

# **Ethnicization and Power Contest: A Historiographical Reading of Ndung'u's 'A Friend of the Court'**

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## **Abstract**

While focusing on the nexus between popular fiction and history, this paper attempts to resurrect the intersection between the two social constructs. Popular fiction is shaped by the historical environment of the time. This paper demonstrates how Ndung'u, in his book, engages with the historical discourse of ethnicization and power contest within the context of Kenya's politics. It is premised on the exploration of ethnic bigotry as encapsulated in Ndung'u's *A Friend of the Court*. History and popular fiction coalesce in reconstructing the country's transmogrification which depicts the morphing of society. This paper contends that history and fiction are two indices that intertwine since they are social constructs that mirror society. The boundary between fact and fiction, and history and fiction dissolves. The paper reveals a deconstruction process that subverts the essentialist and dominant modes of critical interpretation that privilege and subordinate literary texts on the basis of the dominant historical discourses. It provides an insight on contestation of power as a crux to navigate latitude on the political profligacy. This paper thus situates Ndung'u's selected text, *A Friend of the Court* within the context of the current polemics of dialectics on ethnic bigotry that results from ethnicization of political power contest.

**Keywords:** Balkanization, bigotry, discourses, ethnicization, historiography

## **Introduction**

The quest of this paper is to illuminate the intersection of history and fiction within the popular genre. Popular fiction is inscribed with history of a given epoch. Kenya's ethnic-based politics often spits its venom during almost every electioneering period making people suffer. The ethnic-power matrix revolves around galvanizing ethnic bases for fanatical support to hold on to hegemonic power. Political power is about mustering ethnic blocks and fronting them in alliances that propel leadership to power. During political contests, politicians 'employ ethnic identity to aggrandize themselves in terms of economic and political power' (Jonnyo, 2003: p.159). Ethnic identity is, therefore, a tool that has been institutionalized to perpetuate the political elite in power. This view is amplified by many writers and scholars alike; Teo (2018), Nyaura (2018), Kisaka and Nyadera (2019). They generally aver that ethnicity has been nurtured to propel leaders to power. Ethnicity according to Nyaura (2018), is 'the mobilization of groups sharing a language, culture and ancestry which is the main fulcrum around which national and local politics in Kenya revolves' (p. 17).

The next general election in Kenya is 2022 but the election mood has been set now for the last two years, much earlier before the time already established. The media is awash with politicians traversing the country in search of support in an election that is one year away. Their intention is to muster and build up a strong base of electorates that ensures they remain in power. The political class is drumming up support and whipping ethnic emotions oblivious of the Covid-19 pandemic. The political class whose stark delusion is steeped on creating a

political niche that preys on the ignorance and gullibility of the multitude continue to peddle their ‘agendas’ within the country yet Covid-19 is decimating people. It is noted that political leaders sometimes use the pulpit to mobilize what has now become a cliché, ‘my people’ in dancing to their political tune. The knack to wrestle and possess power is vested on the ability to marshal ethnic or tribal alliances and in effect balkanize the country for political expedience. This fuels political contests that characterize the nature of Kenya’s politics.

Ethnic tension is a feature of Kenya’s political space and has been used by the jingoistic leadership to narrativize the electioneering period. Nyaura (2018) further opines ‘negative ethnicity brings about marginalization, distrust and heightens ethnic tensions and this eventually leads to conflict, for example, the 1992, 1997, and the 2007/2008 post-election violence over sharing of power’ (p. 17). The tension becomes fodder and recipe to stalk emotions and aggravate a potentially volatile situation. Political leaders bank on the bigoted and myopic view that ‘their’ own ethnic group shall support them in toto during contestation for political seats.

This clearly depicts ethnicization of power contest during and after elections in Kenya. Ethnicity becomes a trope that defines Kenya’s political topography and a menu of the country’s transformation process. Ethnic tension is a historical motif that informs national discourses as it revisits the political arena every five years during election time. These sentiments are amplified by Chepkwony and Chebet (2017) who opine; ‘Writers’ engagement with politics is not in dispute. Politics shape the everyday life and is a pointer to the country’s destiny’ (p. 281). Kenya’s destiny is, to a large extent, curved by the political class who ‘wield’ the power of the gods. During political combat, the citizens are reduced to be pawns in their own nation. The mighty class ignites tensions through appealing to their tribal bases to inflate their ambitions and increase their votes. These political chess games are brought out as part of the transition process that is historicized.

A historiographical reading works to situate a literary work within a historical discourse in a given epoch. This concurs with Hutcheon (1999) who affirms that the intertexts of history and fiction take on parallel status. They create a platform for interpretation as both are representations of society. Artists like historians, pen their work from social issues happening in society. Popular fiction emerges as a space that interweaves political happenings with fictional aspects of a novel to generate textuality. This elevates both history and fiction to the same plane; that of being historical repositories of past events. Popular fiction should not be rubbished to the gutter as unworthy and less serious as suggested by Gelder (2004); Fabian, (2007); Newell (2002); Birgit, (2008); Wanjala (1980); Killam (1984); and Shaeda (2009). They opine that the genre should not be taken seriously as it portrays the comic issues of life. In particular, Gelder (2004) avers that popular fiction is a distinct art that deals with entertainment issues that does not depict real issues in society.

This paper strongly disagrees with the above postulations and contends that popular fiction is inscribed with historical concerns that reveal a society in transition. Indeed, popular fiction has not been seriously theorized because of the literary dichotomy that has tended to categorize literary texts in a dialectic manner based on inclusion of historical discourses.

### **Locating Ethno-Violence and Power Contest**

The central thrust of the argument is anchored on the issue that contestation of power is reflective of the ethnic dimension it follows. Ethnicization of politics in Kenya has fuelled ethnically marked violence since ethnicity is used to mediate the politics of survival. This paper contends that popular fiction thematizes political issues that are informed by the country’s historical transformation. Murkesh (2006) affirms this when he postulates that literary texts have ‘a historical base’ (p. 118) that form both the text and the context.

Ndung'u, in *A Friend of the Court*, recreates a fictional setting of El Molo in Nakuru District, Rift Valley province in Kenya. He recounts the ethno-violence that rocks the region in the run-up to a general election. Balkanization through ethnicization is used as a tool to sow seeds of discord and disharmony. Before the multiparty era, the people of El Molo district co-existed together peacefully, being an ethnically diverse region. The citizens lived in harmony, peace and tranquillity yet they were from diverse ethnic groups. There has been a permanence of relationship based on good neighbourliness and amity. This morphs to bigotry and animosity due to ethnicization of politics. Politicians during campaigns whip up ethnicity as a tool for political mobilization. Ndung'u reveals the extent of this when leaflets requiring the so called 'others' to vacate the area. It is noted that those who belong to the opposition have been 'othered' and regarded as aliens in their own land.

Ndung'u's *A Friend of the Court* points out that the country has just embraced plutocracy and ushered in multi-partyism. The country's divided political scene is shown through the two political parties: the ruling party UKN (the Union of Kenya Nationalists) and the opposition party OKP (One Kenya Party). Their competition seems unhealthy as it is based on mobilizing ethnic blocks into a political duel; in a move equated to the biblical Goliath-David duel. It parallels the grim political situation in Kenya in the run-up to the first multi-party elections. The leaflets that demand outsiders in El Molo to leave or be forcefully evicted become an attestation of how leadership is intent on preserving power at all costs.

One of the characters acknowledges the senseless evictions for those who profess a different political party. Donald Mwihoti, an amoral character by standards of the law, is a representative of the victims and is incensed with impending evictions. He cries out to the government of the day to offer protection to all citizens regardless of their political persuasions. As a compelling character, Mwihoti is too aware that the force behind the suffering is inclined to use unorthodox methods to achieve allegiance, albeit, momentarily. Since he is 'a know it all,' the government of the day attempts to incarcerate him as a way of silencing him. He only comes out as an enigmatic figure who defies definition of a conventional protagonist. In the eyes of the law, he is amoral; a convict who has escaped from custody. His escape is a means to assist Gakeni and Company Advocates to gather evidence against the perpetrators of crime against humanity. His moral slipperiness and agile nature allow him escape the police several times. It also allows him to elucidate the pain and suffering that citizens have gone through.

Mwihoti together with Gareth Maitika, the lawyer, manage to discreetly witness the oath-taking ceremony in the forest which was presided by politicians. The 'warriors' take oaths to bind them with their ethnic communities. This amplifies the use of ethnicity by politicians to entrench themselves in elective politics. The political class represented by Wakanyugi, is shown as the agents of cleansing. They not only finance oath-taking but they also incite the youths to fight. The political class is more interested in power retention and preservation in order to remain relevant in the political dispensation. They, thus, circumvent the law by institutionalizing ethnicity and using it for their expedience. Murder, rape and dispossession are visited on the innocent people. Control and retention of power rests on winning an election. This typifies a situation where the powerful elite employ any means possible to perpetuate themselves in power. In effect, it creates balkanization, bigotry and conflicts that results in loss of life and property. Jonyo (2003) acknowledges the grim reality:

In the run-up to the 1992 multiparty elections (in Kenya), politicians in Rift Valley construed multiparty politics to be a challenge to their domination of the political system... thus became hostile to... foreigners (p. 159).

*A Friend of the Court*, Ndung'u's selected text, elaborately recreates a situation that depicts a section of the populace worshipping their leaders to an extent that they godify them.

Blind sycophantic following of a leader based on tribe is an aspect that mitigates against a harmonious relationship. It is shown that an election becomes a recipe to dispossess and dislocate other ethnic groups in order to achieve selfish political goals as is seen in El Molo. It is a tactical move by the political class to entrench themselves in power through divisive politics. Multiparty politics become the genesis of intense conflict. This augurs well with the ruling party, UKN, as regards to multiparty politics becoming a recipe of violence. This parallels with history of the KANU regime in the 1990s. The KANU diehards were determined to see to it that the party won in the 1992 elections. Barasa (1997) agrees that the KANU politicians had predicted and instigated violence that ensued before elections.

This paper observes that the security apparatus is an organ that is expected to serve all Kenyans diligently without discrimination. In El Molo, the ruling party ruthlessly evicts those perceived to belong to the opposition and regarded as foreigners in the district. The police and the security in general are brought out as incompetent, ham-fisted and indifferent to the plight of those suffering. One of the oldest women, Nungari wa King'ang'i is butchered, harmless as she is. The warriors attack in full glare of the security apparatus and this, even forces the visiting Member of Parliament, a former cabinet minister, Paul Wamarema, to shoot in the air to scare the raiders. The sleaze and impotence of the police officers is clearly seen since they do not make any efforts to arrest the attackers who flee to the forest. The raiders attack with abandon. Six people at Ikiria Nyoni are butchered in the most gruesome and brutal manner. Pregnant women are not spared the senseless orgy in the name of cleansing the community from impurities. We are told of the pregnant girl who is brutally chopped into pieces; 'Disorderly slicing had been done to her belly. Its contents had leaped out of her in bloody viscosity ... The almost full-term foetus, denied its sustenance, had been left to die on its own' (Ndung'u, pp. 317-318).

The invaders have been promised material support. As has been observed, the police are helpless in ending the violence. Kanyongolo (1998) corroborates this notion:

Violence had a strong political dimension and was further heightened by the apparent unwillingness of the police to quell it with the same zeal with which they had dealt with other 'public disorder incidents'-particularly those related to activities by the anti-government protesters (p. 6).

The political class balkanizes the country in order to achieve total compliance. Violence is a tool used to achieve, sustain, and maintain power and triumph in elections. All this is as a result of the impending elections where the ruling party, UKN wants to retain power at all cost. The contestation for power is fashioned in such a way that ethno-violence is instigated by the powerful clique whose immense powers cause jitters across the land. Since they want to hide their dirty tricks, a dusk to dawn curfew is imposed. But this is a gimmick not to allow the world to know what is happening. It is a ploy to intimidate the people to vote in a given pattern that favours the incumbents. Ethnicity plays a big role in securing political offices.

Ethnic intolerance causes divisions which the ruling regime capitalizes on to balkanize the country into political zones. Ndung'u's literary text reveals a chasm that follows an ethnic angle. One ethnic group that causes mayhem coalesces around the ruling party, UKN while the victims of the skirmishes are united in OKP. The divisions are so glaring that the two groups do not mingle even during burials. This paper contends that Ndung'u reveals the historical ethno-violence that makes people lose lives and property as politically instigated. Those whose allegiance is with the opposition are regarded as 'outsiders' and must be 'uprooted.' Ndung'u refers to them as 'madoadoa' meaning that they are people who are metaphorically of different 'colour.' In a political sense, they are people who belong to the opposition; a different political

outfit from what is being professed. Power contest that employs unorthodox means is a harbinger of hopelessness, destruction and death.

The powerful egalitarians relocate to their ethnic enclaves to seek for affirmation as tribal chiefs. This is illustrated by Wakanyugi who marshals his tribesmen to the forest. He uses them as instruments to achieve a political mileage. The masses become weapons and shields of the powerful clique of selfish cabals. Through their ignorance and manipulation, they allow the powerful elite to control them fully. The populace ends up with the same incompetent, corrupt and short-sighted leaders because they are blinded by ethnicity. Ethno-violence results from ethnic intolerance, empty promises from the leadership and conflict for political superiority among the various communities. People suffer as witnessed in Ndung'u's text. The predominant ethnic group has the temerity to attack during the day as seen at Anduni Estate. Men armed with machetes, clubs, bows, arrows and long knives emerge from the thickets. They threaten and begin to stone the Member of Parliament's convoy since he does not belong to their ethnic block in terms of party affiliation. Affirming the mingling of history and popular fiction, Wanyande et al. (2003) who are renowned scholars acknowledge the import of negative ethnicity in championing the selfish interest of the political class.

### **Locating Power Contest within the Judiciary**

Popular fiction often functions as a viable social tool for voicing political ills in society. This view is amplified by Odhiambo (2006) whose sentiments offer a broad trajectory to this paper:

Popular fiction is that kind of literature that borrows its subject matter from the public on issues of contemporary importance to that public in particular contexts...to be of immediate relevance to people's worries, questions, experiences and lives (p. 33).

It therefore depicts a genre that is a voice of the people as it attempts to bring out their concerns. The contest to wrestle power moves to the judiciary since the political goons are freed by the lower courts.

The judiciary is set as a stage where bare knuckles are exchanged between the powers that be and the people whose collective will is conspicuous. Selected text re-ignites the power play between the mighty and the powerless in a combat whose results reverberate to the future. The Worthingtons, who are residents of the area, allow themselves to become the vehicle to seek for justice from the courts. Their desire to curb the senseless killings and wanton destruction is informed by the notion that ethnicity is just a tool used seasonally during power contests to wage war. The courts are clearly seen as a contestation space where the powerful and the powerless converge. The court emerges as an arena in which the state power attempts to dis-empower the citizens and take full control of their destiny; in a way becoming the mythical gods who craft a pre-destined fate. The powerful clique is intent on escaping culpability and political responsibility for both their actions and inactions. Wakanyugi, an embodiment of evil, shows disdain for the court when he blatantly compares it with his burning house where he is forced to run to: '*Hizo court order zenu sio kitu kwangu, are you catching?*' (Ndung'u 2004, p. 238). As an antagonist in the novel, he personifies pretence and hypocrisy that the politicians camouflage themselves in oblivious of the exacerbated ethnic conflict. The selected literary text suggests that justice and fairness for the powerless is as elusive as achieving peace people are yearning for.

The power brokers, including Wakanyugi, are regarded as the masterminds of anarchy and are arraigned in a court of law. They are accused of instigating ethnic violence and causing other people to be dispossessed of their ancestral land and property. Isabella and Stellamarie Worthington are the voice with which the powerless can be heard. To them, the court is an

institution that will offer and guarantee justice, fairness and equity. It is a space that gives hope. They seek justice through Rosaly's law firm, Gakeni and Company Advocates who takes the case *pro bono public* (for public good). The main intention is to curb further loss of lives and destruction. The police officers who serve their political masters are hell bent to frustrate the Worthingtons. They offer no assistance, 'we have been to the District and then to the Provincial Police Headquarters –all with the same result' (Ndung'u, 2004, p.102). A frustrated Stellamarie despairs. It allegorizes the frustrations the populace undergoes in the hands of the police. One of the principal instigators, Isaiah Wakanyugi, a staunch member of the ruling party intimidates those seeking for justice with dire consequences. The intimidation is a tactical way of attempting to hide the truth and, thus, continue being in power. Ndung'u depicts myopic leaders who only use their ethnic block to reap the benefits of political power. Where can the defenceless go for respite?

Seeking evidence becomes an arduous task as the government does not will the process to continue. The government is seen as attempting to maintain the status quo through scuttling the court procedure. It creates and disseminates fear to all and sundry in a bid to curtail evidences being adduced. The two lawyers, Gareth Maitika and Rosaly Gakeni, hit a blind wall when collecting evidence. They are met with fearful silences in the rural areas. The screaming silence tells a lot about the impunity of the powerful elite. Donald Mwihoti, an amoral character, as per the comments of the police, readily assists Gareth to gather the required information. From the evidence adduced, it becomes clear that the politicians are the financiers, planners and executioners of the mayhem. The politicians are the ones oathing the warriors to commit nefarious crimes against humanity.

Power at the court of law is still wielded by the corrupt comprador bourgeoisie class. They not only disregard the court summons but they also see it as inferior. The law court's proceedings are never taken seriously since they are aware that other powerful individuals in government fully support them. They remain stoic, defiant and unflinching as they assume they wield immense power. The Court is reduced to a locus of challenging the power of the judges in adjudicating the case. Impunity is witnessed when the power broker, Wakanyugi, refuses to appear in court. The impotence of the police to arrest him energizes the collective spirit of the people. Led by Don Mwihoti, they become friends of the court (*Amicus Curiae*) through the arrest of the politician. This even makes one advocate comment that 'Justice had gone to the dogs' (Ndung'u, 2004, p. 246) because instead of the police securing arrests, it is the aggrieved party. The collective spirit of the masses finds unity against the divide and rule mode that uses ethnic background which politicians employ. The security too has proved that they are divided on ethnic grounds which do not augur well for a young democracy.

How else can one explain the impotence of the Police Commissioner and the Attorney General to initiate and institute criminal proceedings against the alleged perpetrators? It is observed that Gakeni and Company Advocates makes written submissions to the Commissioner of Police and the Attorney General demanding an investigation into the impending attacks. They are met with silence. None had the temerity to reply. It is this silence again that talks. It shows the ruling class being in league with the marauding gang that is bent on causing havoc in the country side. It clearly shows the government's sleaze, impotence and political expedience. Murunga (2011) has documented the political class who limit the ability of the state to 'govern effectively...lining up militia groups whose creation, financing and deployment they control...' (p.10). Ndung'u contextualizes the proliferation of ethnic skirmishes that indicates a compromised judicial system. Since the government readily employs unorthodox means to perpetuate itself in power including cleansing the guilty and abetting violence, it remains to be seen the length of time they will sustain this. The government is intent in controlling the courts in order to achieve desired results.

The government of the day terminates the case through the Attorney general. It shows machination by the government to perpetuate themselves. The government that is afraid of truth is a government that is only interested in power. Peoples' expectation for justice and fairness is deflated. The court has its fangs but cannot bite. The tussle moves on to the High Court where the power of the Attorney General in terminating criminal proceedings is questioned. The court is compromised in its mandate to offer justice. This paper contends that such courts are seen as political institutions to enable a clique of politicians to remain in power. The architects of impunity are set free demonstrating that the cabals of greed, ethnicity and treachery have had their way. The state fails to halt the threat of violence thereby, abrogating its sworn duty to offer protection to its citizens. The power contest at the courts indicates a clear perversion by the architects of impunity in solidifying and amassing power unto themselves. The evil machinations of the government offer a clear indication that power contest does not take into consideration fairness and justice.

There is redemption when the villains are arraigned in the High Court in an attempt to 'right' an injustice that has lingered for long. It captures Gareth's sentiments in his plea to the constitutional court judges:

The fear for all right-thinking people is whether this...this lunacy in the form of political licentiousness will become a feature of every period leading to a general election (Ndung'u, 2004, p. 369).

The mayhem must be stopped. There is hope that prosecuting the cabinet ministers at the High Court heralds a new dawn in the dispensation of justice during multi-party era. The High Court redeems the image of the courts by being independent and setting a subtle example of how justice can be dispensed with. The expectation that reverberates in the High Court is a stark reminder that the government institutions should function in a non-partisan manner so that the populace can be served selflessly. History of Kenya's plutocracy which showed the country's perilous roadmap to the future is captured by Ndung'u's selected text.

### **Conclusion and Recommendations**

This paper concludes that history and fiction's intertwining is efficacious in so far as ethnicity is weaved as an idiom during political contest. Reading Ndung'u's *A Friend of the Court* using New Historicism lens provides a window through which the textualities of history and fiction are appreciated as they manifest Kenya's transmutation. The selected text weaves a coherent and complex plot that undulates in intensity and captures the simmering tension and flames of bigotry as a result of polarized politics due to an ethnicized political environment. The leadership of the region elevate themselves as demi-gods whose word is law. In an attempt to perpetuate their hegemonic hold to exclusive power, they instigate ethnic cleansing, in order to achieve homogenous society. Their ascension beyond the laws of the land, albeit momentarily, bequeaths them with an air of arrogance, pride and self-conceit.

The cabals of bigotry demonize opposition leadership and spit venom on the political landscape that oozes with pus of violence, rape and forced dislocation. Gory descriptions of death are shown as the attacker and the attacked clash in a battle instigated by the power barons. The ethnic conflict is a manifestation of 'power (that has) become a dreadful thing when applied unjustly' (Ndung'u, 2004, p. 375). It initially consumes those who have been 'othered' and marginalized from main stream politics. Seen as having bastardized the laws of the land and disrespected the sanctity of human life, the power pawns come out as a breed of demonic power-hungry maniacs who are only intent on circumventing laws to achieve power. This paper espouses the power hungry leadership that deploys the ugly side of ethnicity as an index of power exclusion. Forceful evictions capture the negative aspects of ethnicity that the leaders

prey on and fuel their appetite for political offices. It is evident that power and ethnicity are two poles that converge during election period in Kenya. The political barons' archaic way of dominating the politics of the day is self-serving.

While mingling both fiction and history as two textualities that intersect, Ndung'u in his text, *A Friend of the Court* invites readers to consume Kenya's troubled historiography in the 1990s during the clamour for democratic space. He deconstructs and destabilizes the grand narrative from the hegemony and rearticulates the metanarrative of the victims, the affected citizenry. The study established that injustices meted on people in the quest to scuttle the clamour for democratic space coupled with incarceration and intimidation become a historical scar in the country's archives of happenings. This paper opines that history and literature cannot be divorced from one other. Historical discourse can beef or be supplemented by literary discourse as both emanate from society. They complement each other in recreating happenings in society. None is seen as superior to the other in representation of events within a given time frame. The study has arguably challenged the monolithic view of dichotomizing literature on the strength of inclusivity or exclusivity of socio-cultural and historical complexities.

This study was limited to excavating the intersection of history and fiction; in other words, fictionalization of history from the perspective of popular fiction writer. It is recommended that the motivation behind the avaricious leaders' appetite to muster more power can be explored further in order to understand their mental aptitude and disposition.

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