KENYA

Riding the Rough Waves of Devolution and the Unresolved National Question: A Moment of Temporary Despair

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The National Question: The delayed time bomb

The SDGs are the result of a long, intensive and consultative process. A wide variety of stakeholders, including UN Member States, civil society and international organizations, own them, making the transition from MDGs to SDGs a huge step in the world's communities' commitment to the fulfillment of the United Nations founding vision of peace, well-being, economic stability and the realization of human rights for all. The final decisions on the goals and targets occurred after intense, multi-cornered contestations among UN Member States, regional constellations, the for-profit sector, civil society and private foundations. On the whole the new goals constitute a promising start towards sustainability at the global, regional and national levels.

In this review of the 2030 Agenda in Kenya, we will use two lenses through which to assess state of play and prospects for its performance as a development policy framework. The lenses have to do with the yet to be resolved *national democratic question* on the one hand and a grudging attempt to deal with it through *devolution* on the other. The challenges facing the two seem to define the opportunities and the limits of the efforts driving the 2030 Agenda.

The successful implementation of the 2030 Agenda, therefore, requires bold, decisive and transformative steps that are needed to shift the world on to a sustainable and resilient path from which no country should deviate, other than at the risk of marginalization from the mainstream enjoyment of democratic commonwealth. Successful navigation of such path will require normative discipline and appropriate institutional design that promotes consistency between policy formulation and sustainable implementation. Further still, in order for it to be a collective journey - involving a wide range of stakeholders - the underlying scale and ambition of the 17 Sustainable Development Goals and 169 targets adopted by UN Member States and on which *no one should be left behind*, requires a broad and integrated approach not only to balance and realign the normative architecture and the underlying ideological underpinnings of the global economy but also to restructure regional and national political-economic policies and practices that have put the world at risk of an ever-deepening crisis. All will be an egregious lie if the review of SDGs fails to take into account the unrelenting crisis of capitalism. Politics as usual and economics as defined and determined by the exclusive interests of the powerful forces in the world will have no place on this new path. Their interests must be subdued by the democratic will of the majority in order to broaden the common spaces for economic sustainability. Merely tinkering with uncomfortable edges of the micro-economic status quo as we have known and suffered from it over the years will not do. The historical direction and social-structural content of such a shift will have to involve a radical modification of the deep structures of poverty in the periphery economies up to and including addressing the different aspects of state autonomy and the underlying democratic deficits that stand in the way of building sustainable global and national economies.

As we review the implementation of the 2030 Agenda in Kenya we will seek to answer the following questions:

- What are the drivers or underlying causes of the policy challenges facing the implementation of the 2030 Agenda in Kenya?
- What policy options are the most effective in addressing the problems facing the implementation of Agenda 2030?
- What are the barriers to effective implementation?
- Are our policies and programmes geared to and on a sufficient scale to make a significant difference?
- What must be done to remove the barriers to effective implementation?

The answers will gravitate around two major issues that continue to define the limits of and the extent to which the implementation of the 2030 Agenda will gain traction. These are: the unresolved National Question and Devolution as prescribed in Kenya's 2010 constitution.

Delay in the resolution of the National Question undermines meaningful progress in achieving the SDGs

Kenya's adoption of the MDGs coincided with a historic shift in governance policy: from a unitary nation-state to a devolved system of governance. The shift, dramatic in its constitutional innovation and extremely bold in its radical departure from run-of-the-mill federalist or decentralization efforts and structures of government hitherto in vogue, was designed to promote equitable social development and to rein in exclusion of any sections of the Kenyan society for either reasons of tribal or racial affiliation. In this way and in many others, it was meant to address a significant element of the SDGs, namely equity, popular participation, service delivery and inclusivity. Hitherto, Kenya's economic growth models, stretching all the way back to the 1960s had remained deeply married and morbidly addicted to a liberal free-market economic agenda, that had reduced the capacity of the state to rein in runaway inequalities between regions, peoples and social classes.

Accordingly, the growth-led sectors have not only been broadly based but also have performed poorly, particularly in respect to poverty-reduction and equity-promoting policy dispensations and accompanying strategic instruments. Decreased activity in the agricultural and manufacturing sectors have induced a jobless growth that has had the effect of a flood in the wake of which not all the boats could be lifted. Instead it has rendered Kenya one of the most unequal societies in the world. Heavy and unprecedented investment in mega-infrastructure projects like the Standard Gauge Railways, the LAPSSET corridor, bringing together Kenya, Ethiopia and South Sudan, and the Galana agricultural project, instead of spurring equitable economic growth has, by laying the solid ground for rapid development, placed on the national economy an unbearable debt burden of nearly Ksh. 5 trillion.

As a significant aspect of post-colonial elite engineering of post-colonial economic marginalization, centralization of local extractive mechanisms and rendering them amenable to external manipulation has become a distinct disincentive in regard to the need to adopt a national strategy to implement the 2030 Agenda. The development of such a strategy requires the strategic operations of a national democratic framework that is thoroughly inclusive and robustly capable of expanding the spaces for possible democratic will-formation, for political action and for normative regulation beyond national borders.

The Kenyan nation-state, as it is today, was cobbled together nearly a century ago by the British colonial extractive schemes and imperial calculations that resulted in its marginal integration into the global economic pecking order. From an ecological point of view, it was awkwardly carved out of a local ethnographic landscape that was rich not only in cultural diversity but also in terms of social organization. As colonialism brokered and leveraged the eventual articulation of the Kenyan nationalities with the colonial capitalist market and the wider/globalizing imperialist interests, distinct ecological and geopolitical factors kicked in to define the process by which the colonial extractive market was likely to instrumentalize the horizontal as well as the vertical differentiation of the colonial population. A non-inclusive growth pattern was the outcome.

A significant element in the organization and projection of colonial power structure/dynamics and the accompanying normative superstructure involved a systematic revision of the discrete moral tribal economic units in a bid to orchestrate and impose upon them a sense of strategic unity around a common extractive economic logic that would set the structural foundations for unequal economic *underdevelopment*. This meant that the colonial-state-generated resources were to be directed to economic regions, sectors and, by extension, ethnic groups occupying such spaces, in which state-bureaucratic investments and extractive commercial opportunities would maximize the extractive capabilities, expand economic opportunities and enhance the strategic benefits of the colonial political economy by producing greater yields in profit, tax and foreign exchange earnings. The logic went as follows: development policy must follow the regional distribution of so-called high potential economic activities.

Otherwise known under the moniker *chlorophyll economic model,*[1] this logic gave uncanny reality to the equally contrarian belief that such a system of promoting development would end up concentrating all development resource inputs into the *green parts of the country and correct dimensions of politics*, since agriculture continued to be the main driver of both colonial and post-colonial economies. It follows, therefore, that good roads, good and well-equipped schools, better health facilities and the whole structural weight of state-bureaucratic hegemony provided the template, formula and rationale for unequal distribution of basic public development resources and services - leading to overall unequal development and deep-seated inequalities across the board. Together, these factors account for the extraordinary levels of inequality that escape the attention of the Washington-based multilateral institutions that regularly assess the country's economic performance and, with tongue in cheek, give it a clean bill of health, knowing pretty well that the national economy is drowning in a torrent of debt burden and the potential dangers of an extremely high gini coefficient.

This is the general background against which the MDGs were negotiated, adopted and supposed to be domesticated and implemented by many African countries, including Kenya. It also explains, but only in part, how and why Kenya's performance in respect to achievements on the MDGs were, by any standards, dismal and in fact ended up falling short of meeting the expectations of the general population. At the same time it explains the accompanying social malaise that *devolution* was meant to address with its subsidiarity-inducing governance mechanisms.

Problematic lip-service to a grudging subsidiarity – halfhearted devolution

A quick review of Kenya's colonial and post-colonial history shows that the country has, for the better part of its life as a nation-state, been a unitary outfit with highly centralized governing structures - exercising an overbearing control over the sub-national entities and interests up to and including the various arms of governments, namely the executive, the legislature and the judiciary. The first independent government, under Jomo Kenyatta, in an effort to enforce the neo-colonial policy of a monolithic and patrimonial authority, pulled out all the stops to engage in a serial effort to amend the constitution soon after independence in 1964. This was intended to effectively scrap the regional governments and practically revert to the use of the erstwhile colonial Provincial Administration in an effort to re-engineer a local elite hegemony with strong tribal undertones, masquerading as a bona fide moral economy. Moreover, the governance structures established under the Local Government Act cap 265 of the laws of Kenya lacked the required political, administrative and fiscal powers for independent policy action. Instead, central government retained control of the local governance structures through the administration officers (hired by and placed under the

1 An economic analogy model of resource limitation in plants, developed and popularized by Arnold J. Bloom, F Stuart Chapin and Harold A. Mooney.

direct control of the same central government). The purpose was to concentrate hegemony and post-colonial commonwealth and development opportunities in the exclusive hands of a budding national elite, enjoying strong and *compradorial* ties with the strategically retreating colonial phase of predatory imperial capitalism.

The key underlying economic rationales and growing demand for decentralization are well articulated by economic theorists Richard Musgrave and Wallace Oates[2] who argue that given the disastrous experience with post-colonial concentration of authority in the national government the clamour for decentralization would become a significant plank of the reform politics that would result from the increased marginalization of certain sectors of society or regions of the country and the national economy respectively. They further maintain that a successful clamour for subsidiarity was bound to improve governance in public service provision by effectuating the persistent demand for efficiency in resource allocation arising from devolution of structures and functions of government.

This argument derives from the observation that sub-national governments are, by nature and not necessarily in practice, closer to the people than the central government and as a result have better knowledge about local needs and preferences needed for good planning and implementation of sustainable economic development. Local governments are therefore better placed to respond to the diverse needs of the local people in a wide variety of sub-national conditions. In addition, decentralization is believed to narrow the social diversity and subsequently the variation in local preferences and corresponding strategic priorities. This, it is further argued, has the vicarious if not direct effect of reducing the opportunities for conflicts among different communities. It is in the same vein that development economist Charles Tiebout[3] avers that decentralization promotes unsustainable competition among the sub-national governmental entities and thus enhances the chance that governments will respond efficiently to local needs with the necessary commitment to equitable growth of the national economy. As a result, countries are able to attain higher levels of efficiency in the allocation and use of public resources. In this way, devolution, regardless of its ideological undertones, promises to address some of the key challenges of the SDGs, namely inclusivity, popular participation/democratic citizenship and self-determination as the critical factors in shaping the democratic foundation of our social life. Unfortunately, in the Kenyan case, devolution has remained an elite project in which the political elites have not bothered to involve the general public in the important debate about the intricacies of ensuring high levels of accountability at different levels of government. Unprecedented levels of corruption, apart from having been devolved from its endemic preponderance among the national elites, is running ahead of the half-hearted accountability measures.

Empirical evidence on the general impact and transformative reach of devolution shows mixed results. For example, a study of the federal state of India suggests that decentralization promotes government responsiveness in service delivery, especially if the media and civil society are active at the local level.[4] Another study carried out in Italy indicates that devolution may exacerbate regional disparities in public spending and economic outcomes,[5] but only if local-level social actors are disempowered by having access to only limited information.[6]

2 Richard Musgrave, Economic Theory of Fiscal Decentralization; The Theory of Public Finance, New York: McGraw-Hill, 1959; Wallace E. Oats, Fiscal Federalism, 1972; rep. ed. Edward Elgar Publishers, 2011.

3 Charles Tiebout, "A Pure Theory of Local Expenditures," Journal of Political Economy, 1956.

4 Timothy Besley and Robin Burgess, "The political economy of government responsiveness: Theory and evidence from India," 2002.

5 Lapo Calamai, "The Link between Devolution and Regional Disparities: Evidence from the Italian Regions," Environment and Planning, 2009.

6 O. Azfar et al., "Conditions for Effective Decentralised Governance: A Synthesis of Research Findings," IRIS Center, University of Maryland, 2001.

Despite such isolated misgivings, several factors have been identified as and earmarked for being capable of determining the efficiency of decentralization frameworks. First is the crafting of a constitution and the accompanying legal framework that spells out the role of each level of government, including the rules governing fiscal arrangements and public service delivery system, and mechanisms for conflict resolution.[7] Second is the democratic resolution of all the outstanding issues of the nation-state, beyond constitutional measures designed to take care of the broader elements of subsidiarity. These may include a raft of affirmative action measures and procedures that seek to redress historical inequities that compromise and undermine the transformative capacity of devolution so that it is reduced to a rainstorm that does not lift all the boats. Poverty and its skewed distribution in society then becomes a system of oppression. It cannot be reduced to microeconomic mischief. It is the subjugation of particular sections of society within a definite historical context, economic rationale and power relations. It is not a series of bloopers in which the unfortunate sectors of society are trapped and not given a chance for self-determination.

Kenya has not been an exception to these mixed findings. The Jubilee government that was involved in the negotiation and finalization of the 2030 Agenda has neither the history, the ideological orientation nor the political will to deal with its normative, let alone ideological implications of economic sustainability. A domestic buy in to the Agenda was, therefore, understandably off the cards. Within its governmental ranks are die-hard as well as closet anti-devolutionists and neoliberal extremists, for whom the neoliberal status quo - dominated by an alliance of tribal oligarchies and merciless entrepreneurs is as good as ever. Rapid accumulation of wealth in the hands of a tiny elite and over-concentration of resources at the tribal epicentre of the national economy remains the in thing. A level of corruption never before experienced in post-colonial Kenya is driving an extreme concentration of wealth in the opportunistic axes of tribal alliances of elite oligarchies that can only prepare the country for potential social turmoil as the crisis of capitalism threatens to bring not only third world economies to their knees but also exacerbate social conflicts on which neoliberal capitalism feeds. Despite all this, there is plenty to admire about the international compact around the 2030 Agenda. But it's increasingly clear that with the deepening crisis of capitalism international good will alone is not enough to win the sustainability war.

7 Ibid., "Decentralization, Governance and Public Service: The Impact of Institutional Arrangements." In M.S. Kimenyi and P. Meagher, eds. Devolution and Development: Governance Prospects in Decentralizing States. Ashgate, 2004.