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Building A New Kenya: Professor Makau Mutua Works to Develop the Next Generation of 'Civil Society'

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Faculty

Building a new Kenya

*Professor
Makau Mutua
works to develop
the next generation
of 'civil society'*

As the world watches the struggles of newly democratic Iraq, another nascent democracy is working through its own growing pains – and a UB Law professor is wielding his considerable influence in that process.

A native of the East African nation, Professor Makau Mutua traveled last summer to Tanzania and Kenya, working to build up non-governmental organizations that he says will grow the next generation of Kenyan political leaders.

It was only in 1992 when Kenya first achieved democratic, multiparty elections. Daniel arap Moi served two five-year terms as president, then was succeeded by Mwai Kibaki.

Kibaki faced a stiff challenge from one-time ally Raila Odinga at the polls on Dec. 27. The campaigns were bitter and stoked ethnic tensions. Kibaki was declared the winner by several hundred thousand votes amid credible allegations of vote rigging. Odinga refused to concede defeat and called on his supporters to protest the outcome.

The result has been violence in opposition strongholds in which groups supporting Odinga have killed hundreds of Kibaki's supporters. In response, the government has killed scores of protesters. As the country threatens to melt down, international mediators, including Kofi Annan, the former U.N. secretary-general, have rushed to Kenya to broker peace.



Kenya will elect a new president in 2012, and in Mutua's eyes, it is time for a new generation to take power.

"The political class in Kenya is very resilient," he says, because they were reared in the old one-party system in which the state was "treated as a piggy bank." In the 15 years since arap Moi's election, "there has been a more open political process," Mutua says. "But the same people who controlled the one-party state have migrated to the various political parties and now run these parties."

This, he says, has meant that governing continues to be based on patronage, not merit, and has spawned an "anti-intellectualism" in which "the parties do not encourage big-picture discussions about the long-term interests of the country, about the problem of corruption, and even about the purpose of politics."

Further complicating the Kenyan politi-

cal picture, Mutua says, each party has identified itself with one of the country's ethnic groups, so that political discussion has been "fractured and balkanized along ethnic lines."

And as Kenyans debate who might succeed President Kibaki, Mutua and others have been working to develop leaders in "civil society" – the wide network of human rights organizations, women's groups, bar associations and other non-governmental organizations. The current administration, Mutua says, has recruited the best and brightest from civil society into government service. "The most senior people are gone," he says. "You have toddlers in civil society who have to learn how civil society works."

So, for example, the Kenya Human Rights Commission, an NGO that Mutua chairs, has over the past two years pulled away from the Kibaki government to re-

establish itself as an independent voice (and frequent critic of the administration), and while Mutua was in Nairobi in August, a new executive director and deputy were named. As other NGOs regroup, Mutua says, the hope is that their leaders will form the nucleus of a new political generation, ready to govern with integrity and energy.

“We want to create a state that is sensitive to differences, a state that is open and transparent, a state that takes into consideration the advantages and disadvantages that different groups enjoy and sees the disadvantages reduced, a state that is fair to everyone,” Mutua says. “And we hope that whoever runs the state helps to form a Kenyan national identity that transcends ethnic and regional identities. The purpose of civil society is to be the guardian of the national identity” — a purpose it fulfilled before 1992 but now has ceded to the political class.

After spending time in Tanzania, where the Kenya Human Rights Commission held a staff retreat, Mutua crossed into Kenya with no small degree of tension. He had put out feelers to some government officials he knew, asking them whether he might risk being arrested for his vigorous criticism of the Kibaki administration if he entered Kenya. They had assured him that if he lay low, he should be safe — the presidential campaign was claiming most of the spotlight. Nevertheless, he said, the 10 days he spent in Nairobi were an anxious time.

Mutua, a prolific academic writer and director of the Buffalo Human Rights Center, continues to write a column for a major newspaper in Nairobi. He also is publishing a book on the Kenyan constitutional review process, as well as the proceedings of a 2004 conference on NGOs operating in Uganda, Kenya and Tanzania.

And he continues to monitor the progress of civil society in his beloved homeland, knowing that helping its key players to develop leadership skills may be the key to Kenya’s future.

“This is a very, very tall order,” the professor concedes. “But no country can rise to prosperity without a visionary political class. Our sense is that the current political class is myopic, visionless and very self-interested.” He points out that, in a country where half the citizens live on less than a dollar a day, the 224 members of the Kenyan National Assembly are the highest-paid in the world — better-paid even than members of the U.S. Congress.

“Kenyans,” Mutua says, “are hungry for non-traditional politicians. In 2012 there has to be a clear reformist candidate.”

SUNY Distinguished Professor Makau W. Mutua named interim dean of the Law School

Makau W. Mutua, SUNY Distinguished Professor in the University at Buffalo Law School, has been named interim dean of the Law School, effective Dec. 17. Mutua replaces Nils Olsen, who announced last spring that he would step down in December as dean to attend to personal and family health issues.

Mutua, who also is Floyd H. and Hilda L. Hurst Faculty Scholar in the UB Law School, directs the Human Rights Center in the Law School. He joined the UB faculty in 1996 after serving as associate director of the Human Rights Program at Harvard Law School. In addition, he was director of the Africa Project at the Lawyers

Committee for Human Rights.

One of the world’s foremost authorities in the area of human rights law, he has conducted numerous human rights, diplomatic and rule-of-law missions to countries in Africa, Latin America and Europe, and has spoken at public forums in many parts of the world, including Japan, Brazil, France and Ethiopia. He is a member of the Executive Council and the Executive Committee of the American Society of International Law (ASIL), the most prestigious and largest organization of international lawyers in the world.

Mutua is the author of *Human Rights: A Political and Cultural Critique* (2002), and his most recent books, *Kenya’s Quest for Democracy:*



Taming Leviathan and Human Rights NGOs in East Africa: Political and Normative Tensions, will be published this spring. He has written numerous scholarly articles on topics that include international law, human rights and religion. He also has written human rights reports for the United Nations and leading nongovernmental organizations, as well as dozens of articles for such popular publications as *The New York Times* and *The Washington Post*.

Mutua has been a visiting professor at Harvard Law School, the University of Iowa College of Law, the University of Puerto Rico School of Law and the United Nations University for Peace in Costa Rica. In addition, he served as chair of the Task Force for the Establishment of a Truth, Justice and Reconciliation Commission appointed under the authority of President Mwai Kibaki of Kenya in 2003.

He was educated at the University of Nairobi, Kenya; the University of Dar-es-Salaam, Tanzania; and at Harvard Law School, where he obtained a doctor of juridical science degree in 1987.