planning Minister, the late Tom Mboya arguably Kenya’s most brilliant and charismatic leader of all times was aimed at addressing the then growing economic inequality in the emerging new nation. The paper gave birth to divergent of views as to what was best strategy to address the emerging unequal growth of rich and poor regions in Kenya. The paper though widely backed by political leaders across regional ethnic divide, some felt “federalism” was the “ideal” answer to the regional wealth inequality and development. Former Cabinet Minister, the late Peter Okondo dismissed the contents of the paper, arguing that “the rich regions would continue being rich at the expense of the poor regions” as development was only centered on Nairobi and the Central region. He advocated for “African socialism”. Okondo a native of Kenya’s Western region said Majimbo was the only way to discourage people from crowding in Nairobi to look for jobs and for equal regional development and distribution resources. “What is produced by certain region should be able to provide employment and development to the regions resident” he stated.

The federalism debate again resurfaced in 1980s during Moi regime. But contrary to 1963, it was being advanced for political expediency by the ruling KANU elite to elicit ethnic conflicts across the country thereby creating the right environment to crack on perceived dissident who were for multi-party. The federalism later emerged in 1990s ahead of the 1992 general elections and the subsequent 1997 polls. The majimbo debate, sponsored by the government was aimed at triggering tribal clashes in opposition strongholds to discourage voters turning out for the polls. The Majimbo debate re-emerged in 1997 at the height for clamour for new constitutional reforms that later gave birth to the constitution of Kenya review process. During this time, Raila Odinga’s National Development Party (NDP) now defunct started courting its nemesis KANU, which culminated with a merger in 2002, months before General Election. According to Boma’s draft (2004) rejected by Kenyans at National Referendum in 2005, the word devolution was used instead of “federalism”. In the Swahili version “Ugatuji” was used instead of “Majimbo”. The clause elicited heated debate at the conference held at Bomas of Kenya (BoK) in Karen, Nairobi. In the end, a consensus was reached. In the arrangement regions/districts would be the chief point of 4 - tier ugatuji system (which replaced federal system). The 1963 Lancaster federal System model however, was a 3-tier – National, Regional/States, and Local Authorities.

As seen from the history and within the context of Kenyan politics, the debate has always risen during an electioneering period. It is quite evident that the burning desire to introduce the federal system has been to address salient political and economic marginalization perpetuated by the unitary government affecting Kenyan multination state. Prior to independence it was felt that KANU, the party that enjoyed widest following was dominated by two ethnic groups Luos

(Nyanza region) and Kikuyus (Central region). The Western region, Rift valley region and Coast region leaders thus grouped to agitate for federalism (majimbo) with a view to seek accommodation within the political elitism. Just as then, today, the desire to have federalism is moved by the desire to have political and economic access for each of the regions in Kenya as opposed to two particular ethnic groups who have been in power since independence (Central and Rift Valley regions). The presidency and power dynamics has politically, socially and economically benefitted the groups at the helm at the expense of other Kenyan regions.

The existence of unitary system has thus in many observable analysis accelerated ethnic inequality within Kenya in terms of extraction and distribution of the scarce resources leading to negative competition between those who control power and the marginalized. It has led to ethnic mobilization and sensitization of the supporters along regional elites following primordial tendencies which has continually resurfaced as a threat to peace and stability. This paper hence provides this system (federalism) as an urgent solution for solving cyclic resource distribution equity conflicts among the different Kenya nations. Another long term factor of ethnic conflicts which is a reason for thinking federalism is what the Africanization of the civil service was initially. Just as there was immediate need to 'Africanize' the land, the post-independence government moved equally fast to give jobs in the civil service and state corporations to the Africans. Independence had after all been fought for by all on the popular slogan "Uhuru na Kazi" (i.e. Independence will bring jobs). It was therefore natural that independence should give accessibility to the labour market as a realization of self-governance. Understandably, the government policies have surrounded; 'Africanization', then 'Kenyanization', and eventually Kikuyunization, Luonization, Kalenjization, e.t.c. (depicting whoever is in power). This trend seems to explain ethnic attachments practiced as unofficial policy of ethnicization and federalism in the civil service and state corporations.

There is need to enhance equitable distribution of national resources. Kenya like other plural societies has multiethnic and multicultural characteristics which pose a great challenge in the articulation of public interest. Each ethnic group has its own basic interests or expectations which may conflict with those of other ethnic communities. For the sake of nationhood, the government leadership should organize the resources and rewards in such a way that each ethnic group has incremental expectations of gains. The basic needs of each ethnic group should be identified and harmonized within the national needs without jeopardizing other nations. There must be an equitable and transparent approach to recruitment into the civil service and in all sectors dealing with the public for unitary systems to work, otherwise, agitations for majimbo will continue as the desire is witnessed among the Scots in UK.

The ideal form system "unitary system" may not quite work well for peace and development in ethnicized states. Though Mboya (1986) optimistically suggests, ethnicity or cultural diversity is not a barrier to national unity and peaceful co-existence. "We are born of different tribes we cannot change, but I refuse to believe that because our tribes have different backgrounds, culture and customs, we cannot create

an African community or nations". To attain this optimism, serious prizes have to be paid. The question is however, who will pay it and when? There can be no meaningful development and any sustainable nationhood unless fundamental issues which affect the essence of interdependence and peaceful co-existence between different ethnic communities in Kenya are addressed adequately without any bias.

The failures of unitary system in the successive ineffective ethnic-based post-independence governments, heightened ethnic rivalry which culminated into the 2007/08 post election violence. Given the Kenyan diverse ethnic and cultural features and the impact of Jomo Kenyatta, Moi, Kibaki and Uhuru Kenyatta's principle of divide and rule and the impact of the advent of ethnic based multi-partism, there is an urgent need to re-examine the federalism debate to mitigate the potential dangers of inter-ethnic animosity that is now a permanent feature in the Kenyan mindset. System failures, requires counter evaluations for strengthening, which sometimes might mean reorganization as seen in 2010 where devolution was ushered in or further as is observably practicable now move to federalism. The United Kingdom's recent referendum to exit European Union (EU) dubbed as Brexit is a bold step of expression of a people's desire.

Franz Fanon while observing Africa's political development in light of demerits of unitary systems said that; *"We no longer see the rise of a bourgeois dictatorship, but a tribal dictatorship. The ministers, the members of the cabinet, the ambassadors and district commissioners are chosen from the same ethnological group as the leader, sometimes directly from his own family... This tribalizing of the central authority, it is certain, encourages regionalist ideas and separatism. All the decentralizing tendencies spring up again and triumph, and the nation fall to pieces, broken in bits"*(Grohs, 1968).

The phenomenon of violence within tribes and regions is reported as a particular problem of serious historical and governance systemic concern in many developing countries. All this is attributed to politics of ethnicity (choked nation – states) which according to Hutchful (1998) is "Ethnicization" of political parties in countries. In fact with the prevailing circumstances in Kenya's politics, re-thinking federalism would solve a scenario that non wants to see sooner or later, the politics of tribalization of military because it would tear the country into ashes. Avoiding it calls for Brexit or petroiska in form of federated states where the existing nations (ethnic communities) remain under the same map with greater autonomy within them in charting their destiny. Ujomu (2001) maintains that the fracturing of the military along ethnic, rank, ideological and generational lines can compromise the objectives of operational efficiency, institutional solidarity, and stability of the military as an institution.

The latest strengthening of the drive to federalism in Kenya is what would be termed "election fever- generated ethnic consciousness". It has come so strongly that it is causing serious reshaping in political parties despite the motives that underlie the proponents which is being thought as being in government syndrome vis a vis commercialization / commodification trend of political style in Kenya. As Amani National Congress (ANC) leader Musalia Mudavadi observes (Chweya, 2016), ODM has miserably failed to represent the



*hopes, interests, and aspirations* of Luhya community. Marginalization by the *non-inclusive Jubilee government, collapsing regional economy, and sugar industry* reveals why the community need to rethink its political stance. He further notes that *Jubilee has perfected the two community hegemony and discrimination* and cannot be trusted by Luhyas. These sentiments surround the primordial theory of group identity. As this is being expressed, much more other communities are also having this consciousness as a guide to their politics towards 2017 elections.

#### VII. FORMS OF FEDERALISM: LINGUISTIC/COMMUNITY BASED VIS A' VIS REGIONAL BASED FEDERAL STATES

At the time when unitary system was to work in Kenya (when Kenya was to exist as a state for one people), certain principles were upheld; Teachers Service Commission posted teachers to any part of the country, employments at Hola and Bura irrigation schemes used national staffing (an example of many national ventures), religious minister's postings were national (most of them have attained federalism in their operative designs), and national anthem. These were not quite given time to mature. First, by tribalization of government ministries of successive regimes. Secondly, the action of resource allocation arising from national coffers displayed wide disequilibrium. Finally, to mention, the introduction of quota system when 85% of admissions were to be reserved for locals entrenched clear moves from unitary. Paradoxically, when it comes to employment in government institutions, those in power have always ensured populations from their nationalities have dominated the public service. High spate in corruption is grown partially by many people with desires to attain a bit of *elite-nation status and elite-individual status*. Policy wise, true national cohesion has been destroyed to an extent of now trying to police it (forcing it on people) through the Ole Kaparo – led institution. Popping in government ministries, parastatals, and institutions at random gives a clear indication of official languages of certain territories. As at now, Kenya is a federal state living in denial of this unofficial system.

We therefore ask which form of federalism would suit this country. Is it the regional based federal states or the linguistic based federal states? The regional basis would use the former provinces that have long characterized the country Kenya; Nairobi, Eastern, Coast, Central, North Eastern, Rift Valley, Nyanza, and Western. This basis has weaknesses still because lines of suspicions have grown much into ethno-national consciousness that may require a different mode for using people's identity as primordialists hold in their theoretical orientation. It has worked elsewhere in Europe and Asia where in the former; it developed into linguistic states whose vernaculars have become Africa's prized languages of modernization. Why would we in patriotism sake be happy in death of Kenyans every five years and deny others eco-political means and opportunity in the name of a non – workable unitary system?

Different countries have their designs. Switzerland is a federalist state. This means that state powers are divided

between the *Confederation, the cantons and the communes*. The cantons and communes have extensive powers and have their own sources of income. Federalism makes it possible to enjoy diversity within a single entity. For Switzerland, with its four national languages and its highly diverse geographical landscapes, *federalism makes an important contribution to social cohesion*. Under the Federal Constitution, *all the cantons have equal status and rights*. The smallest political entity in Switzerland is the commune. Currently there are around 2300 communes. Around a fifth of communes, normally those that are cities or larger towns, have their own parliaments ([www.admin.ch](http://www.admin.ch)).

Federalism (majimbo for Kenyan context) essentially from the practice in many states outside Africa does not take the political propagandists' model, which has made Kenyans evade a good system by unnecessary threats. It is about nations charting their destiny in their own way and those who are/ or choose to be residents in other states being protected by the laws that are drafted as at the effectual point of these states. Enhancing disintegration to bring integration due to interdependence at equal levels. Federating a state into diversity to achieve political unity as in Africa gives optimism. Federalism (Blick and Jones, 2010) is defined as 'a system of government in which central and regional authorities are linked in an interdependent political relationship, in which powers and functions are distributed to achieve a substantial degree of autonomy and integrity in the regional units. In theory, a federal system seeks to maintain a balance such that neither level of government becomes sufficiently dominant to dictate the decision of the other, unlike in a unitary system, in which the central authorities hold primacy to the extent even of redesigning or abolishing regional and local units of government at will'.

Linder (2016), in a historical perspective suggests, federalism has allowed Swiss nation building as a bottom up process. As an element of political power sharing, federalism protected regional and linguistic minorities, the cultural heritage and diversity of the cantons, and helped to integrate the different segments of Swiss society. Switzerland belongs to the cases in which *federalism has helped to deal peacefully with multicultural conflict*. Moreover, the Swiss case illustrates the possibility of successful nation building despite cultural fragmentation.

"A federal political order is here taken to be "the genus of political organization that is marked by the combination of shared rule and self-rule" (Watts 1998, 120). According to Ranjan, (2015), federalism is the theory or advocacy of such an order, including principles for dividing final authority between member units and the common institutions." Nepal a practicing unitary form of government since a long time has not been able to achieve her developmental objectives as rapidly as expected. It failed to address the will and aspiration of the Nepalese, given it is a hub of cultures comprising people of; various languages, ethnic groups, and traditions. The threat against their practices, traditions, cultures and languages being on the verge of extinction precipitated federalism. This system was hence a solution for their preservation and protections.

Ranjan (2015) points a similarity in all environments, which have existed prior to federalism, the complacency of

ruling elite and middle class. He says, historically, various prominent ethnic groups have settled this entire footprint. A federal mandate was not mere a decision by a party or government, but a mandate of, for and by the people. The leaders essentially are regressing backward as the present status quo suits them the most. This is fundamentally wrong. They do not have right to backup. Consequently, ethnic minorities are agitated and the protests are leading to much greater civil revolution.

Skeptics in initially seen as hardline unitary spheres have waded in the same debate about federalism and are progressively entering into the design. Blick (2012) asserts, The term “federal” has until recently been a contaminated term in the political vocabulary of the United Kingdom (UK), applied mainly as a term of abuse in relation to the European integration project. Nevertheless, lately, and particularly from around the time of the Scottish Independence Referendum of September 2014, the position began to change. Politicians from across the spectrum and various commentators are now willing to talk about a ‘federal’ UK as a desirable, perhaps even inevitable, outcome. In such accounts, the concept broadly serves as a means of realizing a number of purposes. First, it is hoped it will provide Scotland with a degree of autonomy sufficient to induce it to remain within the Union. Second, there is an expectation that a federal system could allow the other devolved territories of Wales and Northern Ireland to continue to expand their authority. Third, it is anticipated that this model might give England more control over its own affairs. Federal models do offer a potential means of managing a multi-national territory such as the UK, and are employed in countries of this sort including Belgium, Canada and Spain. Andrew Blick argues that given this range of issues, federalism may be the only holistic solution to the growing incoherence of the UK’s constitutional arrangements.

Episodes of these designs have prompted thinking of different systems in diverse environments. Well, African states are prone to waiting for the West to make first moves. This coupled with Kenya’s initial ‘wait and see foreign policy attribute’, we may still have some time to see experience of deep bigotry and some imperial power (Europe first) before making a political step. On this leaning, the alternative way to thus federate Kenya would take what some would call ‘tribal-states’ which has indeed excelled in Europe and Asia. If that sounds bad, call it ethnic states or even linguistic states as used elsewhere. In such a design, Kenya would yield to harmonious federal states such as; *Somalia* (formerly Northern Frontier District), *Pwani/Mijikenda* state, *Eastern* state, *Maa* state, *Mt. Kenya* state, *Kalenjin* state, *Lake* state, *South Nyanza* state (comprising Kisii and Kuria), *Northern Kenya* state (Turkana, Samburu, and Rendile), and *Western* state (running up to Mt. Elgon). Within these, the stipulations of our current constitution of enhancing ‘indigenous’ cultures would be put in real practice. This would bring autonomy on management of people’s affairs in their own designs, learning in their languages, and allowing new innovations through local means as they are enhanced using foreign vernaculars which can be citizens’ third or fourth languages because of globalization. The polity that arises out of this at the national level (at federal republic of Kenya) may only involve a Council of state Presidents to decide on matters of republic’s

foreign affairs, territorial protection, and supply its budgetary needs. In advancing federalism as a panacea for peace in Kenya, sections that do not need it may not be subjected to vote in a referendum where it is called as a subject of voting yes and no, since they may impose their vote to thwart other’s desire.

The sub-divisions suggested may look bad to many conservative readers and centrists especially in this century. To the former, the understanding of ephemeral nature of states is a serious disturbance to a long spell of order of life whereas to the latter, it may portend a loss of superior status only exercised in the unitarism which becomes transformational to the marginalized in a federalist environment. In probing further on the likely effect of size to development, we observe that most stable and large countries have federated. In other words, minimizing jurisdictional areas for political and economic progress.

A view at ten other states globally and randomly picked with sizes equivalent to most African provinces (Switzerland=41289 sq km, Israel=21 770 sq km, Belgium=30528 sq km, Kuwait=17 820 sq km, Denmark=43094 sq km, Lebanon=10230 sq km, Netherlands=41850 sq km, Qatar=11610 sq km, Singapore=719 sq km, and Slovenia=20140 sq km), one concludes that it is not likely that small sizes will create more poverty. In fact, it will support the phrase in the early civilizations “necessity is the mother of invention”. If anything, many big countries without political based systems that consider diversity have failed to pick up. Democratic Republic of Congo (DRC) almost the size of Argentina and India is in shambles and with under population that cannot make it grow economically. This analysis does not negate other factors at play in the DRC mess.

Comparatively, Kenya’s independent provinces had the following measurable land sizes in square kilometers;

S/No.	Provinces as at 1975	Provincial Administrative Sizes in sq km
1.	Nairobi	684
2.	Coast	83,041
3.	North Eastern	126,902
4.	Eastern	154,540
5.	Central	13,173
6.	Rift Valley	170,162
7.	Nyanza	12,525
8.	Western	8,223

Source: Diestfeld and Hecklau (1978)

Table 1

In the table above, some facts pertaining to what primordialists call identity (closeness of cultural ties), are not captured in administrative areas.

## VIII. CONCLUSIONS AND RECOMMENDATIONS

Failures of ideological interplay and differences indeed yielded to some illusory unity among many African states to think that cultures were flexible as changing compounds and atoms of oil to mix with water. The demise of communism easily and very soon made it real to look for the enemy within the systems in form of government structures and arrangements. This has not been free of many conflicts.

Adversely, though, it has affected and de-accelerated development tremendously.

Seemingly known to be strong states and modern epics of 'civilization' have adopted federalism as their systems of polity while African states (developing countries) still linger. Primordialism has strength in its prepositions about integral part of cultures to peace and development. Language is itself a pre-condition to development. Indians in cooperative federalism remain Indians but they can still be proud of their linguistic uniqueness. The Europeans can even learn their 'vernacular' to doctoral levels and often acquire other disciplines in these languages, but contrastly we see African 'vernaculars' get extinct because they imply backwardness to our populations.

Kenya has attempted to wish away federalism from the times of its ardent proponents; Ronald Ngala, Taita Towett, Masinde Muliro, and Daniel arap Moi but perennially failing. We have seen the debate come again in the lead up to the 2010 constitutional dispensation but again feeble suspicions and threats from what Mutunga (2015) calls toxic combination cadre of leadership (elites), though he is an optimist that 'Kenya' can become solid unitary, his analogy fails because that toxic nature has never failed to be a pointer to linguistic federal states. Some 'Kenyan' elites who have benefitted from the centrist system design in Nairobi dislike it but how else will Lodwar in Turkana, Kakamega in Western, Garissa in North Eastern, Narok in Maa land attain first world urbanization in this conflict laden of denial stage of federalism in a unitary system. The method that may not be taken for attainment of federalism is the Mombasa republican route. We must remain civil and show respect for constitutional dictates as we chart eco-socio-political business about peoples' destiny, because it gives people – citizens' supremacy. Going majimboism (federalism) can be used as a tool for; political unity, peace, respect, and equity among the elements that make Kenya.

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