

**THE ROLE OF TRANSFORMATIVE MEDIATION IN POST-ELECTORAL VIOLENCE: THE
CASE OF KENYA 2007-2008**

BY

ONDIGO ANNE ACHIENG OYIER

Submitted in fulfilment of the requirements for the degree of Doctor of Philosophy
(DPhil) in Political and Conflict Studies at the Faculty of Arts, Nelson Mandela
Metropolitan University, Port Elizabeth, South Africa

April 2016

SUPERVISOR: PROFESSOR LYN SNODGRASS

**DEPARTMENT OF ACADEMIC ADMINISTRATION
EXAMINATION SECTION
SUMMERSTRAND NORTH CAMPUS**
PO Box 77000
Nelson Mandela Metropolitan University
Port Elizabeth
6013



Enquiries: Postgraduate Examination Officer

DECLARATION BY CANDIDATE

NAME: ONDIGO ANNE ACHIENG OYIER

STUDENT NUMBER: 213382156

QUALIFICATION: DOCTOR PHILOSOPHIAE (DPHIL)

**TITLE OF PROJECT: THE ROLE OF TRANSFORMATIVE MEDIATION IN POST-
ELECTORAL VIOLENCE: THE CASE OF KENYA 2007-2008**

DECLARATION:

In accordance with Rule G4.6.3, I hereby declare that the abovementioned treatise/
dissertation/ thesis is my own work and that it has not previously been submitted for
assessment to another University or for another qualification.

SIGNATURE: *A. Oyier*

DATE: 15th April 2016.

TABLE OF CONTENTS

DECLARATION BY CANDIDATE	i
LIST OF FIGURES.....	xiii
LIST OF TABLES	xiv
ACKNOWLEDGEMENTS.....	xv
ABSTRACT	xvii
DEFINING KEYWORDS OF THE STUDY.....	xxii
CHAPTER ONE: GENERAL INTRODUCTION	1
1.1 ELECTORAL VIOLENCE IN THE KENYAN SETTING.....	4
1.1.1 The geographic space and human development index	4
1.1.2 Positioning basic human needs in Kenya	5
1.1.2.1 <i>Security needs</i>	6
1.1.2.2 <i>The need for identity and identity recognition in politics</i>	6
1.1.3 The political and electoral system in Kenya.....	11
1.1.4 Colonial regime before independence	12
1.1.5 Historical development of electoral violence in post-independent Kenya	13
1.1.5.1 <i>The Jomo Kenyatta regime</i>	14
1.1.5.2 <i>The Daniel Arap Moi regime</i>	14
1.1.5.3 <i>The Mwai Kibaki regime</i>	20
1.2 CONFLICT AND CONFLICT MANAGEMENT.....	23
1.3 RESEARCH CONTEXT	25
1.4 MOTIVATION FOR THE STUDY	35
1.5 STATEMENT OF THE PROBLEM	38

1.6	THE CENTRAL RESEARCH QUESTION	39
1.7	AIMS AND OBJECTIVES OF THE STUDY.....	39
1.8	SCOPE AND SCALE OF THE RESEARCH.....	39
1.9	SUMMARY STATEMENT.....	40
 CHAPTER TWO: LITERATURE REVIEW-ELECTORAL VIOLENCE		42
2.1	INTRODUCTION	42
2.2	CONCEPTUALISING ELECTORAL VIOLENCE	42
2.3	FORMS OF VIOLENCE.....	44
2.3.1	Direct violence	45
2.3.2	Cultural violence	46
2.3.3	Structural covert violence.....	47
2.4	FUNDAMENTAL PRINCIPLES GROUNDING THE NATURE OF ELECTORAL VIOLENCE	47
2.4.1	‘New wars’ or ‘wars of the third kind’.....	48
2.4.2	Actors and perpetrators of electoral violence.....	50
2.4.2.1	<i>The government</i>	50
2.4.2.2	<i>Opposition parties</i>	51
2.4.3	Cyclic phases of electoral violence	52
2.4.3.1	<i>Pre-election violence</i>	53
2.4.3.2	<i>Election day violence</i>	56
2.4.3.3	<i>Post-election violence</i>	57
2.5	BASIC HUMAN NEEDS	59
2.5.1	Human needs theory.....	59
2.5.2	Deep-rooted protracted social conflicts (PSC) and human needs.....	61

2.6	CAUSES OF ELECTORAL VIOLENCE.....	63
2.6.1	Cultures and values	65
2.6.2	Access to Data.....	66
2.6.3	Identity/ethnic group.....	67
2.6.4	Interest.....	70
2.6.5	Structural	71
	2.6.5.1 <i>Ambiguous policies and rules</i>	72
	2.6.5.2 <i>Poverty</i>	72
	2.6.5.3 <i>Economic inequalities</i>	73
	2.6.5.4 <i>Weak institutions and balance of power</i>	74
2.7	CONCLUSION	78
 CHAPTER THREE: MEDIATION AND REFORMS		80
3.1	INTRODUCTION	80
3.2	MEDIATION: DEFINITION AND CHARACTERISTICS	80
3.3	TYPES OF MEDIATION	83
3.3.1	Facilitative mediation.	84
3.3.2	Evaluative mediation.....	85
3.3.3	Manipulative mediation	87
3.3.4	Transformative mediation	88
3.4	TRACKS OF DIPLOMACY	88
3.4.1	Track one diplomacy.....	88
3.4.2	Track two diplomacy	89
3.4.3	Track one and a half	90
3.5	MEASURING SUCCESSFULLY MEDIATED ELECTORAL VIOLENCE	95

3.5.1	Measuring the success of mediating electoral violence	96
3.5.2	Measuring mediation failure in electoral violence.....	98
	3.5.2.1 <i>Ethical strategies influencing mediation failure in electoral violence</i>	98
	3.5.2.2 <i>Mediator ethics</i>	98
	3.5.2.3 <i>The values and ethics of political disputants</i>	100
	3.5.2.4 <i>Consent of the disputants' political parties</i>	101
3.5.3	Ethics in the mediation process	101
	3.5.3.1 <i>Pragmatic ethics</i>	102
	3.5.3.2 <i>Theoretical ethics influencing mediation failure</i>	103
3.6	THE ROLE OF MEDIATION IN ELECTORAL VIOLENCE	109
3.6.1	Mitigation of violence	109
3.6.2	Mapping causes of electoral violence	110
3.6.3	Paving the way for Implementation and peacebuilding processes.....	111
3.7	THE AFRICAN UNION AS MEDIATOR.....	112
3.8	MEDIATION MODELS OF ELECTORAL VIOLENCE	113
3.9	STAGES IN ELECTORAL MEDIATION PROCESS	115
	3.9.1 Pre-negotiation.....	116
	3.9.2 Opening the mediation.....	117
	3.9.3 Opening statements.....	117
	3.9.4 Exploration and negotiation phase.....	118
	3.9.5 Finalising the agreement.....	119
	3.9.6 Post-negotiation	119
3.10	POST-ELECTION VIOLENCE REFORMS.....	120
	3.10.1 Peacebuilding as post-election violence prevention mechanism	120

3.10.2	Hermeneutics of peacebuilding.....	122
3.10.3	Whose peacebuilding?.....	125
3.10.4	Appraising peacebuilding.....	126
3.11	CONCLUSION.....	127
CHAPTER FOUR: RESEARCH DESIGN AND METHODOLOGY.....		128
4.1	INTRODUCTION	128
4.2	RESEARCH DESIGN	128
4.3	RESEARCH EPISTEMOLOGY	130
4.4	QUALITATIVE EXPLORATORY CASE STUDY.....	131
4.5	GROUNDED THEORY	134
4.6	QUALITATIVE DATA COLLECTION METHODS	136
4.6.1	Primary data	136
4.6.2	Secondary data	137
4.6.3	Semi-structured interviews	138
4.6.4	Design of interview schedule	140
4.6.5	Sampling.....	141
	4.6.5.1 <i>Non-probability sampling approach</i>	141
	4.6.5.2 <i>Purposive sampling</i>	142
	4.6.5.3 <i>The snowball sampling</i>	142
	4.6.5.4 <i>Theoretical sampling and saturation</i>	143
	4.6.5.5 <i>Target sample profile</i>	143
4.6.6	Documents analysis.....	148
4.6.7	Triangulation	149
4.7	QUALITATIVE DATA ANALYSIS	149

4.7.1	Iterative and interpretive data analysis.....	150
4.7.2	Data organisation.....	150
4.7.3	Data coding.....	151
	4.7.3.1 <i>Open coding</i>	151
	4.7.3.2 <i>Axial coding</i>	152
	4.7.3.3 <i>Selective coding</i>	152
4.8	TRUSTWORTHINESS	153
4.8.1	Credibility	153
4.8.2	Transferability	153
4.8.3	Dependability	154
4.8.4	Confirmability	154
4.8.5	Authenticity	154
	4.8.5.1 <i>Fairness</i>	154
	4.8.5.2 <i>Ontological authenticity</i>	155
4.9	ETHICAL CONSIDERATIONS	155
4.10	DISSEMINATION OF RESULTS.....	156
4.11	CONCLUSION.....	156
 CHAPTER FIVE: PRESENTATION OF FINDINGS.....		157
5.1	INTRODUCTION	157
5.2	CAUSES OF ELECTORAL VIOLENCE.....	158
5.2.1	Structural factors.....	158
	5.2.1.1 <i>Corruption</i>	160
	5.2.1.2 <i>Abuse of state resources</i>	166
	5.2.1.3 <i>Statelessness</i>	169

5.2.1.4	<i>The electoral system</i>	172
5.2.1.5	<i>Weak democratic institutions</i>	177
5.2.2	ACCESS TO DATA.....	184
5.2.2.1	<i>Information denial</i>	184
5.2.2.2	<i>Media bias</i>	185
5.2.2.3	<i>Sensational media reporting</i>	186
5.2.3	INTERESTS.....	187
5.2.3.1	<i>Regional dynamics and interests</i>	189
5.2.3.2	<i>East African interest</i>	189
5.2.4	Identity, culture and values	191
5.2.4.1	<i>Politically ethnicised presidency and ethnic rivalry</i>	191
5.2.4.2	<i>The ethnic militia</i>	197
5.2.5	Socio-Economic Factors	199
5.2.5.1	<i>Land</i>	199
5.2.5.2	<i>Poverty, inequality, unemployment and economic marginalisation</i>	202
5.2.6	Unethical and undemocratic politicians and officers	209
5.2.7	Human rights issues	211
5.3	MEDIATING ELECTORAL VIOLENCE	212
5.3.1	Pre-mediation.....	213
5.3.2	The mediation process.....	215
5.3.2.1	<i>Opening statement</i>	216
5.3.2.2	<i>Initial contact</i>	216
5.3.3	Negotiation process	217
5.3.4	Agreement and outcomes	222

5.3.5	Reform Agendas	223
5.4	THE BENEFITS OF THE MEDIATION PROCESS.....	226
5.4.1	Mapping of the root causes of electoral violence	228
5.4.2	Ceasefire and cessation of hostilities.....	229
5.4.3	Devolution of power	230
5.4.4	The new 2010 constitution	233
5.4.5	Restoration of marginalised rights in politics.....	234
5.4.6	Paving the way for peacebuilding	237
5.4.7	Democratic consolidation.....	238
 CHAPTER SIX: MODEL FOR MEDIATION IN ELECTORAL VIOLENCE.....		246
6.1	INTRODUCTION	246
6.2	MEDIATION TIMELINE	246
6.3	WHAT MEDIATION ACCOMPLISHED	251
6.3.1	Mapping of the root causes of electoral violence.....	252
6.3.2	Ceasefire	253
6.3.3	The 2010 constitution.....	254
6.3.4	Devolution of power (<i>Majimbo</i>).....	255
6.3.5	Restoration of fundamental rights of marginalised groups.....	256
6.3.6	Democratic consolidation.....	257
6.3.7	Opened doors for peacebuilding.....	257
6.4	THE SHORTCOMINGS	258
6.4.1	Weak institutions	258
6.4.2	Ethnicised presidency.....	259
6.4.3	Socio-economic issues	260

6.4.4	Unethical and undemocratic politicians and officers	260
6.4.5	Ethnicity and ethnic militia	261
6.4.6	Corruption.....	262
6.5	THE MODEL FOR MEDIATION FOR ELECTORAL VIOLENCE	263
6.5.1	Pre-requisite conditions	265
6.5.1.1	<i>Condition one</i>	265
6.5.1.2	<i>Condition two</i>	265
6.5.1.3	<i>Condition three</i>	266
6.5.1.4	<i>Condition four</i>	266
6.5.1.5	<i>Condition five</i>	267
6.5.1.6	<i>Condition six</i>	267
6.5.1.7	<i>Condition seven</i>	268
6.5.1.8	<i>Condition eight</i>	268
6.5.1.9	<i>Condition nine</i>	269
6.5.1.10	<i>Condition ten</i>	269
6.6	THEORETICAL IMPLICATIONS.....	270
6.7	CONCLUSION	274
CHAPTER SEVEN: SUMMARY OF THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS.....		276
7.1	INTRODUCTION.....	276
7.2	CAUSES OF ELECTORAL VIOLENCE	276
7.2.1	Structural factors	276
7.2.1.1	<i>Corruption</i>	277
7.2.1.2	<i>Statelessness</i>	278

7.2.1.3	<i>The electoral system</i>	279
7.2.1.4	<i>Weak institutions</i>	280
7.2.2	Access to data	281
7.2.2.1	<i>Media bias</i>	282
7.2.2.2	<i>Lack of access to information</i>	282
7.2.2.3	<i>Sensational reporting</i>	283
7.2.3	Interests.....	283
7.2.4	Identity, culture and values	284
7.2.4.1	<i>Ethnicised presidency</i>	284
7.2.4.2	<i>Ethnic identity</i>	286
7.2.5	Socio-economic problems: land, poverty and inequality	287
7.2.5.1	<i>Land</i>	287
7.2.5.2	<i>Poverty</i>	288
7.2.5.3	<i>Inequality</i>	288
7.2.6	Lack of democratic officials.....	289
7.3	MEDIATION PROCESS IN ELECTORAL VIOLENCE	290
7.3.1	Pre-mediation	290
7.3.2	Negotiation	291
7.3.3	Reform agendas.....	292
7.3.4	Stalemate	292
7.3.5	The outcome.....	292
7.4	THE ROLE OF MEDIATION	293
7.4.1	Mapping the root causes of electoral violence.....	293
7.4.2	Consolidated democratic institutions	293
7.4.3	Recognition of politically marginalised groups	294

7.4.4 Devolution of power	294
7.4.5 New 2010 constitution	295
7.5 CONTRIBUTION OF THE STUDY TO THE FIELD OF CONFLICT MANAGEMENT	297
7.6 LIMITATIONS OF THE STUDY.....	299
7.7 RECOMMENDATIONS	299
7.7.1 Recommendations for policy development	300
7.7.2 Recommendations for further research	303
REFERENCES.....	304
APPENDICES.....	356
Appendix 1: Nelson Mandela Metropolitan University certificate to conduct research.....	356
Appendix 2: Letter of request to conduct research	357
Appendix 3: The National Accord and Reconciliation Act 2008	359
Appendix 4: Photo of signing of agreement.....	363
Appendix 5: photo of the shaking of hands of the principal disputing parties. ..	364
Appendix 6A: Letter of confirmation of editing	365
Appendix 6B: Letter of confirmation of editing	366

LIST OF FIGURES

Figure 1.2: Major Kenyan identity groups.....	7
Figure 2.1: Conflict triangle.	45
Figure 2.2: Election cycle.	53
Figure 4.1: Research design and methodology framework.	129
Figure 4.2: Map of Kenya, with various research zone sites	147
Figure 4.3: Grounded theory data collection and analysis process.	151
Figure 5.1: Corruption in Kenya compared to other East African Countries.	164
Figure 5.2: Media bias reporting 2007 elections.....	185
Figure 5.3: Ethnic pattern of voting in Kenya 2007.....	196
Figure 5.4: The national inequality and poverty index per province in Kenya.....	205
Figure 5.5: Mediation process.	212
Figure 5.6: The triad-layered nature of the negotiated mediation.....	217
Figure 5.7: Prioritised reform agendas.	223
Figure: 5.8: The Role of the mediation process.....	226
Figure 5.9: Current women representation in parliament (2015).	235
Figure 6.1: Model for mediation for electoral violence.	264

LIST OF TABLES

Table 1.1: Some recent examples of electoral violence in Africa	3
Table 2.1: Timeline of the mediated negotiation Kenya 2008.....	29
Table 4.2: Target sample and sample size.....	144
Table 5.1: Pseudonym codes allocated to research participants	158
Table 5.2: The structural causes of electoral violence.....	159
Table 5.3: Misuse of state resources.....	168
Table: 5.4: An illustration of how the FPTP electoral system works	174
Table 5.5: Power-sharing in Africa	176
Table 5.6: Access to data causes of electoral violence.	184
Table 5.7: Communities that had interests in the electoral violence.....	188
Table 5.8: Identity, cultural and values as causes of electoral violence	191
Table 5.9: Socio-economic causes of electoral violence	199
Table 5.10: Women representation in Kenyan parliament.....	234
Table 5.11: Negotiated shortcomings.....	240
Table 6.1: Timeline of the mediated negotiation Kenya 2008.....	246

ACKNOWLEDGEMENTS

I want to thank God, who has blessed me through the best and toughest years of my study, and without whose grace and strength, this dissertation may not have been possible. I sincerely and wholeheartedly express my special appreciation and thanks to my supervisor, Professor Lyn Snodgrass for continued support and encouragement that saw the full realisation of this thesis. She has been a tremendous professional, immensely knowledgeable, motivator and expert scholar. She evoked logical thoughts in me in each meeting we had to discuss the study. She empowered me at every step of the study. Her resourcefulness including materials for this study cannot go unnoticed. They were a great source of my literature. Through her, I learnt resilience and courage on my academic journey. Thank you for the many drafts you had to read, and from the feedback of your comments, I was able to focus and continue resiliently with my studies. Thank you also for being compassionate and seeing to my personal welfare and for allowing me to grow as a researcher. Your advice on research as well as on my career has been invaluable. Thank you for allowing me to study at the Nelson Mandela Metropolitan University under your capable supervision.

I would also like to thank my partial sponsor, the Catholic Theological World Church, for their prompt and continued support, without which I would not have been able to further my studies leave alone to study in South Africa. I want to express my genuine appreciation to my congregation, The Franciscan sisters of St Joseph Asumbi, for allowing me to undertake these studies away from my community in Kenya and for their support and journeying with me throughout these studies backed by their prayers, concern, moral and financial support.

I wish to convey my kind appreciation to all my interviewees and participants who made this study possible. The Nairobi Peace Initiative was instrumental in identifying other participants and actively taking part in the studies. Thank you for allowing me to use your library while I carried out the interviews. I want to thank Chris Mensah of the United Nations communications (Kenya office) who introduced me to the African Union Liaison

office via email. Thank you, also, to the African Union panel of the eminent African personalities (AUPEAP) for your participation in this study and the many documents you officially through written permission allowed me to use for this study. Lastly the African Peace Forum organisation, especially George Kabongah, for his willingness in assisting and for taking part in the interviews. I also want to extend my appreciation to the staff at the writing centre who proofread my proposal and some chapters of the thesis. I sincerely appreciate your assistance in this journey of research. On the same note, I want to thank the NMMU writing centre staff, Vicki Igglesden and Professor Andre Lemmer for their thorough work in proof-reading and language editing of this thesis. Many thanks also to Redene Steenberg for her technical editing of the thesis. My thanks also go to Marida Stenning who helped with the printing of the several drafts and for her kind heart and encouraging words whenever I was in her office.

I would also like to extend much appreciation to the Dominican Sisters at the Priory in Walmer-Port Elizabeth. Your community became my second home from my Kenyan community. Thank you for welcoming me as one of your own. God bless you all. I will miss all the prayers we had together and all the games and joys of laughter we shared. I will keep you in my prayers. My appreciation goes to Jane Waithera Chungi who took me to the African Union Nairobi offices. Ndanu Mung'alla for continued encouragement. I would also like to offer my appreciation to my family, the Ondigo family who are also my friends, for their concern and support throughout my stay in South Africa. I wish to thank Mr. Kakan Chrispin and family and the Ondigo family who assisted with the collection of interviews when I had double appointments. Thank you to all of you for all your encouragement. Lastly, I would like to extend my appreciation to all my Catholic new found friends in Port Elizabeth, firstly my colleagues the Association of Catholic Students (ACTS) at the university, and secondly my friends from the Catholic Church communities of both Corpus Christi in Humewood and St. Augustine's in Town. My appreciation to the student housing administration, the international office, the NMMU RCD, the student finance officers and all my college friends particularly those that I shared the residence with at the PGSV. Thank you all.

ABSTRACT

Free and fair elections, accompanied by smooth transitions of democratically elected leaders, constitute one of the key pillars of democracy. The dawn of democratisation and advent of multi-party politics after the end of the Cold War in 1991, seemingly held great promise for Africa. However, in recent years, many elections in Africa have consistently become a source of violence. Electoral violence is threatening to become an intractable source of conflict on the African continent, making it hard for emerging democracies to consolidate their status as free democratic societies. Many remain largely autocratic or semi-democratic. African leaders are all too often not ready to relinquish political power, while political elites are 'power hungry' and use violence to skew the outcomes of elections in their favour. Hence, electoral violence is employed in order to manipulate civilian election choices and outcomes. Election violence is often deliberately used to target civilians, and in countries like Kenya involves inter-ethnic clashes. These "new wars" are fought unconventionally using 'crude weapons', (Kaldor 2013). Kaldor describes how these 'new wars' are fought as intra-state (within the state) wars in developing countries. Often, they are waged via state or county networks based on identity or ethnicity.

The consequences of electoral violence include the destruction of property, reversed development, injuries, rape, death, internally displaced persons and refugees. Electoral violence persists despite attempts to contain it and measures to effectively manage these processes often prove to be inadequate.

The study utilises an exploratory case study of Kenya during 2007-2008 Post-Election violence. The causes, the immediate steps that were initiated to mitigate violence and the reforms undertaken to generate peace structures and prevent future occurrences of post-election violence were explored. Forty-five participants representing involved citizens, negotiators and mediators were interviewed. The research was triangulated via the interview process, together with the use of primary document analysis and an extensive review of the literature. The data was analysed via the use of grounded theory.

The research findings reveal that the causes of electoral violence are multi-faceted and multi-layered, with deep underlying issues. The causes include weak institutions, corruption, a non-representational electoral system, ethnicity and ethnic militia. Further causes include statelessness as experienced by certain groups, abuse of state resources and human rights violations. The role of political elites who withhold crucial information, thus denying the public the opportunity to make informed choices during elections was also found to contribute to electoral violence. Other information-related causes include biased media and sensational reporting. Findings also show that socio-economic issues such as poverty, unemployment, scarce resources and unmet basic human needs cannot be underestimated. Lastly, the causes of electoral violence included diverse interests of internal and external actors at play during elections.

The findings revealed that although the Kenyan mediation process included the signing of a peace agreement, the root causes of electoral violence such as corruption, weak institutions, abuse of state resources and the unjust electoral system were not adequately addressed. A model for mediation for electoral violence which was explored and developed sought to build on the strengths of the Kenyan mediation process and address its inherent weaknesses, thus making this a significant contribution flowing from the study.

The election model for mediation proposes certain key phases which include a pre-mediation process that will ensure a cessation of all hostilities; the mapping of the root causes of electoral violence and electoral reforms that provide resolutions that are acceptable to all the parties. Training of personnel at all levels of government to implement these reforms is also proposed. These measures can ensure the integrity and independence of electoral institutions from political manipulation. Training constitutes a crucial stage in the process of consolidating the emerging democracies. The model for mediation developed is therefore not only meant to mitigate electoral violence but is also intended to serve as a preventive measure.

Many African states currently experience structural weaknesses similar to those that existed in Kenya before the 2007-2008 elections (and still persist). These fault lines include corruption, weak institutions, human rights violations, and lack of information. The proposed model for mediation which aims to counter these problems can thus be applied and adapted for implementation in Africa and globally.

Several recommendations with implications for policy development are proposed to curb electoral violence. They include constitutional reforms, training of government and electoral officials and the introduction of a properly representational election system. This study, which focuses specifically on post-election violence, recommends further research investigating the pre-election phase, and 'voting day' causes of electoral violence for a more comprehensive approach to electoral violence research.

Key words: Electoral Violence; Mediation; Post-Election Violence; Kenya; Intractable Conflict.

ABBREVIATIONS AND ACRONYMS

AU	African Union
APFO	Africa Peace Forum Organisation
CIPEV	Commission of Inquiry into Post-Election Violence
ECK	Electoral Commission of Kenya
DPA	Department of Political Affairs
GNU	Government of National Unity
HRW	Human Rights Watch (Africa)
ICC	International Criminal Court
IDP	Internally Displaced Person(s)
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund
KANU	Kenya African National Union
KBC	Kenya Broadcasting Corporation
KICC	Kenya International Conference Centre
KNDR	Kenya National Dialogue and Reconciliation
KTN	Kenya Television Network
KNCHR	Kenya National Commission on Human Rights

LSK	Law Society of Kenya
MP	Member(s) of Parliament
MRC	Mombasa Republican Council
NARC	National Alliance Rainbow Coalition
NCCK	National Council of Churches in Kenya
NGO	Non-Governmental Organisation
NPI	Nairobi Peace Initiative
NTV	Nation Television
ODM	Orange Democratic Movement
PEAP	Panel of Eminent African Personalities
PEV	Post-Election Violence
PNU	Party of National Unity
PSC	Protracted Social Conflicts
TJRC	Truth, Justice and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees

DEFINING KEYWORDS OF THE STUDY

Electoral violence

A type of violent conflict and behaviour that is overt, targeting civilians and their property at pre-election, during and post-election periods, aiming at malpractices that influence electoral process and ensuring that either the incumbent clings to power or the opposition ascends to political power.

Model for mediation

An approach of intervention by a third party in electoral violence with the aim of managing, resolving, transforming and preventing the conflict.

Mediation

A third party intervention to an electoral violence to assist the disputants move their conflict from one that is dysfunctional to a functional one.

Post-election violence

Violence that occurs after election day. Post-electoral violence is due to a breakdown of the electoral process, perceived manipulation of voters' choices in a democratic election, refusal to hand over power after defeat or opposition strategy to take over government through violence.

Kenya 2007-2008

During the 2007-2008 period, Kenya experienced a crisis in which the democratic election turned violent. The crisis became internationalised, making it the renowned electoral violence of the country. It started on the 30th December 2007 and normalcy returned in April 2008.

Intractable electoral violence

These are electoral violence of hostile ethnic group interactions over unmet needs and unjust social electoral structures, with outbreaks each election period, either pre-election, during or post-election time, with a lingering simmer between each election, and with no easily amenable solution.

CHAPTER ONE

GENERAL INTRODUCTION

This study addresses the topic of electoral violence, using the case of Kenya during the period 2007-2008 as its chief point of focus. Elections in many emerging democracies in Africa are characterised by endemic and continuing violence. The applicability of Huntington's (1991; 1993; 2012) description of the 'third wave of democratisation' in Africa seems to be diminishing as electoral violence assumes significance in many states.¹ According to Huntington, democracy has been embraced globally in three democratic "waves" (Ibid.). The 'first wave' which occurred in the nineteenth century with its roots in the American and French revolutions was gradually embraced by 33 countries in Europe. The end of the Second World War boosted democratisation, prompting a "second wave" which began in Latin America's Chile in the early 1960s and eventually 52 countries in Europe and Latin America were democracies. The "third wave" emerged in the mid-1970s, beginning with the Portuguese revolution in 1974. It was further accelerated by the ending of the Cold War. It gradually spread to 65 countries. Africa falls under this supposed "third wave" of democratisation. Despite the fact that Africa embraced democracy, however, the consolidation of democracy in Africa, especially via transitional elections, has been a slow process.

Though Africa is afflicted by long-standing histories of violent conflicts, electoral violence is emerging as a type of conflict protraction plaguing the continent since the introduction of multi-party politics. Protraction means that the conflicts are not easily managed by conflict management mechanisms (Zartman 2010: 45). The emerging phenomenon of electoral violence in Africa falls under what Kaldor (2013) terms as 'new wars.' According to Kaldor, these 'new wars' are fought intra-state. The 'new wars' target civilians and are fought unconventionally by militia using 'crude weapons.' The 'crude weapons' are homemade devices such as, among others, the machete, spears, knives and clubs. In this manner, the 'new wars' differ from conventional wars that use security forces with

¹ A wave of democratization is a transition period where a group of states convert from undemocratic to democratic regimes within a particular period of time (Huntington 1991: 2). To read further, See-Huntington, S., 1992. *The Third Wave: Democratisation in the Late Twentieth Century*. New York: University of Oklahoma Press.

sophisticated weapons such as missiles. These 'new wars' related to elections have made it difficult for smooth transitions to the advent of democratically elected leaders to occur. Free and fair elections, in Annan's view, are the indispensable roots of democracy (Annan 2012: 3). However, free and fair elections are becoming elusive in many African countries threatening the prospects of peace, stability, sustainable development and consolidation of democracy. In Africa, electoral violence is slowly and recurrently becoming part of 'democratic' elections as progressively more countries experience the phenomenon.

Electoral violence is defined by Fischer (2011: 33) as "acts or threats of coercion, intimidation or physical harm perpetrated to affect the outcome of an electoral process." This unique form of violence is manifested in random or organised acts seeking to determine, delay or otherwise influence an electoral process through verbal intimidation, bodily assault, blackmail, property destruction and political assassination, thereby allowing the intimidatory parties or groups to gain an unfair political advantage over opponents (Machika 2009: 4). Such manifestations have consequences that in turn have a bearing on the future of a society and its development, undermining its chances of initiating democratic consolidation, respect of human rights and good governance (Sule 2009: 6).

Election violence may manifest itself at different stages of the election year, either at pre-election, during the election or post-election periods or during all these periods. Many African countries brace themselves for violence every election year, with several negative experiences documented, following the electoral violence. Some of the recent examples are detailed in Table 1.1:

Table 1.1: Some recent examples of electoral violence in Africa

Country	Year(s)	Cycle of electoral violence
Burundi	1993-2005/2010/2015	Pre-election, election day and post-election violence
Ethiopia	2005/2010/2015	Post-election violence
Uganda	2005/ 2010/ 2015	Pre-election, post-election violence
Nigeria	1964/ 1983/ 2003/ 2007/ 2011	Pre-election, election day and post-election violence.
Zimbabwe	1997/2002/ 2008/ 2014	Pre-election, election day and post-election violence
Ivory Coast	1995/2000/ 2005/ 2010	Pre-election and post-election violence
Lesotho	2007/ 2014	Post-election and pre-election violence
DRC Congo	2006/ 2015	Post-election and pre-election violence
Togo	2005/2010/2015	Post-election violence
Zanzibar	2005/ 2015	Post-election violence
Guinea-Bissau	2003/ 2008/ 2013	Post-election violence
Kenya	1992, 1997, 2002 ref, 2007-2008, 2013. ²	Pre-election, election day and post-election violence.

Source: Adapted from Straus (2012: 192-193).

The recent examples from Africa on Table 1.1 include, amongst others, Burundi (1993-2005, 2010 and 2015); Ethiopia (2005, 2010, and 2015); Uganda (2005, 2010, and 2015); Zimbabwe (2002, 2008, and 2014); Ivory Coast (2000, 2005, and 2010); Nigeria (1964, 1983, 2003, 2007, and 2011); Lesotho (2007 and 2014); DRC Congo (2006 and 2010);

² The 2002 choice was a referendum in favour of the two proposed drafts for a new constitution in Kenya.

Togo (2005, 2010 and 2015); Zanzibar (2005, 2015) and Guinea-Bissau (2003, 2008 and 2013) (Osaka 2015; Motsamai 2010). Electoral violence cannot be fully understood without consideration of underpinning the phenomenon in the field of conflict management. In fact, electoral violence is categorised as a type of political conflict (Schwarzmantel & Kraetzschmar 2013: 112).

1.1 ELECTORAL VIOLENCE IN THE KENYAN SETTING.

The study discusses four of the most telling aspects of electoral violence that can help to enhance an understanding of this phenomenon in the Kenyan setting. The first aspect focuses on Kenya's geopolitical space and human development index in terms of health and education. The second aspect explores Kenya's human needs. The third aspect involves a discussion of the political and electoral system in Kenya. The fourth aspect provides an analysis of the colonial regime and the historical development of electoral violence in post-independence Kenya.

1.1.1 The geographic space and human development index

The study explores the geographic space and human development index in terms of population growth, the ethnic groups and their languages, the diseases that shorten the lifespan of the Kenyan people which in turn have an explicit relationship with election violence.

Kenya lies on the eastern shores of the African continent along the Indian Ocean. It has a current population of forty-seven million (47) people (CIA 2015: 5). Ninety-two percent of the population is under the age of fifty-four years (Ibid.). The forty-seven million people belong to over forty-two (42) ethnic groups, all speaking different languages as their mother tongue (Asher & Simpson 2006: 181). Each language group belongs to a different culture. Their socialisation and history are based on diverse values and customs. Moreover, different patterns of migration and evolution characterise each identity group. Kiswahili and English are the official languages in Kenya, and a huge part of the population speaks both languages fluently, in addition to the tribal tongue(s) as a third or fourth language, making Kenya a diverse and multilingual state. Despite Kenya's

widespread multilingualism, ethnic languages remain distinctly embedded in the social and cultural values of each identity group. Elections and the violence that accompanies it in Kenya is strongly associated with ethnicity.

These diverse ethnic groups of Kenya are located in both the rural and urban cities. About six (6) million people live in the cities, with the majority living in rural areas where they mainly practice agriculture (Asher & Simpson 2006: 182). Those who live in the urban centres intermingle and coexist closely with other ethnic groups from all over Kenya, while those who live in the rural areas are geographically situated according to their ethnic groups and rarely intermingle with other ethnic groups, except in terms of trade and certain national duties. The rural areas are, therefore, marked by geographic boundaries for particular ethnic groups with most ethnic groups having different beliefs and political interests during elections.

Adult mortality rates in Kenya constitute 7 deaths per every 1000 people; there is a birth rate of 28.27 % and an infant mortality rate of 40.7 deaths per 1000 live births (CIA 2015: 6). A full life expectancy spans 63.52 years (CIA 2015: 6). Lifespan is short due to many factors that include scarcity of clean drinking water. The 70 % of the rural population lack clean water source (CIA Factbook 2015: 6). Other factors include diseases such as HIV/Aids. There are approximately 1.6 million people living with HIV/Aids (World Bank 2015: 28). Furthermore, people in Kenya are mainly susceptible to tropical diseases related to water, such as typhoid, diarrhoea or vector-borne diseases, for example, malaria and dengue fever (CIA 2015: 6). These factors play major roles during elections as Kenyans struggle to elect representatives who can alleviate some of these factors.

1.1.2 Positioning basic human needs in Kenya

The study gives a brief overview of basic human needs in Kenya that in turn impact on electoral violence. Basic human needs are studied in terms of the perspectives provided by the scholars, Burton (1987) and Azar (1986) who relate basic human needs and conflicts. The relationship of basic human needs and conflict is further critically analysed in the literature survey provided in Chapter two. The human needs explored here include security needs, ethnic identity needs and social and economic needs.

1.1.2.1 Security needs

Kenyans yearn for security as their livelihoods and safety are threatened on a daily basis by the lack of structures for the provision of adequate security. Gangs, militia members, terrorists, secessionist groups and state security forces unleash attacks on citizens in their homes, villages and institutions, virtually making every part of the country relatively insecure. These armed gangs, militia, terrorists and bandits roam the country freely. Kenyans' need for freedom from fear and from insecurity of all kinds is hampered by an insecure environment within the country and from its conflict susceptible neighbouring states such as Somali and South Sudan. The need for security is real and the lack of security has claimed many lives.

The aforesaid bandits, militia and gangs kill about 333 people each year, an average of 27 each month (Asamoah 2015: 2). Secessionist groups, such as the Mombasa Republican Council (MRC), have claimed 250 lives in 2014 and 2015 alone (Mweka 2015: 56). State security forces in response to civilian protests and demonstrations and in response to insecurity threats have contributed to extrajudicial killings and disappearances of 250 people from 2012-2015 (KHRW 2014: 3). Al-Shabaab, the terrorist group from Somalia, has killed more than 500 civilians in 2015 alone (Mweka 2015: 57). Additionally, the electoral violence that erupts each election year contributes to still more deaths. In 1992 during election related violence about 1500 people died and in 1997 around 1300 people died while more than 1200 people died in 2007/2008 (HRW 2009: 10). The need for security therefore clearly poses a serious challenge to the people of Kenya.

1.1.2.2 The need for identity and identity recognition in politics

Politics in Kenya has become synonymous with ethnic groups or identity groups since the introduction of multiparty politics. These ethnic or identity groups need to be recognised, their values respected, their social and cultural needs satisfied and their political demands and representation requests addressed (Morgan & Dutton 2009: 135). When identity groups do not feel recognised, they may resort to violence to gain that recognition (Christie 2011: 21). The identity groups in Kenya have been polarised over the years by

politicians (Ibid.). During the election period, identity group politics takes centre stage. Thus, Kenyan politics has become an ethnically networked society. The political clientele links individuals and their ethnic community to certain goods and services within the government, including employment and government tenders (Gibbon 1995: 78). The clientelism approach of governance creates ethnic class consciousness along ethnic identity lines (Preeti 2001: 171).

Geospatial politics further escalate the role and importance of ethnicity. For example, in Kenya, administrative boundaries have been carved out so as to accommodate ethnic territories. Thus, the Luhya ethnic group is found in Western Kenya, the Kalenjins in the Rift Valley and the Kikuyus in the Central Province, among others. Ethnicity, a resilient feature of the state of affairs in contemporary Kenya, therefore, is a dominant force in the country's political landscape. Further, ethnicity is now entrenched in the constitution, and patronage in Kenyan politics has thus become the referent unit for kin and family-based "principles". Politicians employ a mutual clienteles' network model in order to seek votes during elections. They thus become patrons by using government resources to buy voters (Preeti 2001: 173).

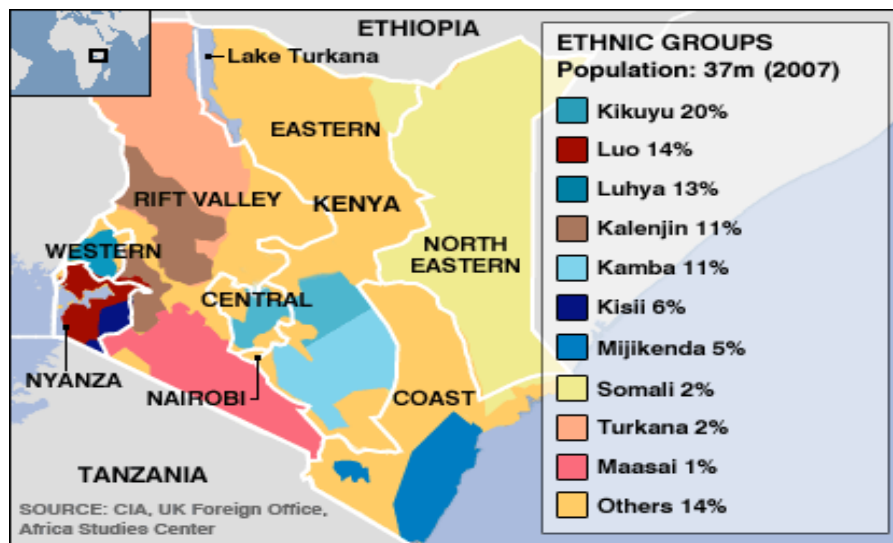


Figure 1.2: Major Kenyan identity groups.

Source: Adam (2014: 3) Central Intelligence Agency London. List of Kenyan ethnic major identity groups.

Figure 1.2 illustrates the different major Kenyan identity groups and their geographic areas. The term 'identity group' is used interchangeably in this study with the words 'tribe', 'intergroup' or 'ethnic identity or ethnic group' to mean the same thing, even though their meaning may differ in use in other works. The ethnic groups with mutually intelligible languages, such as the Meru, Embu, Mbeere, and Kikuyu found in Central Kenya, usually vote together as they have mutual interests. Figure 1.2 indicates how all the tribes in Kenya are geographically situated and have geographic territories, except for those who live in the various urban centres and the capital city of Nairobi.

The Kalenjins who consist of Tugen, Nandi, Kipsigis, Elgeyo, Marakwet, Sebei, Pokot, Tulwetab, and the Okiek tribes are situated in the Rift valley and usually vote as a block. Further, the Coastal inhabitants, that is, the Swahili, Mijikenda, and the Digo (among other smaller tribes) also vote as a block. Luhyas are situated in Western Kenya and the Luos, Kuria and Kisii are in Nyanza province. The Eastern Province has the Kamba and the North-Eastern provinces of Kenya consist of nomadic ethnic groups, such as the Somali, Borana, Turkana, and Samburu, among others.

These typical voting patterns may not necessarily be viewed by Kenyans as a negative phenomenon because each ethnic group struggles to be represented politically in order to satisfy their political values, needs and interests. Kagwanja and Southall (2013: 57) argue that ethnicity provides a strong rallying base for political activity and representation in government. A democracy modelled on Western principles may not be considered relevant or important and in any case, is sometimes rendered useless by the ethnic patterns of block voting. After the introduction of multiparty politics, genuine democracy has not been guaranteed (Mwakikagile 2001: 141). Instead, multiparty politics has yielded multi-tribal politics in Kenya (Kagwanja & Southall 2013: 57).

Political mobilisation in Kenya has thus taken the path of ethnic divide: Moi's Kalenjin group voted for him as a Kalenjin leader; Luo groups voted for Oginga Odinga, a Luo leader and later for his son, Raila Odinga; Kikuyus voted for Matiba, a Kikuyu leader, then

later for Mwai Kibaki - and subsequently for Uhuru Kenyatta (Otieno 2008: 12). The Luhya voted for Kijana Wamalwa, a Luhya leader and his affiliated party (Hornsby & Throup 1998: 4). It is, therefore, noteworthy to remark that political leaders in Kenya rely on their ethnic groups as their power base and suppress any other ethnic groups who seem to threaten their political interests (Oucho 2002: 9).

1.1.2.3 Social and Economic needs and issues

This section discusses social and economic needs and issues of Kenyans in terms of health, land, corruption and poverty. Kenyan society yearns for socio-economic empowerment so that people's human dignity and self-esteem can be boosted. Kenya, like many other African countries, has a plethora of unfulfilled social-economic needs.

Even though the Kenyan government has worked hard since independence to improve the health sector, much more work still needs to be done. Kenyans still suffer from poor health care services which are not equitably distributed across the country. Hence, many people in Kenya still die of preventable diseases like malaria (Kumar 2014: 159). A good number of public hospitals in the rural areas have inadequate stocks of medicine for patients (Ibid.). Furthermore, the prevalence of HIV-AIDS has escalated among the youth and middle-aged Kenyans with deleterious consequences for agricultural production (Ibid.).

One main socio-economic need is land. Land has become a commercial commodity in Kenya. Land is thus an important area of contestation in the country. According to the World Factbook record, the population of Kenya has grown exponentially and more than tripled over the last three decades, from 10.9 million in 1969 to 47 million in 2015. With the expected 2.9% of growth per year, the Kenyan population is projected to reach 56 million by 2030 (World Factbook 2015: 6). The rapid population growth has implications for land ownership as the land is rapidly becoming a scarce resource and may consequently be a source of conflict and civil war in the near future. During campaigns, the land issue features prominently. This is because the Kenya populace is mainly an agricultural society and depends on agriculture for its survival. The population explosion

has therefore led to mounting pressure on land for agriculture, land for housing and current infrastructure, thereby making land a highly competed resource.

Corruption too has interrupted the country's development growth. According to Transparency International, Kenya is one of the most corrupt countries in the world. In its corruption report of 2014, Kenya was ranked at number 145 out of 186 countries (TI 2014: 14). A large proportion of government money meant for development, infrastructure and social empowerment ends up in private hands and individual pockets at the expense of ordinary citizens. In Northern Kenya-a semi-arid region, the nomadic citizens rely on humanitarian organisations to provide food and other basic needs even after fifty years of independence. These people have been termed as marginalised by subsequent governments and therefore, desperately poor by UNDP (UNDP 2009: n.p).

The World Bank's poverty and inequality statistics indicate that Kenya has a poverty level of 56.7 %, indicating that over half of Kenya's 47 million live below the poverty line (World Bank 2015: 4). The United Nations ranked Kenya 145th among 186 states in terms of its low human development index (HDI) (UNDP 2014: 23). The human development index reflects poverty with regards to among others standards of living, life expectancy, education level, access to health care, and unemployment. Unemployment is an especial problem as many young graduates idle around without concrete jobs. SID (2014: 3) has ranked Kenya's rates of unemployment as one of the highest in the world and at the same time ranks Kenya as the 3rd most unequal society in the world.

Most of the poor in Kenya live in the rural areas where they rely on subsistence farming. The people depend on rain and possess no proper farm implements for serious agriculture. The agricultural sector that Kenya depends on is poorly developed, largely ineffective and farm output dropped by 3.8 percent between 2009 and 2010 (Thaxton 2010: 24). Food security is a crucial issue, particularly when the rains fail and there are droughts. As such, many Kenyans are unable to provide any meaningful agricultural production. Food insecurity rank high among the acute needs of the Kenyan population. Although Kenya's economy has expanded at 5.1 %, with a Human Development Index (HDI) of 0.609 in 2014, the majority of Kenyans (56.7 %) survive on less than a dollar a

day (World Bank 2015: 2). Poverty in Kenya is thus entrenched and endemic (Thaxton 2010: 23).

1.1.3 The political and electoral system in Kenya

The Kenyan political system was founded on democratic expectations. Kenya is, therefore, a democratic republic where the president is constitutionally elected every election year under CAP 7 (part 111) of the Kenyan constitution for a five-year term and may be re-elected for another five years (Kenyan Constitution 2010: 32). Once elected the president becomes the head of state, the commander in chief of the armed forces, and head of government. All the other powers of the legislature, the executive and the national assembly are vested in the government (Hope 2011: 261). The judiciary, however, of late has remained separate and independent of the politics of the day as it is structurally divorced from the executive and the legislature in line with the new 2010 constitution.

An electoral system is a democratic voting system that enables voters to make their choices in the elections (Hope 2011: 261). Moreover, it is supposed to enforce rules of a free democracy, good ethics, integrity and morals (Ibid.). There are several election systems in the world. They include the most common ones such as Proportional Representation (PR), First-Past-The-Post (FPTP), Alternative Vote (AV) and Voting Rated Method (VRM).

Kenya has a single-winner method of 'First-Past-The-Post' (FPTP) - sometimes called 'the winner take all' system where each voter votes for one choice and whoever receives the most votes wins, even if the winner receives less than fifty percent of the votes (Hope 2011: 267). The 'winner-take-all' system has been criticised by many as one that marginalises other communities in a pluralistic society like Kenya. This is because it 'leaves out' all other candidates from parliament, despite the fact they all got some votes. The Kenyan election has been blamed as politically non-representational of all Kenyan communities (Laraki 2011: 20).

1.1.4 Colonial regime before independence

The presence of colonial British rule for 68 years had a powerful impact on the evolution of the nation of Kenya and its politics (Barkan 1994: 10). The British dominated Kenyan politics and its economy for six decades (Barkan 1994: 11). The British dispossessed the indigenous inhabitants of the most fertile land (which the British called the 'White Highlands'), relegating "the natives" to tribal reserves (Kenya Gazette 1938: 717). The White Highlands stretched from central Kenya right up to the Rift Valley. This large scale appropriation of land meant that the indigenous communities who were small-scale farmers had no means of survival.

Furthermore, the British rule imposed hut and poll taxes which meant that one had to work to be able to pay these taxes. With this background, the system "encouraged" peasant communities to find work on the 'White' farms (Ochieng & Maxon 1992: 181). The natives were forbidden to grow cash crops of tea, coffee and sisal on their small farms. Lastly, the British colonial rulers introduced compulsory forced labour for construction of railway lines, roads, dams, bridges, administrative centres, schools and hospitals. Forests also had to be cleared for settler farmers through compulsory forced labour (Waller 2004: 45-80). Kikuyus, whose lands were largely converted to white farms, had to move to various parts of the country to look for jobs. This was the beginning of land as an issue in Kenya.

The British government, to monitor the natives' migrations, introduced a 'pass card' or '*Kipande*' system (Ochieng & Maxon 1992: 181). This British '*Kipande*' system institutionalised tribalism as it recorded a person's name, their tribe, past employment records and fingerprints in the '*Kipande*.' The '*Kipande*' was worn around the native's neck for easy tribe identification. With the '*Kipande*' system, the British were able to operate a policy of divide and rule, using the police to garrison townships and villages tribally (Keys 2013: 195). Ethnic groups that obeyed the British were treated well. They were given government jobs and protected against land invasions from other tribes. To gain the natives' loyalty, the British regime assisted African tribes that collaborated by educating their children abroad at the expense of those who resisted (Choti 2009: 68). The dissident tribes were not protected and other tribes were used to intimidate them

through night raids on their villages (Keys 2013: 196). Tribes started to view each other as enemies and at times fiercely fighting each other. Likewise, administrative borders were demarcated along tribal lines, thus separating the 42 ethnic groups by use of ethnic geographical boundaries that still exist today (Choti 2009: 68). The boundaries were further divided into eight provinces demarcating the territories of the major tribes (see Figure 1.2).

Other than classification by tribe, the British also classified people as squatters, household, labourers and working-class members. Classification of people led to the emergence of the social class system in Kenya. There were Kenyans who worked as squatter communities (working in the small native reserve land), or as commodity-producing households (working in a production centre like a factory), or as farm labourers (e.g. labourers on the White Highland estates), or as household domestics, cooks and office cleaners.

As the population grew, the people in the native reserves could no longer be accommodated in these fenced-off reserves. The living conditions deteriorated as the reserves' sanitation became eroded. Indigenous people gradually strategised to recapture their land. Thus, from that time, land which originally was a non-issue gradually became a hotly contested matter in Kenyan politics. After several violently fought wars between the British and Africans over land and other problems, the British suddenly announced that Kenya would become independent in January 1960.

1.1.5 Historical development of electoral violence in post-independent Kenya

The regimes of Jomo Kenyatta, Toroitich Arap Moi and Mwai Kibaki are examined as historical trajectories of electoral violence post-independence and since the introduction of multi-party politics in the country. Kenyan elections as discussed in the next section depict a history of electoral violence. Opiyo's (2008: 4) argument that Kenya has a repeated history of electoral fraud that occasionally leads to violence is pertinent here.

1.1.5.1 The Jomo Kenyatta regime

Following the completion of a British-made constitution in 1963, the Kenya African National Union (KANU) party won the first ever elections and led Kenya to independence in December (Maxon & Ofcansky 2014: 7). According to Maxon and Ofcansky, the government of Prime Minister Jomo Kenyatta moved quickly and changed the constitution to do away with devolution of power, popularly known as *majimbo*. Furthermore, in 1964 Kenya became a republic and Kenyatta was chosen as the first president, a position he held until his death in 1978 after 15 years of rule. After one year as president, Kenyatta fell out with his deputy president, Oginga Odinga, who then formed an opposition party. Kenyatta's response was to ban all opposition parties, thus making his KANU the only party in Kenya (Maxon & Ofcansky 2014: 8). The regime had thus engineered a non-democratic one party system (Ogot 1995: 239).

Jomo Kenyatta did not forge national unity as was expected. He fell short and did the opposite (Preeti 2001: 170). He worked hard to consolidate his power in the central province of Kenya. KANU eventually became an alliance of the Kikuyu and Kalenjin tribes (Barkan 1994: 11). In central Kenya, Kenyatta built infrastructure, improving agriculture, education and healthcare while marginalising other tribes (Preeti 2001: 171). He continued with the practice of the divide and rule system of ethnic governance where tribal identity becomes a central element in government favours, obtaining and controlling power (Morrison, McCarthy & Hines 2012: 424). These then were negative implications of the politics of ethnic identity which not only formed the basis of political organisation but also consolidated the policy of ethnicity thereby building it into the Kenyan political system after the colonial style. KANU thus ruled from independence to 2002, a total of 38 years using this system of ethnic exclusion.

1.1.5.2 The Daniel Arap Moi regime

Daniel Arap Moi became Kenya's second president in 1978 after the demise of Jomo Kenyatta. He began by re-allocating jobs to his ethnic group (Kalenjin) and similarly introducing divisive development projects in his region just as his predecessor had done (Preeti 2001: 172). Preeti asserts that Moi followed the corrupt practices of Jomo Kenyatta by looting government resources. Moi too consolidated his power among his Kalenjin

ethnic group and governed in an authoritarian and corrupt manner, gagging the press and obstructing justice (Kimani 2014: 82). According to Kimani, state institutions were all accountable to Moi in person. Moi then introduced state repression of dissenting voices and detentions without trial, including the torture of his political opponents at the Nyayo chambers centre in Nairobi (Kimani 2014: 65).

In 1982, Kenya was officially made a *de-jure* single party state through a constitutional amendment of section 2A of Kenya's constitution (Preeti 2001: 156). The single party structure consolidated power around the presidency. Arbitrary arrests and political assassinations were common fates for anyone perceived as being rebellious. Members of the Kenyan political elite who wanted to suppress the opposition would also sponsor and recruit youths or gangs to terrorise their opponents via acts of ethnic violence. Land issues were also exploited by certain politicians to instigate violence between the Kalenjin community and its ethnic neighbours (Peters 2009: 12). Elections also became violent after the introduction of multi-party politics during the Moi regime. Much of this election violence, according to Human Rights Watch, was state sponsored and involved the targeting of certain ethnic groups and opposition politicians (Human Rights Watch 1993: 1). This led to further ethnic entrenchment and retribalisation. Kenya had thus been turned into a repressive state, leading to a failed coup attempt in 1982 (Hornsby 2013: 376).

The election held on 29th December 1992 was the first genuine multiparty election in the 27 years following independence. However, it was the seventh national election since independence. As such, Kenya had been seen as a democratic state albeit the absence of multiparty factor (Decalo 1998: 207). The 1992 elections were made possible thanks to pressure from the international community to introduce multiparty democracy. President Moi then bowed to pressure, repealed Section 2A of the Kenya Constitution and allowed multiparty politics to take shape *de-jure* (Ibid.).

However, multiparty politics and voting followed the ethnic pattern, with each ethnic region voting for their ethnic leader. During these elections, pre-election violence was widespread (Hornsby 2013: 616). The election-related violence started with the pre-election in 1991 and continued with post-election violence which ended in 1993, with 300,000 people displaced and over one thousand people dead (Scwarzmantel &

Kraetzschmar 2013: 161). Elites from the incumbent party had used state machinery for political mileage during their election campaigns. The opposition parties were thus forced to compete on an uneven playground (Preeti 2001: 159). KANU 'won' the elections remaining in power and continuing to rule. The win was attributed to the employment of electoral malpractices and irregularities amid violence practised mainly during the pre-election period (Kimani 2014: 56).

The elections were termed neither free nor fair by both the Commonwealth Observer Group (COG) and the National Election Monitoring Unit (NEMU) but were conversely accepted as a reflection of the people's will (Preeti 2001: 151). Wiseman (1993: 35) argues that the international community seemed to put much pressure on the holding of elections - but not on the ethical processes that a fair election requires. There is a danger of focusing more on the outcomes of elections than on the real democratisation of both institutions and government rule (Ibid.). For this reason, Preeti (2001: 155) argues that in many countries in Africa, there is neither liberal democracy nor stable economic development. Is it possible that authoritarian regimes can become "democratic" merely by holding multiparty elections? Could "democracy" be arrived at via smooth transitions of power through elections from one dictator to another? Scholars like Lijphart (1990: 23) argue that democracy is a process and consolidation is gradual. But how long does it take? How long will it take countries in Africa like Kenya to emerge as genuine democracies? Kenya is now over fifty years old since becoming independent. If there has been no real consolidation of democracy up to now, when will this take place, and what is ailing democratic growth in Kenya? These are pertinent questions that drive this study in its investigation into the need for developing a mechanism that can end the electoral violence in Kenya and subsequently consolidates democracy.

Interventions in the 1992 electoral violence

During the 1992 electoral violence, some interventions were attempted by various actors. Eight months before the multi-party elections, there was pre-election violence labelled 'ethnic clashes' by the Kenyan media (Kagwanja & Southall 2013: 5). The opposition called on the international community to take action to mitigate electoral violence. The

international community via the International Monetary Fund (IMF), intervened with threats of sanctions if the violence continued (Preeti 201: 155). This intervention failed as the violence escalated and went on into 1993 (Hornsby 2013: 616). The Catholic Church too, with the cooperation and support of other main churches, also intervened by calling for dialogue between Moi and the opposition to find a solution and a way forward (Lumumba, Mbondenyi & Kiwinda 2014: 41). Lumumba, Mbondenyi and Kiwinda (2014: 41) assert that Moi met the religious leaders and blamed the opposition for conflicts, stating that the introduction of multiparty politics was bad for Kenya. This intervention from church leaders failed too as Moi refused to meet the opposition (Lumumba, Mbondenyi & Kiwinda 2014: 41). However, scholars Kagwanja and Southall (2013: 11) note that after this meeting, the violence slowly died down.

The opposition then strategized on how to defeat the Moi regime after realising that he had only won by 1.4 million votes, which is a mere 38 % of the total votes, while the opposition members, Matiba and Kibaki, had won 1 million votes and Raila Odinga 904,000 votes (Kagwanja & Southall 2013: 33). Kagwanja and Southall claim too that international experts on election strategies then urged the opposition parties to form a coalition for the next elections. However, Moi worked hard to ensure the opposition groups remained divided and he went on to win the 1997 elections (Materu 2014: 41). The intervention strategy by international experts yielded little in the way of immediate reforms, however, the intervention did pave the way for future opposition coalitions.

In the 1997 elections, electoral violence was widespread. According to Kagwanja and Southall (2013: 10), violence erupted in the Rift Valley areas in May 1997 before the December elections when a total of 100 people died and their property was destroyed (Ibid.). Kagwanja and Southall postulate that the targeted groups were the immigrant Kenyans from other geographic regions (Ibid.). Furthermore, they argue that the Kenyan state was involved because there was no security intervention and no one was held responsible for the violence occurring over eight months (Kagwanja & Southall 2013: 11).

In the same way, at the Coast province of Kenya, attacks began in August 1997 (Ibid.). Kagwanja and Southall argue that the coastal politically aligned militia groups killed non-

indigenous Kenyan residents in Likoni-Mombasa where 200 people died and 100,000 were displaced. According to Schwarzmantel and Kraetzchmar (2013: 161), the immigrants were perceived as political threats by the KANU elites. On December 29th 1997, the second multiparty elections involving 23 political parties were held in Kenya amidst heightened tensions that further polarised ethnic groups. Violence was used by both opposition and incumbent during the pre-election and post-election period with the destruction of people leaving many dead (Kagwanja & Southall 2013: 11). KANU, the incumbent party, won by a landslide (Ibid.).

Hornsby (2013: 16) explains how state-sanctioned malpractices were carried out by the KANU regime to win elections and stay in power. KANU youths were used to intimidate, bribe, and rig elections in favour of the incumbent party, giving it majority rule in the 1997 elections (Ibid.). Bribing voters to skew results was allegedly a common tactic, as were threats against those who were perceived as opposition sympathisers (Hornsby 2013: 16). None of these atrocities was ever addressed, thereby, entrenching these undemocratic practices that were being used with such impunity (Cheeseman 2008: 15).³

By July 1997, interventions were carried out by civil society, churches and lawyers. Kenyans demanded constitutional reforms to change a state of governance that was largely seen as undemocratic and autocratic (Kiai 1998: 185). There were mass campaigns organised by civil society, Church leaders, opposition parties and law society for constitutional reforms. These campaigns had by 1997 gained momentum (Kiai 1998: 185). The Moi regime reacted with violent force, prompting further instability in Kenya when 50 people died after being shot by police during demonstrations.

The law society of Kenya, a professional independent and civil activist group, while pressing to end poor governance after the 1997 atrocities and mass killings, wrote a letter to the United Nations (UN) Secretary, General Kofi Annan, requesting a special tribunal to investigate crimes against humanity in Kenya (Bodowes 2014: 30). There was no response from the UN (Materu 2014: 40). Little did Kofi Annan know that in 2008 he would

³ Government aided criminal gangs and militia were officially paid from government resources. For further reading see Branch Cheeseman (2008: 15).

be mediating in hearings involving electoral violence in Kenya, including crimes against humanity that was associated with the violence. The law society of Kenya joined by civil society groups and religious communities confronted the state publicly on various issues, including authoritarian rule, ethnic electoral violence, land conflicts, and ongoing corruption with impunity (Bodowess 2014: 30). According to Bodowess, there was little in the way of a positive response.

In 1999, the civil society, lawyers and church group initiated a reform process under the name 'reform initiative' (Bodowess 2014: 30). In Bodowess view, their next strategy was to collect views from citizens in churches, mosques, temples and shrines (Ibid.). He further observes that there was pressure from the international community for governmental reforms but these fell on deaf ears. However, Bodowess asserts that in 2000, after collective and intense pressure from the international community, accompanied by threats of sanctions, Moi appointed a parliamentary committee to solicit citizens' views on reforms. The appointment was a ploy to counter the tactics of the Law Society of Kenya (LSK) and the religious platform (Ibid.). In 2001, Moi appointed a lawyer, Yash Pal Ghai, to lead the reform of the constitution (Bodowess 2014: 30). The last years of Moi's regime were marked by continuing economic, social and psychological difficulties for Kenyan citizens, amidst mounting calls for reforms (Maxon & Ofcansky 2014: 8). Moi was constitutionally barred from vying for the presidency in 2002. He retired before any reforms were achieved.

In January 2002, pre-election violence erupted in the Rift Valley Province (Mweka 2015: 60). The violence became widespread, bringing out challengers from perceived KANU zones who sought to punish anyone supporting the opposition as avowed enemies of KANU (Kamau 2008: 65). According to the Central Depository Unit (CDU) violence associated with the election at this time in the Rift Valley caused 325 deaths between January and December 2002 (Mutahi 2005: 67). Some 325 people were killed between January and August during the year of the election (Annan 2014: 12). The election violence also displaced 150 000 people (Mweka 2015: 62). According to Human Rights Watch, the government used militia groups to scatter perceived opposition groups or pressure them into voting for KANU (HRW 2003: 13).

Interventions by Kenyan leaders from various professional groups yielded few changes regarding the leadership style. The leaders' rallies were broken up by violent police and militia interventions (Kagwanja & Southall 2008: 111). People then urged the opposition to form a coalition and defeat KANU's reign. The same year 2002 Mwai Kibaki and the opposition parties came together and formed a formidable coalition called 'National Rainbow Coalition' (NARC) (Kagwanja & Southall 2008: 111). This coalition party was elected into office by several ethnic groups, winning 62% of the vote. Consequently, Kenyans now fostered high hopes and expectations of economic and political reforms and the curbing of corruption in government (Cheeseman 2009: 94).

1.1.5.3 *The Mwai Kibaki regime*

The transfer of power from Moi to Kibaki was hailed as a welcome change to the political landscape in Kenya after independence. Mwai Kibaki came to power having promised a new constitution within one hundred days but disappointed the people when even after five years he still had not embarked on launching the long-awaited constitutional reforms (Materu 2014: 32). Kibaki also failed to effectively build nationhood as deep divisions among the political elite were evidenced by profound ethnic cleavages and emergence of splinter groups as the 2007 presidential elections approached (Maxon & Ofcansky 2014: 8). The high expectations Kenyans had of Kibaki quickly dwindled. However, Kibaki had seen an improvement of 6% in the economy of the country by 2007 and had introduced free primary education in all government schools (Materu 2014: 32). Nevertheless, social inequalities increased as the economy seemed to have been disproportionately distributed with a single ethnic group perceived as benefitting more than the others (Maxon & Ofcansky 2014: 8). Widespread poverty rates accelerated, while corruption intensified, with Anglo leases and land deals, including the selling of Kenyan wild animals mainly the elephants to Thailand and other countries, perceived as further instances of widespread corruption (Mbugua 2008: 9). According to Mbugua, state buildings within the city and ambassadorial ones abroad were arbitrarily sold in mysterious circumstances. A wave of crime in the urban cities and battles between ethnic groups over land, as well as feuds between police and militia groups such as Mungiki, became common (Mbugua 2008: 9). Kibaki quickly lost most of his ethnic and political power base as he dishonoured the

Memorandum of Understanding (MOU) signed between him and the opposition parties that had helped him ascend to power (Ibid.).

After several years of wrangling between the government and citizens on constitutional reforms, in 2004 the country's elite citizens joined law experts and the committee on reforms under Yash Pal Ghai, to draft a new constitution, calling it the Bomas draft (Lumumba, Mbondenyi & Kiwinda 2014: 39). It introduced checks and balances, provided for devolution, equitable distribution of national resources, addressing of human needs and the instituting of a powerful Prime Ministerial post with powers that diluted presidential power (Hansard 2004: 3148). However, owing to political disintegration among the various government coalition parties, as well as the lack of political will, the Bomas reforms soon collapsed (Lumumba, Mbondenyi & Kiwinda 2014: 41). Contrastingly, a group of Kibaki political elite members changed the draft to suit their interests and subjected it to a referendum in 2005 (Ibid.).

In 2005, a constitutional referendum was held but was marked by violence. Kenya needed a new constitution to move forward. After much pressure from the opposition, civil society, the mainstream churches, the law society of Kenya and the international community, Kibaki allowed for a referendum but changed the Bomas draft bringing back the diluted powers of the Presidency and called it the 'Wako draft' (Lumumba, Mbondenyi & Kiwinda 2014: 39). The referendum was to decide whether to have a new 'Wako draft' constitution or continue with the old constitution. The Bomas draft constitution that the Kenyans worked on was not the option (Andreassen & Tostensen 2006: 12-13).

During the campaigns for the referendum, there was hate speech from members of political elites who belittled other ethnic groups (Lumumba, Mbondenyi & Kiwinda 2014: 39). Some political rallies escalated into violence in Nairobi, Kisumu, Mombasa, Rift Valley and Kakamega - and in total 20 people died (Andreassen & Tostensen 2006: 12-13). According to Andreassen and Tostensen, a further eight people were shot by police in Mombasa where rallies were characterised by aggressive and hostile language (Ibid.). As a result, the referendum further divided Kenyans and spurred on yet more violence.

Citizen groups, the opposition, religious, and civil society in general, among others, voted against the 'Wako draft' and won the referendum with a majority vote. Kibaki who supported this draft was thus defeated. Raila Odinga, the opposition leader who had led the movement for a referendum, then formed a political party known as the Orange Democratic Movement (ODM).

After the defeat of Kibaki in the referendum, he sought second term re-election as president in 2007 but it was clear that he faced a very formidable multi-ethnic coalition in the ODM opposition party. The opposition and the Kibaki regime continued to employ the politics of ethnic voting and electoral violence. Thus, over the years, elections in Kenya, a developing country, have often failed the test of practising acceptable standards of fairness and honesty. Moreover, elections have often resulted in protests and violence, thereby increasing the fragility of the state and reversing any democratic gains and developments. Ethnic fragmentation and polarisation have been the key instruments in instigating violence by the politicians during elections in Kenya (Preeti 2001: 158).

The dawn of multiparty competitive elections was not welcomed from the beginning by many African authoritarian dictators like those ruling in Kenya (1990), and Zimbabwe (1996), among others. It had to be implemented in many African countries via a 'stick and carrot' approach. In Kenya, multiparty elections were introduced but with warnings to the public that it was a foreign tool that would be a source of division and detribalisation in Africa and Kenya (Preeti 2001: 55). To confirm his prophecy, Moi held multiparty elections where ethnic violence was labelled as 'ethnic clashes' to show the world that this could not work in a multi-ethnic society. However, ethnic clashes declined significantly after Moi's retirement. Contemporarily, other tactics that still bedevil Kenya to date seem to have been developed to interfere with the electoral process. Expectations of a smooth transfer of power and better governance by Kenyans proved misguided as Kibaki refused to transfer power to Raila Odinga in 2007 after his defeat, thereby provoking further electoral violence. An exploration into this 2007 presidential electoral violence and how it can be managed forms the essence of this study.

1.2 CONFLICT AND CONFLICT MANAGEMENT

The study discusses and analyses conflict and conflict management strategies. An understanding of conflict underpins the foundational philosophy of the field and accordingly, will help to enhance a grasp of how electoral violence erupt and how prevention approaches can mitigate and stem its escalation.

The concepts of conflict and a need for conflict management probably date right back to the beginning of human history and will probably never end (Jeong 2008: 3). As a result, conflict means different things to different people. Bercovitch defines conflict as “a situation that engenders incompatible objects or values among different parties” (Bercovitch 1984: 6). According to this view, conflict is viewed as arising from situations in the environment or from external factors such as unjust social systems which breed social inequalities. Kriesberg and Dayton (2012: 3) define social conflicts as natural, inevitable and essential aspects of social life, whereas Tischler (2010: 20) regards conflict as the interaction of mutually dependent people who perceive incompatible goals and interference from each other in achieving those goals. He focuses on how people interdepend as they make sense of or interpret the social world in which they participate.

Coser (1956: 8) defines conflict according to two important characteristics. First, he views conflict as a clash of interest and values, the tension between what is and what ought to be and people’s struggles with goals for achieving objectives. Secondly, Coser defines social conflict as “a struggle over scarce status, power and resources in which the aims are to neutralise, injure or eliminate their rivals.” The first definition presupposes that conflicts impel society’s drive for innovations like new institutions, technology and economic advances. Secondly, he views conflict as both functional and dysfunctional. In the short-term, conflict is dysfunctional while in the long-term, it is functional if handled positively with the potential to transform the antagonists and their society. Lyons too (1993: 34) claims that conflict in social life can be a constructive force if managed appropriately. Hence, it could be argued that electoral violence as conflict is both dysfunctional and, if well managed, could also have a functional role.

To manage, mitigate, prevent and transform conflicts for sustainable peace, the discipline of conflict management and the United Nations (UN) Charter article 33 have mooted seven pacification and resolution mechanisms. The UN conflict resolution and management tools include among others arbitration, negotiation, mediation, good offices, adjudication and conciliation. This study explores mediation as a conflict management approach in electoral violence (Malone 2008; Eilers 2009; Waart 2013). This is because mediation as a conflict management mechanism has become the most popular form of dispute resolution (Bercovitch & Gartner 2008: 5). Bercovitch and Gartner argue that mediation is used in diverse environments, including finding political solutions to protracted conflicts. Furthermore, mediation is best suited for highly politically polarised societies that are pluralistic in nature [like Kenya] (Ibid.). Moreover, Bercovitch and Gartner posit that there is a new surge of interest in mediation by diverse groups of disputants and particularly by politicians because of its ‘win-win’ outcome.⁴ Mediation as a mechanism for resolution of electoral violence is discussed fully in chapter three of this study.

Electoral violence as a form of political conflict in Africa has captured attention in a number of scholarly works. Studies on electoral violence as an emerging conflict in Africa, have focused on distinct but varied topics. Some, as in Hoglund (2009) explore the nature of electoral violence. Yet others - like Straus and Taylor (2009) – explore the frequency of and the variations in electoral violence in Africa, thereby setting up a dataset for electoral violence. Bekoe (2010) has also investigated the characteristics of electoral violence. Recently, scholars like Staniland (2013) examine consequences and typologies of electoral violence. Newman and Karl (2014) and Olurunisola (2013) recommend a need for further research to uncover causes of electoral violence and best practices to manage electoral violence. Like many African states that have experienced electoral violence, Kenya, the subject of the current case study, has not been omitted in studies of electoral violence. Kenya has been plagued by electoral violence in all the years since the inception

⁴ In mediation, the mediator will focus on solutions that allow both parties to the conflict to ‘gain’ resulting in both parties being ‘satisfied’ despite the compromises made during negotiations. This satisfaction and gaining by both parties is what is called a ‘win-win’ outcome (Bercovitch & Gartner 2008: 5).

of multi-party politics in 1992. The violence manifested itself in 1992, 1997, 2002, 2008, and 2013 (Kagwanja & Southall 2013: 3).

This study with its focus on Kenyan elections differs from other scholarly studies as it uncovers causes of electoral violence, explores mediation processes and the constitutional reform agendas seeking to resolve the violence and finally, considers the role of mediation in resolving electoral violence. This study, therefore, becomes unique and novel as it integrates the perceptions of the mediators, negotiators and the citizens. Additionally, documents and literature references help to inform this empirical study on post-election violence (PEV) in Kenya which aims to develop a management and preventative framework for mediating election violence. To better understand the electoral violence in Kenya, a brief research context is discussed.

1.3 RESEARCH CONTEXT

To understand the Kenyan history of electoral violence, we need to understand the deep-rooted and seemingly intractable conflicts over the years. Firstly, the colonial and post-independent conflicts have effects and impacts on the present electoral violence. Further determiners of electoral violence are unmet basic human needs due to poor governance. Electoral violence, according to Kagwanja (1998: 89), has generally been politically instigated.

Secondly, through a recurring five-year span, direct violence experienced during the elections of 1992, 1997, 2002, 2005 referendums and 2007 elections were characterised by cases of looting, killing and house torching involving both supporters of government and opposition parties (Bayne, 2008: 17). This twenty-year loop of electoral violence in Kenya caused the deaths of 5,500 people from 1991-2008 (KHCR 2008). The ongoing cyclical violence has resulted in the phenomenon of politicised retribalization and the erosion of civic nationhood (Kagwanja, 1998, 2003; Throup & Hornsby, 1998). In retrospect, the 2007-2008 election episodes share many features with the earlier incidences. Thus, Kenyan violence typically exhibits a 5-year cycle character, with elections serving as the incubators (Otieno 2008: 56).

However, as is the case in many other parts of Africa, little has been achieved in ending this cyclic electoral violence in Kenya. Most interventions have failed and elections continue to emerge as episodes of violent and fatal conflict. Government policies and strategies to end the five-year cyclic electoral violence have not been effective so far either in Kenya or in sundry other African states. The African Union has not been overly active or successful in ending election-related violence. The same can be said too for the United Nations.

Given the nature and impact of this type of intractable conflict in Kenya and parts of Africa, a mitigating mechanism capable of resolving the accompanying violence is needed to transform the phenomenon. Electoral violence necessitates the need for a conflict resolution instrument. Resolution in this sense, involves reduction, management or termination of conflict through peaceful means.

Bercovitch, Kremenyuk and Zartman (2009) believe that mediation may offer the most coherent and effective response to current intractable conflicts. Bercovitch, Kremenyuk and Zartman identify several variables that can allow for dialogue and empower disputants to negotiate their own resolution. However, resolving election-related violence through mediation has not been widely researched and documented. First, there is a need for greater understanding of the relationship between the two variables, that is, elections and violence. Secondly, consistent guidelines relating mediation and election violence are needed (Bercovitch et al., 2009: 354). Thirdly, whatever process a mediator opts to utilise in countering election conflicts and violence is a critical variable in determining the outcome of peace negotiations (Zartman 2010: 13).

Taking the above factors into account, this study explores the Kenyan mediation process of 2007-2008 as a conflict transformation mechanism. This is because the task of peacemaking through mediation remains of critical importance and a central requirement in managing intra-state seemingly intractable violent conflicts (Crocker 2007: 9). However, while there has been a growing literature on conflict resolution and mediation, there are few studies that specifically examine this dispute, the mediation process in the case of seemingly intractable electoral disputes.

Kenya's electoral violence of 2007- 2008 was mediated by the African Union Panel of Eminent African Personalities. The AUPEAP were informed by Kenyan mediators-the Nairobi Peace Initiative and Africa Peace Forum Organisation. Consequently, the African Union Panel of Eminent African Personalities (AUPEAP) mediation will form a central part of the case study, together with a focus on the citizenry who took part in the violence.

The African Union intervened in the electoral violence in Kenya because it has the mandate to seek peaceful resolution of conflicts for all its member states. African Union's (AU) peace and security architecture includes a Peace and Security Council (PSC); an African Standby Force (ASF); a Military Staff Committee (MSC); a Continental Early Warning System (CEWS) and a Panel of the Wise. Under the Panel of the Wise body, there is the African Union Panel of Eminent African Personalities (AUPEAP) (AU Protocol Article 11.3). The panel of the wise, in turn, inform the AU Security Council. According to Article 11 of the AU Protocol on Peace and Security, the Panel of the Wise has the mandate 'to support the efforts of the Peace and Security Council, particularly in the area of conflict prevention' (AU Protocol 2002: Article 11.1). The Protocol articulates a wide-ranging framework for implementing preventive diplomacy, peacemaking, and peacekeeping, as defined by the United Nations (UN) Agenda for Peace 1992. Specifically, the AUPEAP has the mandate to "advise the Peace and Security Council on all issues pertaining to the promotion, and maintenance of peace, security and stability in Africa" (AU Protocol 2002: Article 11.3). In addition, at its own initiative, the AUPEAP shall undertake such action deemed appropriate to support the efforts of the Peace and Security Council... for the prevention of conflict (AU Protocol 2002: Article 11.4).

Their interventions address emerging threats and policy gaps that pose a threat to peace and security. The AU protocol (2002) endows AU 'panel of the wise' with 'the authority to facilitate and mediate potential or ongoing conflicts on its own volition' once appointed (AU Protocol 2002: Article 11.4). Following the above mandates, the African Union in January 2008 through the AU chairperson, Kufuor John, named a Panel of Eminent African Personalities to assist Kenya to resolve the national crisis that followed the December 2007 elections. Kofi Annan was the chair of the Panel. Its other members were former First Lady of South Africa, Graca Machel and former Tanzanian President,

Benjamin Mkapa. What ensued was a mediated negotiation and reconciliation process. The composition of the AUPEAP mediation team had high profile personalities who brought in a wealth of experience, knowledge, effective diplomacy and communication as well as excellent skills of interaction with the internal and external stakeholders. This kind of interaction enhanced the peace process to its successful closure.

The team having been given a regional (AU) mandate and supported by international regimes (United Nations(UN)) and the international community (European Union (EU) and America (US)), they automatically had high leverage and authority. Former UN Secretary-General Kofi Annan was the chair of the Panel. He has been involved in many diplomatic peacemaking and peacebuilding processes all over the world. Being an African, he understood very well the politics of emerging democracies in the African environment.

Benjamin Mkapa, a former Tanzanian president was familiar with the regional politics in the East African region. He was easily accepted by the conflicting parties for his reputation with the conflict management within the region and abroad. He is highly regarded as a wise man and an African statesman.

Similarly, Graca Machel brought in the gender perspective making the mediation team a holistic human approach. Graca has vast experience in Africa and in the international realm. She is known to advocate for women and children in Africa. Moreover, she had chaired the African Peer Review Process in Kenya for two consecutive years before the 2007 crisis (Juma 2009:11). In this sense, she is well familiarised with the Kenyan political ambience.

These three personalities were committed to the intervention process to the end. They worked diligently and consulted widely. The consultations involved several actors and stakeholders for a mutual resolution to the crisis. They accepted forums, caucuses and submissions from diverse peace bodies, Kenyan citizens and international interests.

The team also consulted regularly with the antagonist parties of the opposition ODM and the ruling party the PNU. The last decisions were made by the two principals of the conflicting parties, Raila Odinga and Mwai Kibaki emanating from such consultations.

Eventually, their tact and strategy resulted in a successful peace agreement that ended the violence.

Utilising an explorative qualitative case study of Kenyan electoral violence, the study will purposively sample the participants for the study. A qualitative case study will provide in-depth rich data of the events that are under study. The participants will be mediators, the disputing political parties of Orange Democratic Movement (ODM) and Party of national Unity (PNU). The mediators are chosen as they have the first-hand information on the mediation process that took place in Kenya in 2008. Other participants will be citizens from the hot area zones of the post-election conflict who took part in and were affected by the violence. This is because this group of participants have first-hand information on the causes of electoral violence under study. To be able to arrive at a quick grasp of the process for mediated negotiation of the post-election violence, a mediation timeline is presented in Table 1.2:

Table 1.2: Timeline of the mediated negotiation Kenya 2008

Date	Venue	Event
27th December 2007	In Kenya	Election Day
28th-30th December 2007	Nairobi Vote tallying centre	Opposition party Raila Odinga leading the incumbent in presidential results with over one million votes, afternoon tables are turned and Kibaki is announced the presidential winner by the Electoral Commission of Kenya (EMB) body.
30th December 2007	Nairobi	Mwai Kibaki sworn in at Night as president barely thirty minutes after announcement ⁵

⁵ Annan Kofi, Machel and Mkapa (2014: 9). To read further see Annan, K., Machel, G., Mkapa, B., 2014. *Back from the Brink: The 2008 mediation process and reforms in Kenya*. Nairobi: African Union Commission.

Date	Venue	Event
<p>30th December 2007-23rd March 2008</p>	<p>All over Kenya</p>	<p>Kenyans spontaneously protested, demonstrated and turned violent, killing one another.</p>
<p>10th January 2008</p>	<p>Nairobi</p>	<p>John Kufuor announces the selected team of the African Union Panel of Eminent African Personalities (AUPEAP) as the mediating team.</p>
<p>22nd January 2008</p>	<p>Nairobi</p>	<p>Kofi Annan arrives in the country and makes initial contacts with Raila Odinga, the ODM party leader. Agreed and pledged to negotiate.</p>
<p>23rd January 2008</p>	<p>Nairobi</p>	<p>Initial contacts with Mwai Kibaki, party leader for PNU and newly sworn president. Agreed and pledged to negotiate.</p>
<p>24th January 2008</p>	<p>Harambee House Nairobi</p>	<p>A public meeting between the two principals urged parties to set up negotiating teams and a handshake to symbolise beginning of negotiations.</p>

Date	Venue	Event
24 th January 2008	Nairobi	Kofi Annan made a public opening speech to set the tone and mood of negotiation in the country. He announced the timeline to stop violence within 7 days, sort out short-term issues within 4 weeks and long-term issues within one year.
29 th January 2008	Nairobi Serena Hotel was chosen as the venue of negotiations	Formal launch of mediated negotiation dubbed Kenya National Dialogue and Reconciliation (KNDR). Opening speech during the negotiation.
1 st February 2008	Nairobi	Agenda One was deliberated and agreed upon by both political parties.
1 st February 2008	Nairobi	Ban-Ki-Moon, UN Secretary General, visits Kenya to pledge support for the mediation team.
4 th February 2008	Nairobi Serena Hotel	Agenda Two was discussed and agreed upon by both political parties. They were to promote joint meetings and accelerate reconciliation through peace rallies.
5 th February 2008	Nairobi	Teams agreed on KNDR procedures, mediation, structure and terms of reference for AUPEAP.

Date	Venue	Event
7 th February 2008	Nairobi Serena Hotel	PNU changes position and rejects the option of political solution of power-sharing deal and instead wants the option of a recount or a re-run. ⁶
7 th February 2008	Nairobi- through press media and Kenyan televisions	There is sustained pressure from the international community to find a solution. The US, UN, EU together voice their concerns regarding a solution. The EU commissioner, Louis Michel, arrived in Nairobi to pledge support for Kofi Annan led mediation for a negotiated outcome.
12 th February 2008	Nairobi Serena Hotel	Stalemate, no progress made. Parties disagreeing over solution to political crisis.
12 th February 2008	Kilanguni Safari Lodge (Coast Province)	Anan decided on a deductive process and changed venue to ward off stalemate and move away from the press distraction. Here the negotiating team weighed options for an outcome. The options included a re-tally of votes, a re-run of elections, a complete recount of votes, a forensic audit of election results and lastly a coalition power-sharing government as flouted by the West.

⁶ Annan, K., Machel, G., Mkapa, B., (2014: 32). *Back from the Brink: The 2008 mediation process and reforms in Kenya*. Nairobi: African Union Commission.

Date	Venue	Event
14th February 2008	Kilanguni Safari Lodge (Coast Province)	Negotiating team agreed and signed a statement that a political settlement was necessary, discussed way of prosecuting perpetrators of violence and how a Truth, Justice and Reconciliation Commission (TJRC) and other commissions for reforms would be set up.
15th -18th February 2008	Kilanguni Safari Lodge (Coast Province)	Stalemate on negotiation. Talks suspended.
15th February 2008	Nairobi Television stations	Sustained pressure from international community for a mutual outcome.
27th February 2008	Nairobi	The new AU chairperson president of Tanzania Jakaya Kikwete was invited by Kofi Annan to Nairobi. He met Mwai Kibaki and Raila Odinga separately.

Date	Venue	Event
28 th February 2008	Nairobi	Five-hour meeting of Kofi Annan, Jakaya Kikwete president of Tanzania and AU president, ODM and PNU principals to convince them that it was time to make a deal/solution. The meeting ended in assigning of an agreement between Mwai Kibaki and Raila Odinga to form a power-sharing coalition government according to the prepared accord during the negotiations. This ended the 37 days of mediated negotiation on agendas one to three.

Source: Annan, K., Machel, G., Mkapa, B., (2014: 32). *Back from the Brink: The 2008 mediation process and reforms in Kenya*. Nairobi: African Union Commission.

Table 1.2 presents the timeline of the mediation and the events that took place to give a brief summary of what occurred and what the study will be focusing on. Documents from the AU-PEAP, NPI and APFO will also be critically analysed as part of a triangulation methodology and in order to reinforce the individual perceptions of the findings. Thematic analysis will be used for this study to ground the theoretical findings. A literature survey will review electoral violence across Africa and the many theories trending on the nature of this emerging new conflict. The emerging democracies of Africa seem to be choked by the ‘new wars’ as coined by Kaldor (2013). These ‘new wars’ are fought within states and are aimed at civilians. The ‘ne wars’ are fought over scarce resources and poor governance. Thus, the theory of basic human needs sheds light on the importance of violence and basic human needs as expressed by Burton (1987) and Azar (1986). The literature on mediation and the reform agendas that follow a mediated outcome are also critically analysed. Reasons why mediations fail or succeed, are explored so as to give a formidable framework for mitigating electoral violence.

1.4 MOTIVATION FOR THE STUDY

Mediation can be more precisely defined as a process of conflict management, related to, but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider (whether an individual, an organization, a group, or a state) to change their perceptions or behaviour, and to do so without resorting to physical force or invoking the authority of law (Bercovitch 2006: 290).

Mediation, therefore, is primarily a form of 'assisted negotiation'. The above definition suggests that any mediation situation is comprised of parties in conflict, a mediator, a process of mediation, and the mediation context. Not only is mediation one of the oldest forms of conflict resolution, but it is also used worldwide in various antagonising conflictual hotspots, with examples found in China (Cohen 1966), Malaysia (Provencher 1968), Korea (Kim 1986) and Israel (Abu-Nimer 1996) inter alia. In Africa, mediation took place in Sierra-Leone in 1998; Ghana, and DRC Congo in 1993; Namibia in 1989; Western Sahara in 1991; Liberia and Lesotho in 2008; Zimbabwe in 2009; Kenya in 2008; Ivory Coast in 2011, and Mali in 2013 (Bellamy 2014: 10-12).

Based on the above examples, the role of mediation in managing conflicts and establishing peace in the world is evident. Following the establishment of peace logic, Bercovitch (2008: 346) asserts that mediation may well offer the most coherent, peaceful and effective response to current conflicts, but a greater understanding of the process and consistent guidelines are needed. In this sense, the motivation for the study of the process of mediation in electoral violence and the drive to develop a model for peaceful management of violence is motivated by a need to understand the problem. This study proposes that the use of a strategic mediation process by the mediator is a requisite for successful mediation in election-related conflicts. This is affirmed by Bercovitch (1991: 5) who states that to be effective, a mediator's role and its associated strategies in the mediation process must be congruent with the conflict for a positive outcome.

Thus, this study is motivated by several factors. First, the findings of this study can assist in providing recommendations on how to make the electoral violence resolution process more efficient and the outcome of the mediation more sustainable. It will also add to the

knowledge base of mediators and be of particular value for scholars interested in election-related conflicts.

This study focusing on Kenya where conflict resolution processes were applied in 2008 will explore both its negative and positive attributes. The findings will reveal any mediation gaps and any ensuing recommendations will seek to ensure that electoral mediation processes are enhanced in future. Because mediation is known to empower conflict parties and enhance their capability to resolve future conflicts, the study is optimistic that conflictual parties can be endowed with skills to resolve future conflicts in a non-violent way. According to Bush and Folger (1994: 67),

Empowerment in a mediation process is to increase the clients' ability to analyse and strengthen their resources to resolve conflicts in their lives and improve recognition of each other's needs and perspective.

As a result, mediation as an approach is based on assumptions that the conflictual parties have the ability to handle their own problems and to resolve them in future.

Because the environment in Kenya was persistently tense and hostile to the international or regional intervention in 2008, the means and strategies used to break such impasses will be identified for future adoptions by mediators. These findings could be particularly useful because of the high frequency with which electoral violence emerge in Africa and the resistance of many conflictual parties to interventions.

This study involving the African Union Panel of Eminent Personalities, chaired by Kofi Annan through a descriptive process could assist other mediators in the field of electoral violence. This view is advanced by Green (2012: 337) who advises that:

Mediators who possess substantive expertise in a specific field can use that knowledge and experience to aid or assist other mediators in the resolution of certain kinds of conflicts. Pre and post-election process dispute resolution, for reasons to follow, falls into this category.

Scholars have pointed to a number of ways an “expert” mediator can be useful. For example, Green (2012: 342) states that:

a mediator with substantive expertise can help by educating the parties about ways in which the law may vindicate their rights or ways in which similarly situated parties have resolved their conflicts. Mediators with substantive expertise may also help parties avoid an unfair result. Mediators with subject matter experience can also raise hidden dangers that parties might not foresee or provide ideas for options that have been useful in other contexts.

The findings could become an accepted conflict resolution model for electoral violence and could animate further research in the field of conflict resolution. The proposed research will add to the body of existing knowledge on electoral violence and the research findings can be communicated to the academic community, the African Union, international organisations working in the conflict management field, and other interested parties.

With over 42 presidential and parliamentary elections expected to take place in Africa between 2013 and 2015 (IFES 2013: 2), there is a growing interest in obtaining a better understanding of mechanisms that could enhance the efficacy of mediation efforts around elections so as to mitigate humanitarian crises and make a long-lasting positive impact on the electoral governance process, especially for countries engaged in post-conflict reconstruction and reconciliation. The findings of this research are passionately motivated as they may have great implications in terms of future research, practice, training and personal growth for mediators, scholars and disputants.

For these reasons stated above, this study argues that conflicts relating to elections and violence are prevalent and that the importance of exploring a pertinent workable conflict resolution model needs to be established. The central focus of this study will, therefore, be to determine the causes of electoral violence, specific mediation process used in Kenya in a conflict that had escalated to the verge of a civil war. The study will particularly examine the step-by-step interventions and challenges met in the pre-mediation, mediation and post-mediation processes. In particular, the study will explore how the two conflictual parties were brought together at the “accord agreement” signing desk. The proposed reform agendas to resolve the dispute will be examined so as to develop a workable model for mediation for the phenomenon under study.

1.5 STATEMENT OF THE PROBLEM

Many recent intra-state conflicts in the world and predominantly in Africa have been ignited by the problem of electoral-related violence (Fomunyoh, 2009: 4). Elections in emerging democracies of Africa are increasingly characterised by violence. Recent cases include, among others, Burundi 2015, Ethiopia 2015, Madagascar 2013, Zimbabwe 2003/2008/2013, Nigeria 2005/2010 and Kenya 1992/1997/2002/2007-2008 (Norris, Frank & Coma 2015: 5). Smooth democratic transitions from one leader to the next are becoming difficult as a predisposition to cling to power grows among more African leaders. Electoral violence has serious consequences that include deep identity polarisation, injuries to civilians, destruction of property, death, internally displaced persons, refugees, economic retrogression and either stalled or reversed democratisation. Even though most cases of electoral violence are mediated, however, to date, there has not been sufficient documented approach utilising an empirical qualitative approach providing a management mechanism for electoral violence and in particular, a model for mediation for electoral violence. As such, this study intends to fill this gap by developing a model for mediation for electoral violence by exploring the causes, reforms, mediation processes and the role of mediation in electoral violence, utilising the case study of Kenyan 2007-2008 electoral violence.

1.6 THE CENTRAL RESEARCH QUESTION

This study will analyse how conflict resolution strategies were used during electoral violence in Kenya in 2008, with a view to developing a model for mediation for electoral violence. To address the research problem, the following sub-questions will guide the study: -

- What were the causes of electoral violence in Kenya during 2007-2008?
- What reform agendas helped manage the conflict?
- How did the mediation process play a role in mitigating the violence?
- Can there be a model for mediation for electoral violence?

1.7 AIMS AND OBJECTIVES OF THE STUDY

The primary aim of the study will be to develop a model for mediation for electoral violence. The specific objectives of the study are:

- To investigate the causes of electoral violence in Kenya during 2007-2008.
- To examine the mediation process used in Kenya after the disputed elections during 2007 and 2008.
- To explore the reform agendas proposed in managing the violence.
- To examine the role of mediation in transforming electoral violence.
- To find out the extent to which a conflict resolution framework or model for future elections could be developed.

1.8 SCOPE AND SCALE OF THE RESEARCH

The study will review literature sources concerning the electoral violence within an African context. Although Kenya has had several cases of election violence, this study will utilise and collect data limited to Kenyan Post-Election Violence during the period of 2007-2008 only. This is due to the short time within which the study hopes to accomplish its objective. Secondly, the research study has limited funds that may not be sufficient to cover the previous years of election violence in Kenya or any other election violence. The study will also interview only the Kenyan people who were present during the incidences of election

violence and not any other Kenyans. Similarly, only those mediators, NGO bodies and negotiators who took part in the mediation will be interviewed and not any other mediators or negotiators.

1.9 SUMMARY STATEMENT

The central question for this research was to develop a model for mediation for electoral violence. The objectives of the study were to explore the causes of electoral violence, the reform agendas used to transform the violence, the mediation process and the role of mediation in mitigating electoral violence. The research objectives of this study were precisely met using a systematic empirical approach. The information relating electoral violence and mediation will shed light on approaches of managing electoral violence.

Although the data is a small sample, it however, yielded rich evidence on this research that explored for the first time a combination of perceptions of mediators, negotiators and citizens in one case study regarding electoral violence and mediation.

The study is divided into seven chapters. The chapters are organised as follows:

- **CHAPTER 1: GENERAL INTRODUCTION-** This chapter is a general introduction providing the background of the study. It gives an overview of electoral violence and narrows it down to the Kenyan case study. The study gives a brief history of electoral violence in Kenya. It also outlines the research context, motivation of the study, statement of the problem, the central research question, the aims and objectives of the study, the scope and scale of the research and the structure of the study.
- **CHAPTER 2: ELECTORAL VIOLENCE-** This chapter critically analyses the relevant literature on electoral violence, the fundamental principles grounding the nature of electoral violence, the basic human needs and protracted social conflicts and their relation to electoral violence. Lastly, the causes of electoral violence are explored.

- **CHAPTER 3: MEDIATION PROCESS-** The chapter gives an overview of the literature on mediation. It critically reviews the literature by conceptualising mediation, and its characteristics, the types of mediation, tracks of diplomacy, measuring successful mediation, the role of mediation, the models for mediation that exist, the mediation process, and mediated peacebuilding.
- **CHAPTER 4: RESEARCH DESIGN AND METHODOLOGY-** Chapter four provides the research design and methodology utilised in this study by delineating each step utilised in the research. It explains the epistemological stance, the plan, data collection approaches and data analysis strategies that ensure a systematic procedure of research at each stage of the research plan.
- **CHAPTER 5: PRESENTATION OF DATA-** Chapter five provides the presentation of the data, its analysis and interpretation. Depicting the participants' perceptions on the main topics that were under study, the chapter covers an extensive analysis of the evidence from the participants giving the study a thick description.
- **CHAPTER 6: THE MODEL FOR MEDIATION FOR ELECTORAL VIOLENCE-** The chapter describes the model for mediation for electoral violence based on the findings of the study using a grounded theory study.
- **CHAPTER 7: SUMMARY, CONCLUSION AND RECOMMENDATIONS-** This chapter gives a summary and conclusion of the research study. The theoretical implications of the study as well as the limitations of the study are explained. Recommendations both for research and policy are outlined. The contribution of the study to the field of conflict management is also provided.

CHAPTER TWO

LITERATURE REVIEW-ELECTORAL VIOLENCE

2.1 INTRODUCTION

This chapter provides an overview of the literature on electoral violence in emerging democracies, with a focus on the field of conflict management. The chapter is divided into five sections. The first section critically explores the concept of electoral violence and its meanings. The second discusses electoral violence as structural, cultural or direct, according to Galtung's (1967) theory. The third section critically analyses the fundamentals of electoral violence, grounding the phenomenon in Kaldor's thesis of 'new wars' (2013). In Mpfu's (2011: 210) view, the protraction of these conflicts is associated with human needs and forms part of the complex causes of social conflicts. Therefore, the fourth section ventures into basic human needs' theory by Burton (1987) and its relation to electoral violence in Africa. Furthermore, Azar's' (1986) description of basic human needs in relation to deep-rooted protracted social conflicts is explored. Lastly, the causes of electoral violence in emerging democracies in Africa are discussed.

2.2 CONCEPTUALISING ELECTORAL VIOLENCE

Electoral violence is defined in various ways by different scholars. According to Amer, Swain and Ojendal (2011: 136), electoral violence is a type of violent behaviour essentially determined by its targets and timing. It is directed towards electoral processes, the electoral management bodies (EMBs), voters and political parties and takes place around election period (Ibid.). However, this definition does not include the concept of violence that destroys property and reverses development.

Taking the definition from a different perspective, Anifowose and Odukoye (2013: 292) perceive electoral violence as political behaviour designed to modify and influence EMBs to possibly reverse the election decision in favour of a specific individual or political party. The malpractices often feature corruption as practised by political elites (Anifowose & Odukoye 2013: 293). This definition seems to focus on the post-election period where politicians try to reverse election outcomes. Although the definition does include some of

the actions perpetrated during electoral violence, it does not fully address the pre-election period events.

In addition, the Central Depository Unit (CDU) (2003: 17) views electoral violence as acts that cause both physical and psychological harm to people and destruction to property. Moreover, electoral violence occurs before, during and post-election (Ibid.). This definition includes phases of electoral violence that last throughout a government's regime in power. This is an extensive view of electoral violence that is highly applicable to the protracted nature of election violence happening in countries such as Kenya, Nigeria and Zimbabwe.

From the above definitions, electoral violence can be viewed as a sub-type of political violence that aims to alter results of elections fraudulently through threats, intimidation, annihilation and destruction of property. The phenomenon may take place at one or more of the pre-election, election and post-election stages. The meanings and debates around the protracted nature of conflicts in Africa suggest that electoral violence can be viewed as a type of destructive conflicts. This phenomenon is escalating, despite the "wave of democratisation" in Africa envisaged by Huntington (1991).⁷ Democratisation means that there exists the principle of popular control by the citizens through free and fair voting processes whereby equality in structures, political freedom and respect for human rights are realised.⁸ Consequently, democratic regimes are more peaceful than those that are authoritarian (Henderson 2002: 53).⁹

Elections are meant to terminate wars and to re-organise and democratically legitimise leadership, thereby, consolidating peace. This was the case in the Chad (in 1990); in Angola (in 2002) and in Sudan (in 2011) (Marc, Verjee and Mogaka 2015: 20). In contrast,

⁷ The 'third wave of democracies' signals a formal return to civilian rule from autocracies and dictators, hence expanding zones of peace in the world (Huntington 1991: 9).

⁸ Democracy is from the Greek word *demos* (people) and *Kratia* (rule) - hence rule by the people (Bogdanor 1987: 66) from *The Blackwell Encyclopedia of Political Institutions*. New York: Basil Blackwell. Abraham Lincoln defined democracy in a famous phrase as Government of the people by the people for the people (Jahanbakhsh 2001: 6). A democracy has effective participation of citizens who have equal opportunities to express preference in decision-making processes, have equal voting suffrage, and their voting preference must count, and where real political and human rights are respected (Selvik & Stenslie (2011: 206-207) see *Stability and Change in Modern Middle East* London: I.B. Tauris Press.

⁹ Henderson argues that democratic states are said to be more peaceful than non-democratic states. This he attributes to the fact that they have institutions with checks and balances that are accountable to the citizens. Basically, wars would require the citizens' consent in the use of their taxpayers' money. Democracies instead prefer dialogue and reduce escalation of conflicts, thereby promoting conflict resolution consistently (Henderson 2002: 5).

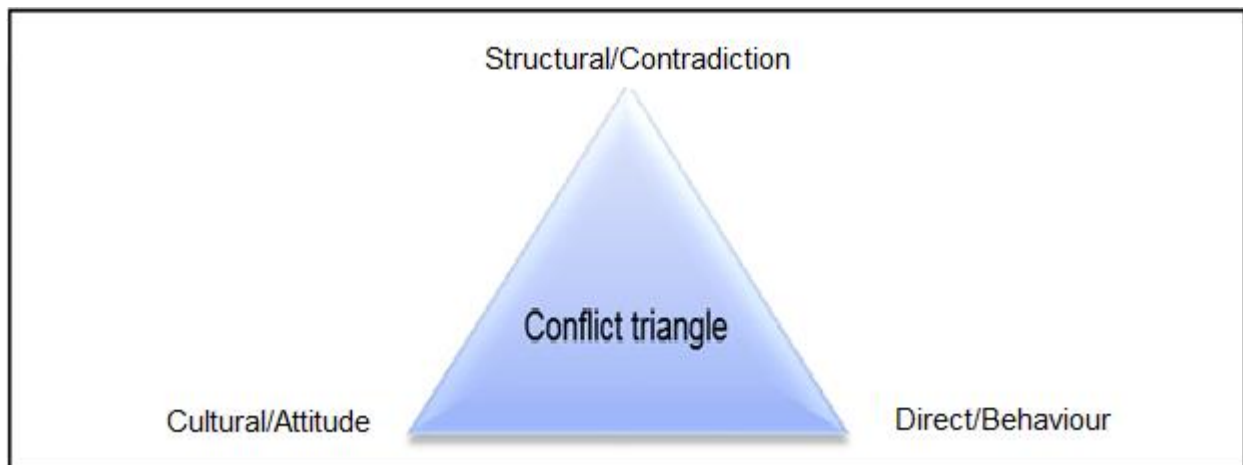
in some countries such as Togo (in 2005), Ethiopia (in 2005), Uganda (in 2011) and Kenya (in 2008) elections have become a source of violence (Ibid.). Regimes that continue to cling to power find it in their interest to use violent strategies in order to intimidate voters and skew election results (Musa and Domatob 2012: 27). Use of violence in elections in order for leaders to cling to power has recently been manifest in Zambia (in 2011), Ivory Coast (in 2010), Nigeria (in 2010), Madagascar (in 2009), Zimbabwe (in 2008), Malawi (in 2009 and 2014), Burundi (in 2010 and 2015), Benin (in 2011), Ethiopia (in 2010), and Kenya (in 2008) (Chuhan-Pole 2015: 11).

Atuobi (2008: 11-12), proposes two perspectives for the analysis of electoral violence, resolution-structural and cultural. The structural perspective holds that the politics of the society are organised in such a way that direct behavioural conflicts occur during elections. The cultural perspective indicates that certain countries have created a political culture of electoral violence as a strategy that enables manipulation of votes. Electoral violence, therefore, is a strategy used by political elites and is meant to rig votes in their favour by influencing EMB's. In this sense, the EMBs engage in election fraud during the elections. Atuobi further notes that the same political elites use the strategy of dividing identities in terms of ethnic, religious or social groupings. In this context, ethnic cleavages and rivalries are used as a weapon to marshal votes (Atuobi 2008: 11-12).

Atuobi's' analysis is analogous to Galtung's (1969) theory of conflict and violence which envisages a 'triad conflict triangle' - also known as 'forms of violence' (see Figure 2.1).

2.3 FORMS OF VIOLENCE

Conflict management scholars and practitioners have used the triangular conflict notion to assess and analyse conflicts (Willems 2015: 12). The notion features three vertices that are considered to be necessary elements of conflict, that is, structural/contradiction, cultural/attitude and direct/behaviour violence (Figure 2.1).



Source: Rens Willems (2015: 12)

Figure 2.1: Conflict triangle.

According to Galtung (1969), conflict can be perceived as a triangle with ABC at its vertices, where A is Attitude, B-Behaviour and C-Contradiction. Contradiction refers to structural violence, including the undercurrents and the roots of the conflict, whether real or perceived (Willems 2015: 12). Attitude is the disputants' misperceptions and perceptions of themselves and others. Willems equates Attitude with cultural violence (Ibid.). Behaviour indicates the disputants' demeaning actions and stereotypes, and has been equated with direct violence by Willems. Behaviour is influenced by emotions of fear, anger, bitterness, hatred and by destructive attacks (Ibid.). The three elements of attitude, behaviour and contradiction provide a crucial tool in the analysis of conflicts (Ramsbotham, Miall and Woodhouse 2011: 10). Electoral violence, like any other conflict, manifests the three components of Galtung's' conflict triangle. In this study, the 'triad conflict triangle' is therefore explored as a basis for analysis of the causes of electoral violence. The details of the three forms of violence are discussed in the next sections.

2.3.1 Direct violence

Direct electoral violence refers to waging a type of war which is manifest in violent behaviour involving the use of weapons to harm, eliminate, injure and destroy the enemy (Lederach & Lederach 2011: 49-50). According to Galtung (2004: 6), electoral violence is direct violence as a result of structural and cultural violence. Additionally, Ochieng

(2012: 254) corroborates Galtung's view by emphasising that structural and cultural violence basically reinforce direct violence.

2.3.2 Cultural violence

Galtung (1990: 291) describes cultural violence as aspects of the symbolic sphere of human existence used to legitimise and justify structural or direct violence. The cultural symbols include ideologies, art, flags or anthems used to legitimise violence (Gentilue, Maffetone the Chandhoke 2013: 44). Drawing upon Galtung's description, Willems (2015: 12) claims that cultural violence comprises socialised and subjective attitudes that make direct violence seem 'right'. The cultural justification of violence expunges the consciousness of guilt, making direct violence appear to be a rational action exercised for a particular interest. In this regard, disputants perceive as 'correct' the elimination of the 'enemy' through direct violence to achieve their own interests (Nwokefor & Langmia 2010: 161). In Kenya, for instance, running away from direct violence is culturally considered an act of cowardice among the ethnic groups of the Luhyas, Kalenjins, Kikuyus, Maasais and Luos (Achieng-Oyier 2010: 67). Thus, as justified by their cultures, violence is likely to occur among these communities when identity interests are perceived as being incompatible.

On the other hand, Nwokefor and Langmia (2010: 160) argue that cultural violence is embedded in social institutions. Leavitt-Alcantara (2009: 304) not only supports Nwokefor and Langmia's view that certain societies permit institutionalised cultural violence, but also asserts that such societies also frequently experience a vicious cycle of electoral violence. Leavitt-Alcantara's perspective could partly explain the phenomenon of protracted electoral violence in certain African countries. In such societies, Leavitt-Alcantara observes, electoral violence is maintained and bolstered by a repressive framework that justifies the dehumanising of victims perceived as 'others' (2009: 305). 'Others' are people observed as culturally different because of their ethnicity or religion (Ibid.). In this manner, cultural violence denigrates other cultures, ideologies or opposing political views and is often the rationale underlying historical, structural and direct violence (Kurtz 2015; Bandura 2006).

2.3.3 Structural covert violence

In structural violence, there are no actors. The violence is built into the institutional structure of governance and is evidenced as manifestations of unequal power, an unjust society and unequal life chances and opportunities (Galtung 1969: 170-171). Lederach and Lederach (2011: 50) posit that, although there is no direct manifest violence, structural violence leads to death, injury and destruction and has dehumanising effects. Hence, although it lacks real individual perpetrators (actors), structural violence has victims who are impacted physically, psychologically, and spiritually (Ibid.). This is because structural violence is based on the whole structure of a society and how the society decides to govern itself. It is underpinned by the very organisation on which the human relationships of a society are grounded (Keith 1996: 68).¹⁰

According to Galtung (1967: 171) states that legitimise unequal social structures that create among others poverty, unemployment, corruption, poor health care and underdevelopment are guilty of structural violence which consequently may lead to direct social violence. Makumi (2007: 100), Galtung (1967) and Atuobi (2008: 11) point to the complexity of structural violence and argue that some political structures are themselves inherently conflict-generating and allow electoral violence to thrive unabated. Essentially, the political, structural and cultural systems of a society are likely to be key variables in determining whether there will be direct acts of election violence.

2.4 FUNDAMENTAL PRINCIPLES GROUNDING THE NATURE OF ELECTORAL VIOLENCE

Machika (2009) and other scholars (Tardio 2013; Kaldor 2013; Rice 1990; Levitsky & Way 2010; Nordhaus 1975; Burton 1987 and Azar 1986) have emphasised four fundamental principles grounding the understanding and analysis of African conflicts and electoral violence. Firstly, electoral violence matches the description of 'new wars' or 'wars of the third kind' described by Kaldor (2013) and Rice (1990) respectively. Secondly, electoral violence has actors and perpetrators found internally and externally which include *inter*

¹⁰On structural conflict and structural violence, see Keith, W., 1986. "Structural Violence and the Definition of Conflict" In World Encyclopaedia of Peace, 2, 156-189.

alia governments and opposition leaders (Levitsky & Way 2010). Thirdly, people with unfulfilled basic human needs have the potential to cause violence during elections as theorised by Burton (1987) and Azar (1986). Lastly, election violence may occur at various times in the electoral cycle stages such as pre-election, during election and or post-election (Nordhaus 1975: 34).

2.4.1 'New wars' or 'wars of the third kind'

A variety of terms has been utilised post-Cold War to conceptualise the contemporary changing character of the wars that occur within emerging and fragile democracies.¹¹ These terms range from 'wars among people' to 'hybrid wars' (Smith, 2008), 'wars of the third kind' (Rice 1990) and 'new wars' (Kaldor 2013). Of course, these wars are not 'new' but they are different from the 'old wars' and require new policy responses.¹² This study will use the last two expressions of "new wars" and 'wars of the third kind' interchangeably as their description and definitions are closely linked and relate to intra-state wars of electoral violence. Kaldor's (2013: 1) concept of 'new wars' has been widely debated with a view to understanding intra-state conflicts and their dynamics.

Rice (1990: 61) too contends that these 'new wars' are distinguished from the 'old wars' that were fought along conventional rules of war between states. The 'old wars' were high-intensity wars fought over geopolitical spaces and ideologies usually waged against a known enemy. Both Kaldor and Rice distinguish 'new wars' from old wars on the basis of 'who' the actors, and their financiers are - and 'how' the wars are fought (Kaldor 2013; Rice 1990). Today's wars are fought intra-state over issues such as exclusionary identity politics, politics of intolerance and attempts by certain groups to either ascend to or cling to power. Kaldor (2013: 11) contends that power struggles are at the heart of the 'new wars' that are sometimes fought for supposed identity survival. Moreover, the 'new wars' are fought by the political militia, gangs, hooligans, guerrillas, private security staff, chieftains, or even by state security structures against their own people (Kaldor 2013;

¹¹ The post-Cold War period is the time in Global politics from the dissolution of the Soviet Union in 1991 to the contemporary time.

¹² According to De Waal 2012, the 'new wars' are not necessarily 'new' but rather a description of conflicts in less governed states with non-state actors fully functional within and without these states. For further reading, see De Waal (2012: 1-34). Introduction: Bigmanity and network governance in Africa In UTAS, M., *African Conflicts and Informal Power: Big Men and Networks*. London: Zed Books.

Rice 1990). The 'new wars' are aimed at inflicting heavy civilian casualties, thus signifying a tendency towards human rights abuses (Kaldor 2007: 11). The 'new wars' create fear and terror amongst citizens and are not only financed by states but also by actors, both internal and external, who seek continuation of the conflict. They are fought by varying combinations of state and non-state networks (Rice 1990; Kaldor 2013). Duffield (2001: 6) observes that the 'new wars' networks range from within states, regionally, to international networks of actors (transnational connections), making it difficult for a single state to mitigate the conflict without external assistance. In this sense, the actors are within and without the state. While the old wars were fought over time and had winners, the 'new wars' tend to persist, recurring cyclically - and are often seemingly intractable.

When the 'new wars' are fought over elections, the intra-state conflict has undertones of political intolerance and grave violation of human rights as individuals struggle to either ascend to power or cling to power. During the conflict, election competition and campaigns may deepen the already existing identity and ethnically aligned cleavages along party political lines. 'New wars' fought over elections have been characterised by unprofessional conduct during the electoral processes. Such illicit strategies are aimed at preventing opposition parties or perceived rival identity groups from ascending to power and gaining the presidency. Such tactics which have frequently been manifested for example in Ivory Coast in 2010, in Kenya in 2007/2008, in Malawi in 2013, in Senegal in 2013, in Nigeria in 2010, in Uganda in 2010 and in Zimbabwe 2008 reveal the underlying historical deep-rooted ethnic polarisations in many of Africa's emerging democracies (Maudeni 2011: 3). According to Maudeni (2011: 1), electoral violence has been experienced because of incumbent regimes banning opposition parties, rigging elections, inciting violence and being declared "winners" thanks to fraudulent electoral processes. The incidences of protracted 'new wars' electoral violence between identity groups in Africa, and particularly in Kenya, are the focal point of this study. The study aims to find the causes of such violence and malpractices in Kenya, in a bid to develop approaches to mediate, manage and resolve the recurrent electoral violence in Kenya.

2.4.2 Actors and perpetrators of electoral violence

Government and political opposition parties comprise the actors and the perpetrators of electoral violence discussed in the next section.

2.4.2.1 *The government*

After the end of the Cold War, African countries were pressured to accept multiparty systems as a basis for promoting democracy in the third wave of democratisation.¹³ The pressure from the West posed a fundamental challenge to authoritarian regimes. Since then, elections have become hotly contested competitions. Some regimes combined traditional authoritarianism with the staging of unfairly manipulated elections coupled with abuse of state resources for campaigns, so as to skew the field of competition in favour of the incumbents (Levitsky & Way 2010: 3). Levitsky and Way call these regimes '*competitive authoritarian*.'¹⁴ As a result, in some cases, incumbent politicians have used violence during elections to exacerbate long-term conflict or to generate politically hardened conflict-related alliances, as happened in Tanzania in 1996 (Mpangala 2007: 1-2).

Such competitive authoritarian regimes have persisted in Cameroon, Senegal, Kenya, Zimbabwe, Malaysia, Madagascar, Zambia, Gabon, Angola, Uganda, Ethiopia, Eritrea and Tanzania (Levitsky & Way 2010: 4). In Mpangala's view, many transitional democracies have socio-economic, ethnic, political or religious cleavages that may be aggravated by incumbent political regimes during elections so as to enable them to cling to power. Electoral violence in Nigeria in 1990-2009, in Zimbabwe in 2004-2013 and in Kenya in 1992-2005 was incited by governments and their senior political elites as a means to hold on to power in the increasingly competitive settings of political elections

¹³ Keren-Paz (2013: 90) defines democracy as a people driven government that has rules for fairness and equality for all in terms of opportunities and socially just distribution of resources. See his book *Torts, Egalitarianism and Distributive Justice*. London: Ashgate Publishing.

¹⁴ Levitsky and Way (2010: 4-5) coined the label 'competitive authoritarian regimes' to describe civilian regimes in which formal democratic institutions exist, but in which the incumbent decides to use, abuse and manipulate them at will thereby giving the regimes a significant advantage over their opponents. Competition is thus real but unfair. The regimes are hybrid types and some stagnant with 'midrange' elements of democracy and authoritarianism. This is unlike mature democracies where institutions are independent, democratic, free and fair, holding regular competitive elections with smooth transitions. For further reading refer to: Levitsky, S. and Way, A., 2010. *Competitive Authoritarian: Hybrid Regimes after Cold War*. Cambridge: Cambridge University Press.

(Africa Watch 1993; Human Rights Watch 2010, 2013; KHRC 1998; Klopp 2001a and 2001b).¹⁵

In fact, according to KHRC (1998: 1), political conflicts and election violence are manufactured by government and are meant to discourage opposition supporters from voting. The ruling regimes repeatedly created environments for electoral violence by outsourcing militia youth. For example, in Zimbabwe the militia called the 'Green Bombers' in 1980, 2000 and 2008 burned, killed, harassed and displaced suspected opposition members of the Movement for Democratic Change (MDC) party in order to prevent them from voting (Gillies 2011: xxiii). External interests from other governments may also escalate electoral violence. For example, in the 2012 elections in Somalia, the youth militia who sided with the opposition were sponsored by wealthy government politicians from Yemen (Adolfo 2012: 2).

2.4.2.2 *Opposition parties*

Beaulieu (2014) attributes election violence to opposition parties' protests against electoral management bodies' (EMBs) failure to exercise proper impartiality in supposedly democratic elections. In a study covering thirty years of protest and reforms related to elections, Beaulieu shows that the 'third wave' of democracy has been accompanied by an opposition-initiated, 'electoral protests and violence' (2014: 3)¹⁶ She concludes that the protests and violence result from a failure on the part of government and opposition elites to resolve disputes about the conduct of elections in which they are competing (Ibid.). They have also proved themselves incapable of negotiating and honouring acceptable terms of election conduct (Ibid.). Characterising electoral protest and violence as a breakdown in negotiation does capture the dynamics of politics in the developing

¹⁵ KHRC-Kenya Human Rights Commission.

¹⁶ Huntington (1992) coined the term, The Third Wave, to mean the current surge of democracies, partly as response to Fukuyama, who described a global democratization trend in the world post WWII. Huntington defined three waves of democratization that have taken place in history. The first wave in the early 19th Century gave the vote to a majority of male whites from 1922-1942 and saw the establishment of democracies in 29 states. The second wave of democracy was after WWII Allied victory up to around 1962 with 36 democracies established in the world. The third wave began in 1974 to the current time with over 100 democracies founded around the world.

world where political actors cannot rely on strong, stable independent institutions for purposes of coordination.

Civil-society generated debates frequently hold that election-related protests and violence, triggered either by government or opposition political parties, are necessary as they compel autocratic regimes to undertake democratic reforms. Moreover, there are claims that pro-democracy election-related protests and violence compel countries to democratise and the bigger the protest, the better the reform (Brancati 2014: 10). According to these arguments, democratic transitions are a result of bottom-up processes in which popular mobilisation forces recalcitrant regimes to liberalize (Skocpol 1979; Boix 2003; Geddes 2006; Acemoglu & Robinson 2006; Levitsky & Way 2010). However, popular mobilisation can only liberalise if the protests are harmonious and large. Hence, large, cohesive, and sustained forms of protests and violence are more likely to result in democracy than disjointed protests (Bermeo 1997: 305-322).

2.4.3 Cyclic phases of electoral violence

According to Tardio (2013: 483-485), electoral violence encompasses actions that are carried out in pre-election phases, during elections, at a post-election stage - or during all these stages. These three periods or phases of elections are called the 'electoral cycle' by Nordhaus (1975) and Lindbeck (1976). Beaulieu (2014) and Ndulo (2010) have investigated electoral violence cross-nationally from 1981 to 2012 so as to help predict the likelihood of election violence. Their findings suggest that incumbents use pre-election, election-day and post-election protests and violence in an effort to fend off threats to their power. Figure 2.2 illustrates the election cycle.

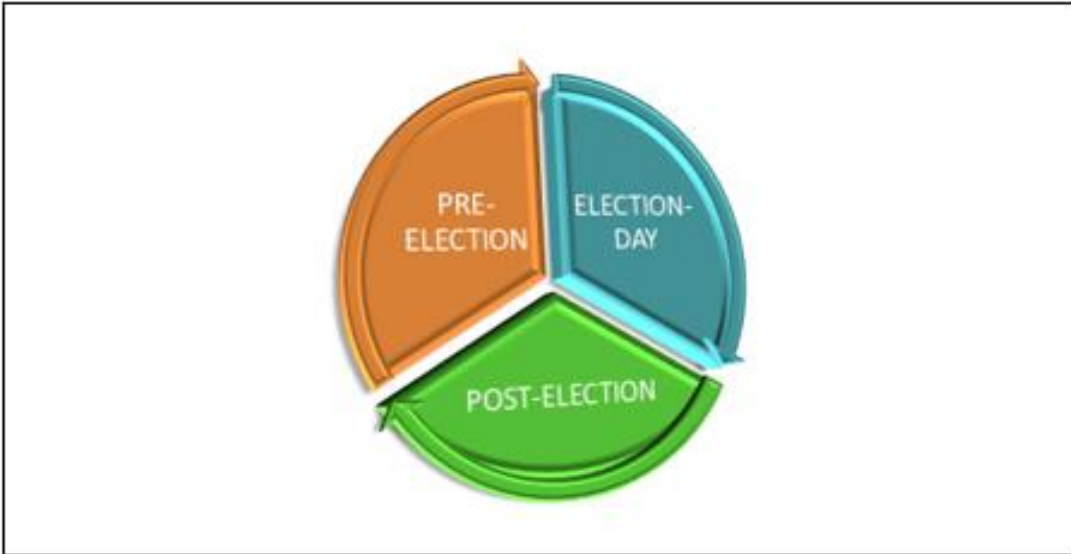


Figure 2.2: Election cycle. Source: Modified from IFES (2012: 2)

The three stages of electoral cycle illustrated in Figure 2.2 are interdependent. Finley and Khan (2011: 8) in compartmentalising the three stages explain that the pre-election period focuses on violence that occurs during preparations, planning, training and the registration period. Electoral violence that occurs on election day takes place during actual voting. The post-election violence is related to strategies after voting such as rejection of perceived untrustworthy results. The electoral cyclical (Figure 2.2) is a relevant tool for analysing electoral violence and pinning down when exactly the violence occurred, it can be better understood and addressed when practitioners look at what type of conflict programming would be most relevant in mitigating the violence and at what part of the cycle the electoral violence is occurring.

2.4.3.1 Pre-election violence

Pre-election violence usually takes place before election day. Patino and Velasco (2004: 7) assert that the pre-election period starts as early as a year before elections. However, Otieno (2013: 12) argues that the pre-election period comprises any period from a year after results of a previous election are announced until just before the next elections. This study will utilise Otieno's understanding of the pre-election period in order to investigate the election violence in Kenya. Patino and Velasco (2004: 7) further claim that the pre-

election period is used by parties and candidates to build their campaign machinery, launch public relations campaigns, map the political terrain, organise networks and generate resources. Otieno on the other hand avers that this is the time that political parties agree on a *modus operandi* for the voting process, the Electoral Management Body (EMB) members and formation, for the evaluation of the last election and any changes of policies needed to change the upcoming elections for the better and avoid pre-election conflict and disputes (2013: 13). According to Adamu (2012: 6), however, a pre-election political dispute refers to two things, any level of disagreement between political party members on the method or means of conducting or securing elections and how best to run their political campaigns.

Adamu also highlights interparty disputes that manifest themselves during political party campaigns (Ibid.). While there are rules, Adamu (2012: 3) argues that pre-election political disputes involve issues around, (i) constituency and boundary demarcations, (ii) voter registration and (iii) political party registrations for electoral contests. Each of these issues constitutes an aspect of the pre-electoral process that may typically give rise to conflict (Adekunle 2008: 5).

Pre-election conflicts around constituency demarcation are about who should demarcate the borders ensuring fair representation of all citizens. For example, demarcation violence occurred in Sierra Leone in 1992 (Kargbo 2014: 126); in Zanzibar in 2009 when the Zanzibaris of Tanzania felt they were inadequately represented in parliament (Baregu 2011: 159); and in Malawi and Zambia in 2004 over lack of minority representation in parliament (Hamdok & Rukambe 2008: 115). Constituency delimitation as a possible flashpoint for pre-election dispute hinges on the fact that violence may erupt where a community perceives that its population size entitles it to form a single constituency and yet it is not so designated in government policies (Adamu 2012: 3).

Voter registration disputes arise where there is questioning about when to begin and when to end the registration. In Adekunle's (2008: 53) view, voter registration is meant to ensure that all eligible voters are registered so that they can participate in elections. Other disputed areas of voter registration revolve around issues of whether the exercise is all-

inclusive or whether it excludes opposition strongholds. In terms of all-inclusivity, some question whether prisoners should be entitled to vote. Moreover, some governments are alleged to imprison opposition supporters close to election time to reduce their voting strength. Additionally, pre-election disputes may include crucial questions regarding diaspora citizens' voting rights and their inclusion on the voting register (Piombo & Nijznik 2005: 93).

The issues of how to deal with voter impersonation and double registration by unethical and dishonest voters also often elicit confrontational negative energy and reaction (Sisk & Reynold 1998: 112). Unethical practices by some voters may become the basis of pre-election conflict if it is perceived that it is being used as a way of vote manipulation and may, therefore, impact negatively on election run-up processes.

On the issue of voter registration, two points need to be made. Firstly, voter registration is often seen as a civil responsibility, obligatory for all citizens; secondly, however, citizens are not often obliged to register as voters. It is where they come out to register and do not have the opportunity to do so that it can be claimed that there are problems as some people might feel that they are being disenfranchised. For example, voter registration disputes were evidenced in Ethiopia in 2010 where Ethiopians from Eritrean backgrounds were not recognised as citizens in Ethiopia (Garreton 2012: 3).

A study by Adekunle (2008) in Nigeria found that by the end of the voter registration exercise in 2006, the Independent Nigerian Electoral Commission (INEC) claimed that it had registered over 61 million Nigerians as voters. However, according to Adekunle, many of these eligible voters were missing from the registration list for the 2007 general elections in Nigeria when Yar'Adua Umaru became president. Thus, registration of voters if inappropriately carried out, provides the basis for potential conflict flashpoints where 'a groundswell of grievances and cynicism [may] threaten or compromise the actual voting or counting of the votes' in an election (Adekunle 2008: 5).

According to Bratton (2008), vote buying and political intimidation are characteristic dimensions of African election campaigns. For example, according to his study's survey-

based estimates, almost one out of five Nigerians is personally exposed to vote buying. The study also found that vote buying typically targets the rural poor (Bratton 2008: 4). According to Birch (2011: 102), vote buying in Malawi and in Mozambique in their 2004 elections respectively was widespread in rural regions in both countries. Vote buying in Nigeria, Malawi and Mozambique was a cause of pre-election violence in 2007 and 2004 respectively (Bratton 2008 and Birch 2011). Vote buying interferes with individual freedom to choose and is one of the strategies readily available to politicians seeking political power via elections (Collier and Vicente 2008: 5). Pre-election disputes frequently spill over to the actual day of election if not adequately resolved at the pre-election stage. However, when conflicts are managed well at the pre-election stage, the election day may feature other disputes or may be more peaceful.

2.4.3.2 Election day violence

Election day violence and conflict occur when political friction occurs either at the voting station or away from it (Adebayo 2012: 237). While 'election day' is about the actual delivery of votes and poll watching, it is also characterised by a high incidence of violence and death in some African countries. The violence and deaths are usually triggered by real or suspected fraud (Patino & Velasco 2004: 4).

Garreton's (2012: 279) study on election day violence reveals that in Equatorial Guinea, during the 2009 elections, skirmishes that occurred were about vote buying. According to Garreton, vote-buying by incumbent political elites near the polling stations on election day resulted in opposition protests and violence over coercive voting. On the other hand, according to Otieno (2012: 108), there are rarely outbursts of conflicts or overt violence on election day as members of the populace are usually eager to vote. Finley and Khan (2010: 17) also claim there are minimal conflicts on election days as public confidence is raised by mechanisms of observation and monitoring executed by both internal and international observers¹⁷ who provide both transparency and a means of mapping and

¹⁷ 'International election observation involves organizations generally recognized as neutral and credible, who can detect and therefore help deter and prevent manipulation of the results, instil confidence in the results and bring international pressure to bear to achieve their acceptance' (Finley & Khan 2010: 17).

tracking incidents of fraud, violence or manipulation of elections. Moreover, they dissuade perpetrators of electoral malpractices by holding them accountable (Fischer 2002: 56).

Analogous findings are offered by Daxecker (2012), who argues that the presence of independent international electoral observation missions mitigates the potential for election-day violence because domestic actors refrain from intimidating opposition candidates or voters while under the scrutiny of international observers. However, although these mechanisms guard against manipulation of elections to some degree, they are inadequate as a safeguard throughout the electoral process because external monitors and observers visit only a few voting stations. In addition, their absence in the pre-election period creates incentives for political actors to engage in increased violence and manipulation of voters during electoral campaigns (Daxecker 2003: 33). Patino and Velasco state, 'with violence, vote buying and fraud, an election loses credibility as a democratic process and the right to suffrage is fundamentally undermined' (2004: 9).

2.4.3.3 *Post-election violence*

Post-election violence and conflict which occur after the voting process are mainly disputes over election results and the inability of the Electoral Management Body (EMB) or the judicial mechanisms to resolve these disputes in a timely, fair, and transparent manner (Fischer 2002: 10). Post-election violence may also occur as a result of the refusal of the incumbent to hand over power after an election defeat, as was the case in Ivory Coast in 2010 (Ibid.). The manner in which results are reported can also be a conflict-generating issue. For example, some result announcements are reportedly delayed intentionally so as to manipulate and swing the results to favour a political party, yet, others are not tallied and are thrown out as spoiled ballots. Hence, the number of spoilt ballots in particular regions can sometimes far outweigh those in the rest of the country (Fischer 2002: 11).

Straus (2011) studied the patterns of post-electoral violence in the Ivory Coast crisis of 2010. The findings pointed to two central dynamics of the violence-first was the pro-Gbagbo regime and non-state forces intimidation of any real or potential opposition voices, in addition, Muslims of the Northern Province, as well as black immigrants from

other West African states, were victimised (Straus 2011: 482). The second pattern was that the violence reflected patterns of ethnicity-motivated reprisal killings within the state security forces and among the incumbent's militant youth movements (Straus 2011: 483).

Fischer's study (2002: 13) of the Benin presidential election of 2001 details post-election violent incidents confined to the town of Aborney, a stronghold for the former President, Nicephore Soglo. The findings indicate that the violence was orchestrated by incumbent political elites to silence dissenting voices after perceived rigged elections. With regard to the re-electing of Idriss Deby of Chad, on 27th May 2001, Fischer (2002: 16) notes that the election ended in street demonstrations in N'djamena with government security forces killing 34 people, among them one opposition candidate, and detained opposition presidential candidates. Two of these candidates were reportedly tortured during their detention (Human Rights Watch 2001). According to Amnesty International on Afrol news, "Chadian security forces used excessive force against non-violent protesters."¹⁸

Fischer's study (2002: 5) of the 2001 Benin elections, posits four descriptive categories of post-electoral violence, suggesting a variety of causes, motives, perpetrators, and victims. To begin with, the voters are in conflict with the state claiming unfairness in the election process; next, the state is in conflict with voters who challenge election rigging or the electoral hegemony of the State (in the case of Chad).¹⁹ Penultimately, political rivals are in conflict with each other for political gain, and lastly, a blending of these three categories occurs. A further examination of the above cases of post-election violence also suggests that there are larger problems with the supposed democratisation of these countries than conflictive elections alone. The Freedom House rating system on democratisation includes consideration of inadequate adherence to civil liberties, the rule of law, independent institutions and other political rights as possible problems in countries that experience electoral violence (Fischer 2002: 16).²⁰

¹⁸ Source: Afrol News 13.00hr on 7th June 2001.

¹⁹ However, Fischer (2002) notes that it is sometimes unclear how to distinguish an incumbent's political muscle from the State security apparatus.

²⁰ The *Freedom in the World* survey by Freedom House on the freedom of the individuals in a particular state provides an annual evaluation of the state of global freedom as experienced by individuals in the countries surveyed. The survey measures freedom - which is the opportunity to act spontaneously in a

Fischer notes that of the fourteen countries surveyed for electoral violence in 2001, eleven (79%) are described as “Not free” according to Freedom House Rating. This means that a country with a history of electoral violence should be profiled in a watch list by the United Nations and by peace organisations for potentially violent elections. Muller (2014: 79) decries the fact that the literature on potential electoral violence lacks a contextualised multifaceted approach that proposes proactive resolutions. Hence, it is in response to calls from analysts like Muller (2014) that this study adopts a multi-faceted approach in seeking to bridge the gaps in the literature (Ibid.). Through a case study approach, which provides contextualised in-depth information on Kenya, this study explores transformative approaches and alternative dispute resolution mechanisms that could be used to facilitate peace.

2.5 BASIC HUMAN NEEDS

All individuals in society have needs that they strive to fulfil. For that reason, Basic Human Needs (BHNs) are explored in this study to facilitate an understanding of the root causes of electoral violence. Human needs theory proposals by Maslow, Burton and Azar are briefly explored in the next section.

2.5.1 Human needs theory

In the early 1940s, Abraham Maslow developed the concept of a hierarchy of needs (Baker and McMahon 2015: 25). Maslow believed that most basic human needs (BHNs) must be met before aspiring to satisfy higher levels of needs. Maslow identified BHNs as an essential prerequisite for survival. The hierarchy of needs includes safety and

variety of fields outside the control of the government - and other sources of potential domination, according to two broad categories-political rights and civil liberties. Political rights enable people to participate freely in the political process, including the right to vote freely for distinct alternatives in legitimate elections, compete for public office, join political parties and organizations, and elect representatives who have a decisive impact on public policies and are accountable to the electorate. Civil liberties allow for the freedoms of expression and belief, associational and organizational rights, rule of law, and personal autonomy without interference from the state. The survey does not rate governments or government performance *per se*, but rather the real-world rights and freedoms enjoyed by individuals. Thus, while Freedom House considers the presence of legal rights, it places a greater emphasis on whether these rights are implemented in practice. Furthermore, freedoms can be affected by government officials, as well as by non-state actors, including insurgents and other armed groups.

psychological needs of belongingness, love, esteem and a need for self-actualisation. These needs stem from primary emotions of human beings (Varynen 2001: 33). As such, if they are not met, innate negative forces may emerge which may easily initiate aggression. When lower psychological needs are met higher needs emerge until an individual reaches self-actualization. However, humans continue to struggle over scarce resources in a bid to satisfy their interminably basic and emerging needs. Maslow's analysis of needs has direct relevance to conflict analysis, as advanced by Burton (1987) and Azar (1986) and which is discussed in the section below.²¹

In the period from 1960-1970, the theory of human needs became popularised by conflict resolution academicians and practitioners (Scimeca 1987: 213). Sites (1973) connected human needs theory (HNT), political theory and conflict, arguing that satisfaction and deprivation of individual needs are crucial sources of societal disorder, order or change. Burton (1990: 2) distinguishes between three types of incentive, namely, human needs, values and interest. Basic human needs are primordial, universal and genetic and are required for the development of the human species (Ibid.). They are essential to the development of the individual as a functioning societal member (Burton 1988: 38). Basic human needs are thus unchanging and shared fundamental drives (Ibid.). Values, on the other hand, are culture specific and motivated by the socialisation of a community. Interest refers to economic, political and social motivations that may change, depending on the social environment and political circumstances. In terms of electoral violence, interests relate to the roles of social and material incentives at the time of the conflict (Burrowes 1996: 65).

Basic human needs are thus driven by both values and interest. According to Burton (1997: 17), people will always pursue basic human needs, which cannot be suppressed, regardless of consequences. Similarly, Sites (1973: 7-33) claims that people will die fighting to protect their values that are related to drives for needs' gratification which, according to Burton (1997: 32), focus on identity, recognition, redistributive justice,

²¹ For more on Maslow's Human needs read further in Maslow, A. H., 1943. A theory of human motivation. *Psychological Review*, 50, 370-396.

security and personal development as well as a need to be seen as rational. These BHNs have to be gratified before a society can be termed harmoniously peaceful. Needs frustration, according to Burton (1990: 36-37), is the fundamental cause of violence in contemporary society. Hence, he focuses on the lack of legitimate and authentic institutions, policies and structures as the principal source of violence (Burrowes 1996: 112). Conflicts can, therefore, transcend observable differences in human behaviour and have deeper roots than what is offered by the theory of Basic Human Needs (BHNs). However, grounding analysis of conflict and its resolution offers a possible way forward for this study.

Critics (Rubin 1992: 240) argue that Burtons' BHNs as such do not cause conflict. But rather conflict arises from the frustrations caused by unjust structures or by exclusive elites denying the needs of supposed rival identities. Thus, conflicts emerge, in this sense, specifically from unfulfilled needs. Accordingly, Burton insinuates that conflicts are simply signs of underlying dysfunctional issues. Therefore, the phenomenon of electoral violence that this study undertakes to investigate should be seen as a symptom of other deeper causes. Consequently, this study intends to find the covert symptoms (causes) of electoral violence that go beyond the overt violence. Electoral violence, as with any other types of conflicts in Africa, is primarily deep-rooted in nature (Atuobi 2008: 11).

2.5.2 Deep-rooted protracted social conflicts (PSC) and human needs.

In 1980, Edward Azar linked human needs theory and intergroup deep-rooted protracted social conflicts (PSC), which constitute disputes that are complex, severe, prolonged and often violent, leading to the destruction of property and significant loss of human lives (Szegal & Andras 2011: 10). Such protracted deep-rooted social conflicts are supposedly endemic to Africa (Ahenda 2008: 102). Azar (1986: 28), in linking them to human needs, suggests that when a groups' identity is frustrated or threatened or its basic human needs are not addressed by the state, there is a likelihood of conflict. Inevitably, the tension between the state and the identity group then prevails due to the opposing interests of both parties (Peleg 2002: 38). According to Azar (1986: 28), protracted social conflicts (PSCs) are likely to have countries' political elites as their source and state institutions as

their solutions. Moreover, he sees PSCs as, historical or previously hostile interactions between identity groups in situations involving scarce resources and unmet needs.

Furthermore, Azar (1990: 10-12) argues that the sources and solutions of deep-rooted social conflict rest squarely with the state and not across state borders. The role of the state is to either satisfy or frustrate (for example, by denying certain identity groups' basic needs), thereby preventing or promoting conflict (Ibid.). According to Azar's argument, identity groups continually suffer prolonged victimhood because of systematic deprivation of their basic human needs. Such 'victim' identity groups, in Peleg's (2002: 38) view, develop aspirations to rehabilitate their rights that are being abused by unfair structures. Their frustrations are then subsequently processed into a powerful system of protracted, deep-rooted victimisation, radicalisation and violence against the perceived opponent (Peleg 2002: 39). Peleg specifies that social differences come to the fore when identity groups are turned into long-term victims of unjust government structures (Ibid.). Failure, therefore, by the state to satisfy basic human needs retards the nation-building process, strains the social fabric and breeds fragmentation which over time degenerates into protracted, deep-rooted inter-group conflicts (Peleg 2002: 42).

The PSC conflicts also spring from past hostile historical interactions between conflicting identity groups. Mead (1934: 21) stipulates that one of the clear goals of PSC theory is to recognise that it has a history that can be traced from its socio-historical, economic and cultural contexts to its emergence as manifest violence. Protracted deep-rooted inter-group conflicts thus denote past hostile interactions between communal groups, based on deep-seated ethnic, political, social, religious and cultural hatred that persists over the years, punctuated by sporadic outbreaks of violence (Azar 1986: 31).

The concept of protracted deep-rooted social conflict concept is useful for analysis and mapping of apparently intractable inter-group conflicts, thereby providing the potential for envisioning a transformation model that captures the root causes of conflicts. Azar, and later Burton, also propose conflict resolution strategies for deep-rooted conflicts based on identity needs. Their approaches provide a formidable instrument in analysing the Kenyan post-election violence (PEV) which involved highly politically polarised and balkanised

identity groups with a history of protracted electoral violence. This study intends to investigate the application of BHNs and PSC to the contemporary situation of electoral violence in nascent democracies of Africa and, particularly in Kenya. The BHNs and PSC theories offer valid and valuable insights into the root causes of electoral violence and thus may provide possible means of resolution via a mediation model.

2.6 CAUSES OF ELECTORAL VIOLENCE

Conflicts related to elections should not be viewed as just emerging at election time only. Often, their sources are to be found in the underlying roots of social relations. The United States Foreign Relations for Africa Affairs argued that the underlying causes of anger and division that boil over into electoral violence should be the target of reforms in African states (Sisk 2008: 14). According to Sisk (2008: 4), electoral violence is caused by a variety of variables that include:

Acts or threats of coercion, intimidation, clinging to power, corruption of the electoral management body, fiercely fought electoral competition, resources, lack of political will for fairness, identity cleavages *inter alia*.

Sisk claims that the quest for power by the respective parties breeds the perception that only 'our own can be for us' because being in power means control of state resources and being out of power means denial of access to opportunities (Ibid.).

In the same vein, Ilo-Chun (2006: 08) argues that winning elections and taking over governance in Africa is known to be 'big business' and the highest investment anyone can make. Winning an election in Africa is similar to winning a big lottery and becoming extremely rich (Ibid.). As a result, competition to win elections is often a matter of 'life and death.' The political parties, especially that of the incumbent, therefore, may engage in the improper use of public resources in order to influence and control the electoral playing field in their favour (Schulz-Herzenberg, Aling'o & Gatimu 2015: 6).

As Ademola (2008: 55) points out:

Among the factors that make political violence possible and indeed likely are deepening poverty, unemployment, hunger, retrenchment resulting from

privatisation of the people's property, manipulation of ethnic loyalties, and attempts to rig future elections.

When an electoral process becomes conflictive or violent, its function as an umpire for social decision-making is damaged (Fischer 2002: 8). To seek a means of resolution, the root causes and the interests at play must be identified and explored.

Ilona (2008: 3) contends that all too often election-related conflict is seen as a "stand alone" or isolated occurrence, whereas it has its historical backgrounds, origins and experiences. Therefore, an election may provide an opportunity for conflict to emerge and intensify, possibly prompting resolution by the government. However, before such conflicts can be resolved and transformed the root causes need to be unearthed and articulated so as to inform the appropriate conflict management strategies.

Generally, the root causes of electoral violence are multifaceted, and can, therefore, be divided into a variety of variables and categories. For example, Adolfo (2012: 1), from the Nordic Africa Institute (NAI) has identified two broad factors as root causes of electoral violence. First, he delineates the structural factors associated with the underlying power and supremacy arrangements, such as exclusionary policies, socio-economic disparities, and a precarious personality clinging to power or losing legitimacy. Secondly, he identifies factors related to the electoral process and the electoral contest itself, such as unsuccessful or flawed polls, voting fraud, and frail or partial institutions lacking in democratic ideals.

EISA (2002: 38), on the other hand, identifies a range of eight sources of electoral violence.²² The causes of electoral violence are grouped into scarcity of resources, cultural practices, ideologies or religion, structural imbalances, ambiguity, differing goals, co-ordination, information access and interpersonal relations. This study will explore

²²For further and more elaborate reading find EISA (Electoral Institute of Southern Africa) that also mentions these sources of conflict. Other sources of conflicts are found in Anstey, M., 2006. *Managing Change: Negotiating Conflict*. Cape Town: Juta and Company Ltd.

these mooted causes of electoral violence in terms of Kenya's electoral violence environment.

2.6.1 Cultures and values

Cultural practices, ideologies or religion are often factors related to personal convictions and belief systems. Belief systems play a role in deep-rooted conflicts as manifested in protracted violence-and particularly when members of a cultural group experience what they perceive as marginalisation. Differing world views may also be initiators of electoral violence. One group's most fundamental and cherished assumptions about the best way to live may differ radically from the values held by another group (Pearce & Littlejohn 1997: 49). Parties may have different measures of rightness and goodness and give fundamentally different answers to serious moral questions (Otomar & Wehr 2002: 41). Owing to their differing worldviews, coupled with cultural values, beliefs and divergent socialisation, people may cultivate fundamentally dissimilar ideas that have incompatible objectives. In such situations conflict may arise.

The relationship between values, ethics, practices and patterns of thinking, including the language of a particular group, may constitute its moral order. Members of a social group learn to socialise and to centre their judgements on values and procedures fundamental to their own common culture (Kimmel 2000: 456). Their sets of meanings through which they understand their experiences and make judgements stem from their moral order which determines what is important and of value (Pearce & Littlejohn 1997: 51). Culture, therefore, has a lot to do with who is elected and who is not, as viewed through the 'glass' of voters' cultural values.

Social reality dictates what counts as the appropriate action and sets boundaries on what people are able to do (Pearce & Littlejohn 1997: 54). The social reality around the identity group determines why they vote for which political party and when. It affects the way in which emotions are labelled, understood, and acted upon during campaigns. Thus, an individual's beliefs, sayings, and actions must be understood within the context of a particular social world (Ibid.).

People from the same culture have more or less equivalent realities and mind-sets. However, when two or more identity groups from different political parties must interact without a shared culture and common norms of communication and behavioural expectations, they often clash (Kimmel 2000: 456). Each party may believe that its ways of doing things and thinking about things is the best way and come to regard other ways of thinking and acting as inferior, strange, or morally wrong (Kimmel 2000: 456). Thus, ethnic groups may clash during campaigns over an opponent's perceived immoral actions.

Moral conflict may take place when disputants are acting within diverse social worlds, according to different meanings (Pearce & Littlejohn 1997: 55). When two groups have radically different ways of making sense of human life, it is likely that actions regarded by one side as good and prudent will be perceived by the other as evil or foolish (Pearce & Littlejohn 1997: 50). In effect, an action that one moral order and value system conclude as perfectly acceptable may be regarded as an abomination by a different moral order. Human beings find it difficult to negotiate or compromise their values. Indeed, if the basic substantive issues of the conflict are deeply embedded in the participants' moral orders, these issues are likely to be intractable as they may not be negotiable (Pearce & Littlejohn 1997; Bradshaw 2008).

2.6.2 Access to Data

Access to information is key to power (Anstey 2002: 37). Access to information enables some groupings, institutions or political parties to have access to facts and political moves both on the ground and internationally. Access to certain information enables political parties to use such information to strategise and focus their campaigns. Incumbents in power may choose to hinder the transfer of certain information to opposition parties and citizens so as to maintain the status quo (Ochieng 2012: 55). For example, both Moi, former president of Kenya, and Yoweri, president of Uganda, withheld notification of the election date and announced it on a day of their choice (Ochieng 2012: 55). However, if there is no access to information, on an equal basis, for an equal election competition and on an equal playing ground, emotions that later turn to violence may rise.

Other data-based conflicts may occur as a result of the media choosing to give more coverage to one political party than another. Biased media coverage is common in the run-up to elections, where an asymmetrical imbalance of media coverage regarding the political activities and ideologies of certain parties take place (Ochieng 2012: 77). In this way, exacerbated tensions may arise between the rival political parties and the electorate over biased coverage. Examples of data-based electoral violence due to biased media coverage occurred in Algeria in 1992, in Angola in 1992, in Ivory Coast between Gbagbo and Ouattara in 2011 and, in Uganda in 2008 between Museveni and Besigye, when the media sided with the incumbent governments (Ochieng 2012: 65). The Media bias may also lead to protests and violence around election time.

Other data-based conflicts may be due to underdevelopment in certain African countries. In the modern world, most information is relayed through the social media, often, with an immediate impact on and reaction from the populace. Social media may also serve as a source of mobilisation for votes for candidates (Ibid.). However, in many parts of rural Africa, there may be limited access to the new technologies as they require a reliable supply of electricity and access to the internet.

2.6.3 Identity/ethnic group

Ethnicity relates to the distinguishable characteristics of a certain group of people, sharing among others, a geographic proximity and area and with shared perceptions of mutual origins, language, culture, historic memories (Esman 2004: 30-40). Schermerhorn (1970: 10) defines the process of ethnic identity formation as a subset of individuals within a larger society having real or purported common ancestry or origins, memories of a mutual historical past, and a cultural emphasis on one or more symbolic features accepted as the embodiment of their nationhood or people-hood. Examples of such symbolic elements include kinship patterns, physical contiguity (as in localism or regionalism), religious affiliation, language or dialect forms, tribal affiliation, nationality, pheno-typical features, or any combination of these, together with some consciousness of identity among members of the group (Schermerhorn 1970: 12). These shared characteristics often make them distinct from other groups in terms of language and culture.

Ethnicity thrives through socialisation by group members and is thereby known to influence behaviour, values, and the psychological functioning of individuals. This ethnicity may determine election patterns with particular political parties favoured in order to secure the group's perceived identity and consolidate it (Thomas & Schwarzbaum 2011: 23). Ethnic groups, therefore, tend to vote for and support political parties they perceive as representing their identity or candidates they perceive as having their identity group at heart (Ibid.). But electoral violence may also become ethnically focused when one or more ethnic groups perceive their identities to be at risk because of a rival group's actions (Schermerhorn 1970: 56). Ethnic conflict occurs when people perceive their identity to be targeted or when people view the repressive state as an obstacle to their achieving their ends (Schermerhorn 1970: 66). When aggressive reactions turn into a large-scale undertaking, the ethnic conflict becomes internationalised as a civil war. The internationalisation of ethnic conflict over elections could involve both regional and international actors.²³

Africa has experienced rampant, frequent and severe electoral ethnic conflicts at pre-election, during election time and in the post-election period. Okwudiba (2000), attributes such antagonisms to the colonial ethnic leadership style of 'divide and rule.' According to his ideological stance, the colonialists created a bitter rivalry between the ethnic groups, arbitrarily creating boundaries and imposing cultural differences. As a result, it has been difficult for African states to deal with electoral ethnic conflicts as the old divisions repeatedly reappear (Mahoso 2010; Ochieng 2012).²⁴ In analysing causes of ethnicity in Africa, some scholars (Taras & Ganguly 2002; Clapham 1985; Shillington 1989), blame the legacy of colonialism, positing that ethnic groups had previously lived as nations with

²³ The signs of an internationalised ethnic conflict over elections become known through media, internally displaced persons, deaths, injuries, and refugee flows *inter alia*. For example, the cases of, Ivory Coast, Nigeria, Ethiopia, Burundi and Kenya became internationalised. Internationalisation arises not only when ethnic groups fight each other, but also when the state suppresses and oppresses certain ethnic groups within its state and this has a spill-over effect where it is perceived as a threat to security in the neighbouring states, the region and/or the international community (Walt, 1992: 321-368). Intrastate ethnic insecurity about elections directly impacts on regional and international security. The Ethiopian and Kenyan election violence had a spill over of refugees into other states of Tanzania, Uganda and Europe (Ochieng 2012: 72). Internationalised election conflicts may have foreign powers becoming involved due to the fear of ethnic cleansing and genocide, and the potential of mass migration of refugees to neighbouring countries that may affect the politics of the region as seen in Central African Republic (2013 ongoing). Refugees may contribute to the development of the host state with their talents and skills, but they may also impact negatively on the politics of the region and the development of the host country. Some refugees in Kenya have been known to work with Al Shabaab to terrorise and murder Kenyans in their host state.²³ At times ethnic groups may seek foreign powers' protection, as happened in Liberia in 1989-2003 where the indigenous groups fought the free slaves. The free slaves sought protection from the United Nations and the United States of America.

²⁴ See also other scholars with similar thoughts (Amoo 1997; Rodney 1972; Dumont 1966; Nugent, 2004; and Meredith 2005).

disparities in customs, such as dressing, housing and religious practices. Furthermore, economic and political power benefitted from competitions and conflicts, which did not occur 'because they were of different 'tribes'. Shillington (1989: 356), for example, asserts that the colonial authorities invented 'tribalism.'

Recent studies (Gona, George, Wa-Mungai & Mbugua 2014; Burnell, Randall and Rakner 2014; Ochieng 2012; Suleiman 2010; Adjibolosoo 2001) show that contemporary political elites are using similar tactics of 'divide and rule' so as to accentuate division among ethnic identities for political gains. To this end, the political elites have overemphasised ethnic identity in a bid to divide and rule, such that ethnicity has now been institutionalised in a number of states, as seen in Cameroon, Nigeria, Burundi, Kenya, Uganda, Ethiopia and Eritrea (Ochieng 2012: 66).

Despite substantial progress towards an understanding of the relationship between ethnicity and civil war, important theoretical and empirical gaps remain in relating ethnicity to electoral violence. Existing explanations are either too distal or so proximate that it is difficult to separate notions of tribal conflict and ethnic electoral hostilities (Lieberman & Singh 2011: 2). Furthermore, McKay (1982: 34), challenges the implication that ethnic identities are necessarily conflictual and asks why ethnic relations are peaceful in some instances but conflictual in others.

According to Cliffort (1973), ethnic conflicts are a result of 'ancient hatreds' between ethnic groups who experience frustration and relative deprivation derived from intergroup connections.²⁵ The historical frustrations are perceived as stemming from perceptions of relative deprivation as identity groups compare themselves economically to other groups in the same society. The deprivations sometimes emanate from governments' exclusivist administration and distribution of resources (IFES 2012: 6). Marginalisation threatens

²⁵ Ted Robert Gurr refers to relative deprivation (RD) as 'the tension that develops from a discrepancy between the 'ought' and the 'is' of collective value satisfaction, and this disposes men to violence' (1971: 23). According to the definition provided by Gurr, relative deprivation refers to the discrepancies between what people want, their value expectations, and what they actually gain, that is, their value accruing capabilities. Gurr states that, 'the intensity of relative deprivation varies strongly in terms of the average degree of perceived discrepancy between value expectation and value capabilities'. He contends that people are more likely to revolt when they lose hope of attaining their societal values, and that intensity of discontent/frustration '[varies] with the severity of depression and inflation' (1971: 87). Ethnicity, Gurr asserts, 'is the obvious basis for mobilizing oppositions' against the state (Ibid.). Gurr further states that, the higher the degree of frustration, the greater the political instability.

group identity and group values, therefore, this becomes the basis of a motivation to fight and die for one's group.

Above all, attention must be given to Annan's (2013) caution, in a speech at the Global Pluralism Centre that the world must recognise that plural societies, by their very nature, are challenging to govern. Plural societies bring with them competing claims or entitlements, each of which can be justified and defended, but which are not compatible (ibid.). They thus need the political will to tolerate each other's' ideologies.

The above survey of the literature on ethnicity captures a number of the important features of electoral ethnic conflicts, including an attempt to understand the logic behind such conflicts. The theories provide insights into the relation between ethnicity and conflicts in general and the causes of electoral violence. However, the literature pointing to theoretical connections to ethnicity, electoral violence and mediation is inadequate. No positive theory links processes involving democratic transitions and violence. Thus, this study seeks to understand the causal links between social identity, violence and the democratic vote in highly polarised pluralistic ethno-political situations in Africa. The aim is to find ways to bridge the identified gap in the literature, via an in-depth exploration of the Kenyan case of 2007/2008. The study seeks to investigate whether marginalisation and deprivation of certain ethnic groups by the incumbent government can be a cause of electoral violence. This study sets out to find answers to these and other pertinent questions from the perspectives of mediators, negotiators and the citizens.

2.6.4 Interest

Interests refer to desires or goals (Maiese 2012: 1). In a conflict situation interests and goals constitute the things that people want to achieve. Focusing on interests to uncover hidden problems and allow identification of issues-of most concern. Ury, Jeannie, and Goldberg (2013: 432) maintain that focusing on interests can resolve the problems underlying a dispute more effectively than focusing on rights or power. Interests motivate people to aspire to particular goals, the fulfilment of which can generate a unique satisfaction. Satisfied interests make relationships better while unsatisfied interests

generate aggression where aggrieved parties tend to resort to power contests (Ochieng 2012: 34). Ochieng maintains that what is visible in a conflict are the triggers and that people's interests remain hidden in the underlying causes of conflict. In a conflict, it is important that conflicting parties are enabled to articulate their interests clearly as the reconciliation of interests tends to generate a higher level of mutual satisfaction, better relationships, and lower transaction costs than resorting to rights' demands or power contests. In this respect, almost all disputes have negotiable interests (Fisher & Ury 1981; Fisher, Ury & Patton 2011). Hence, it is imperative to separate power positions from interests during negotiations. Participants need to articulate the underlying issues beyond the power positions (Ibid.). In this way, conflicts can be more easily resolved. In electoral violence especially, it is important in resolving the conflict to discover the underlying interests behind and beyond the political positions protagonists hold.

2.6.5 Structural

According to Galtung (1970) "structural violence" is a consequence of unjust governmental policies committed through defective and unfair organisation of a community. Such policies make it chronically difficult for citizens to receive proper goods and services as they emphasise conflicts and warfare, generate social problems, and exacerbate the extent of poverty and social suffering (Cohen 2012: 4).²⁶

Structural violence, Galtung argues, includes legislation that directly or indirectly dehumanises some or all of the population, moreover, it advocates unequal distribution of power and resources and subsequently results in unequal life chances (1970: 44). These oppressive structures can cause psychological, mental and physical suffering. Structural violence has been identified as one of the main causes of electoral upheaval (Lieberman & Singh 2011: 2). The types of structures seen as violence generating include ambiguous policies and weak institutions which result in widespread poverty and scarce resources.

²⁶ Common goods typically mean a recognized collective policy by a government for the provision of generally shared tangible goods such as *inter alia* infrastructure, healthcare, education that satisfy and sustain human life, needs, rights of persons and all that societies require to survive, flourish and find identity (Corey 2008: 15).

2.6.5.1 *Ambiguous policies and rules*

Ambiguity as a factor results in uncertainty as to what the rules of the game are. Ambiguity is evident, in particular, in countries in transition or where the laws are outdated in some of the weak emerging democracies (Lieberman & Singh 2011: 4). Without the proper rule of law, and ambiguity as to how to select or appoint the EMB or how to conduct the voting process, elections are likely to become conflictual (Ibid.). In weak and undemocratic political organisations, a president in power may single-handedly appoint the electoral commissioners as was the case in Kenya in 2007 (Mwagiru 2008: 113).

Ambiguity in the rule of law with regard to the selection criteria for EMB members leads to confusion, thus creating opportunities for unrest and tension. Burundi is a case in point where, prior to the democratic elections held in 2010 after the assassination of the president, tension arose between ethnic groups and political organisations as the rule of law failed to clear the ambiguity on how EMBs were to be appointed and by whom (Lieberman & Singh 2011: 6). Differing priorities on different issues will often occur when ambiguity exists between opposing parties viewing simple electoral tasks such as voter registration and ballot papers printing procedures differently (Ochieng 2012: 35).

2.6.5.2 *Poverty*

The United Nations Development Programme (UNDP) Lesotho (2011: 1) defines poverty as a state of deprivation where groups or people or individuals lack the most basic necessities and opportunities that are fundamental to human existence. According to Herbel (2004: 24), poverty is the condition and situation whereby the individual is not able to meet the basic necessities of life. UNDP (2011: 1) distinguishes between absolute poverty and relative poverty, the former occurs when an individual or groups of people are denied basic necessities that would enable them security to source the minimum basic human needs for survival. Relative poverty is the denial of equal opportunities, resulting in one group falling below a measured standard of living (Ibid.). Disparities in degrees of income, lack of access to basic social amenities and government services are all symptoms of 'relative poverty'.

Conflicts in Africa have frequently been related to poverty, for example, Ochieng (2012: 87) argues that poverty is one of the main causes of electoral violence as poverty exacerbates manipulation, particularly of the unemployed youth. Hence, an individual exposed to hardships engendered by poverty is more likely to engage in electoral violence than a rich person. When economic hardship becomes unbearable, the propensity for violence increases, and an “army of unemployed youth” becomes an easily accessible tool for electoral violence (Ochieng 2012: 88). Ochieng’s argument is analogous to Snodgrass’s (2005) argument that factors such as poverty and scarce resources can easily become the causes of conflict.

The Electoral Institute for Sustainable Democracy in Africa (EISA) (2002: 39) points to a scarcity of resources in parts of Africa, with desperate people competing for *inter alia* land, access to water and medical care. Lack of resources could also be due to structural imbalances and inequalities in control and distribution of state resources. For example, according to Njagi (2009: 55), lack of resources and poverty were the causes of electoral violence in Liberia in 2005.

Land and poverty are powerful sources of conflict, especially in cases of structural violence involving misappropriation of land, including land-grabbing (Ibid.). According to Sewanyana (2002: 44), in Uganda land has always bred conflict at all levels of society, whether within the family, the community or the state. In some states, state land is given to politicians who are in power (Ibid.). An imperialistic approach to land acquisition, often becomes a point of dispute between the state and weak communities that are being exploited. The imperialistic approach results in land grabbing, land fragmentation and land conflicts. For example, according to Staniland (2013: 9) land used as a crucial patronage tool led to electoral violence in Zimbabwe in 2002 and Cote D’Ivoire in 2010. Land issue will be explored to find out if it contributed to Kenya’s electoral violence 2007-2008.

2.6.5.3 Economic inequalities

Economic inequalities, though a world phenomenon, have seen the gap between rich and poor in Africa widen in the 21st century. For example, in 1999, Algerian youth, demanded

social justice, rejecting the political system with its wealthy elites amidst the increasing gap between rich and poor (Zoubir 1999: 123). This study aims to give consideration to how this issue of economic disparity relates to electoral violence in Kenya.²⁷

Gurr's (1970: 23) focuses on economic inequalities in society causing relative deprivation and shows how a substantial gap between a groups' expectations and the realities of a struggle to survive in parlous economic environments can fuel conflict. Relative deprivation feelings are more likely when the poor in their daily lives are obliged to compare themselves to the rich. When no solutions to these disparities seem apparent, frustration that may turn into aggressive energies leading to conflicts eventually sets in (Ibid.).

Gurr's relative deprivation theory has, however, been criticised since not all people who become frustrated turn aggressive. A significant relationship between frustrations and aggressions is unproven because not all people who are frustrated become aggressive, indeed some withdraw and yet others avoid aggressive behaviour (Fearon & Laitin 2008: 89). Nonetheless, evident inequalities can be used, among other structural conditions, to mobilise people who perceive themselves as unfairly deprived. For example, such struggles around economic empowerment are identified in Timmers' (2012) study of the causal factors of election violence in Zimbabwe in 2008 where one of the main causes of violence was related to socio-economic inequality.

2.6.5.4 Weak institutions and balance of power

The balance of power in a country is a delicate feature that can be affected by political issues, such as electoral processes which are a relatively new phenomenon in African states (Adolfo 2012: 1). Electoral processes have often stressed the value of transitions in democracy taking place during the so-called 'Third Wave' of democratisation (Huntington, 1993: 3). During this time, democratic institutions and procedures, including elections, have been introduced or reinforced. However, underlying structures of power

²⁷ Economic inequalities include access to and ownership of financial, human, natural resource-based and social assets. They also include inequalities in income levels and employment opportunities (Stewart 2008: 34).

in society and norms governing political systems and institutions have often not yet been transformed (Adolfo 2012: 1). Ironically, the task of democratising their countries has often been left in the hands of bad governance and leadership. Thus, a culture of impunity has developed, making rules, conventions and constitutions easily malleable to suit political interests (Ibid.). Maintaining a balance of power can then become a thing of the past in such communities. Yet, power can still be balanced – but only if and when laws and rules governing the country are sound and are adhered to (Ibid.). These laws must clearly stipulate the separate functions of political and government institutions as they are meant to serve a country's citizens (Stromberg 2000: 52).

Electoral violence has been linked to weak and prejudiced institutions. A reliable and objective election management body (EMB), an even-handed executive and an effective, impartial and efficient legal system are lacking in many weak democracies in Africa (Ibid.). Institutions have been compared in relation to conflicts and democratic transitions. According to Wiberg and Scherrer (1999: 113) weak or failed institutions are the fundamental cause of a country's under-development, instability, and tendency to be conflict prone. They point out that with strong and stable democratic institutions it is possible for a state's economic development to progress with fewer overt conflicts, while states with weak institutions often experience underdevelopment and direct violence (Ibid.).

To attain prosperity and a mature democracy a country needs to accumulate physical and human capital, and to create and adopt appropriate technology. Technological progress tends to be determined by the incentives that stem from stable rule of law in an independent institutionalised environment (Acemoglu & Simon 2006: 393). Adam Smith (1755, cited in Adam 2004: 235) stressed the adverse effects of weak or failed institutions, and argued that:

Little else is requisite to carry a state to the highest degree of opulence from the lowest barbarism...but peace, through independent and working institutions...

Herbst (2000: 512) links conflictual chaos, ineffectual state polities and political instability in certain African states to their dysfunctional state institutions. Why? one may ask, do

some states in Africa seem so ineffective, and so incapable of achieving what they are supposed to achieve. Why do bad policies, corruption, and venality flourish? Why are there so many democratic transition conflicts in African states? Herbst (2000) attempts to provide answers to these interrogations by exploring how Africa is plagued by “state institutional failure.” A state is meant to provide certain public services and benefits, such as justice, law, security, defence, order, contract enforcement and infrastructure. Yet, in Africa most states provide very few of these. They are unable to exercise control over much of their territory as they share it with non-state actors such as militia groups, terrorists, gangs, or guerrilla groups (Ibid.). They also do not provide adequate order or access to public goods. Herbst’s analysis of these situations probes reasons for state “failure,” and “collapse” such as occurred in Somalia due to weak and failed institutions (Ibid.).

Among the institutions that are believed to have failed African states, particularly during democratic transitions, thereby causing electoral violence, are the election management bodies (EMBs). For some time, there were dominant authoritative one-political-party-states in Africa where politics, institutions and socio-economic issues were often not differentiated (Barratt & Berge 2007: 16). As a result, opposition politics was denigrated and often suffered physical abuse, for example, via political assassinations and the silencing of dissenting voices (Ibid.). The socio-economic and political benefits of democracy were not fully appreciated or realised among the general populace. Electoral management bodies were puppets of the incumbent rulers after handpicked appointments to such positions (Fossungu 2013: 192). Under such structurally grounded constraints, the stakes at voting time became high and electoral contests tended to be perceived as a zero-sum game (Ibid.).

The trend of autocratic repressive regimes has continued in many African states, even after the dawn of multiparty systems. Winning an election in Africa may be an instance of survival for the contending parties, as well as their ethnic supporters. However, the contentious tension and environment depend very much on the EMB’s ability to be impartial, fair, just and independent. The EMBs are largely responsible for controlling and curtailing the risks of electoral violence during pre-election, voting day and post-election

periods (Fossungu 2013: 193). Stakes are higher in situations where there is close political competition between main parties (Adolfo 2012: 2). As a consequence, the incumbent party is tempted to plot and manipulate the outcome of elections using certain influences within the EMBs.

In Africa, some of the conflicts and violence that occur around elections are the result of a breakdown in the electoral process, as a result of political actors adopting the 'old' attitude of 'win at all costs' (Cyllah 2014: 7). The mismanagement during the electoral process creates tension that often erupts into violence. Electoral violence can either be random or 'strategised' (Ibid.). The conflicts, according to Cyllah, can be attributed to the poor management of the EMBs, and also to electoral corruption, electoral rigging, and electoral manipulation in favour of certain candidates. The opposition may at this time resort to illicit use of supporter youth wings, militias or the general population in the struggle for justice and to bolster their post-election bargaining position (Adolfo 2012: 1). Adolfo observes that the situation is worsened by deficiencies in the handling of electoral disputes.

Electoral violence has been hailed as important avenues through which the marginalised groups can make demands for change in the face of flawed elections (Engberg & Ersson 1999: 2). Through such disputes, the electorate can stand up to the ruling incumbency and insist that election management does the job of an impartial umpire (Ibid.). Disputes are not a problem *per se*, it is when the structural violence turns overt, destructive and fatal that the real problem becomes evident. The management of these disputes, thus, calls for a concerted effort to identify the root causes.

This chapter reviewed various scholarly works on the causes of electoral violence in Africa. The causes reveal electoral violence has various multi-dimensional and multi-layered causes. However, no adequately researched and documented inquiry into recurring election violence of an intractable nature, with an aim of developing a resolute model has yet been attempted. Rather, election violence has been studied in terms of a phenomenon involving instantaneous events.

Secondly, emerging literature related to electoral violence focuses on Asia and Latin America rather than on Africa. Those on Africa that are relevant include Lieberman & Singh (2011); Sisk (2008); Høglund (2008); Okwudiba (2000) and Ochieng (2012) who have analysed the effect of ethnic and identity divides on regime change in Africa. Another study by Lindberg (2003) examines the connection between elections and the government distribution of scarce resources in Africa, the findings show that scarce resources and unjust distribution increase the chances of electoral violence. This study aims at finding more causes of electoral violence from a study of Kenya's 2007-2008 post-election violence. In all the available research on political and election violence, there has been little focus on protracted electoral violence in a politically polarised multi-ethnic society with an aim of developing a framework for mediating such conflicts in Africa. Furthermore, although there are analyses of Africa's democratic challenges by Lindberg (2006), Bratton (2010) and Strauss and Taylor (2012) who all utilised quantitative methods in their studies, studies on electoral violence in Africa lack strong empirical qualitative studies (Oduro 2012 and Smith 2012).

2.7 CONCLUSION

The chapter has explored the definition and meaning of electoral violence. The forms of violence identified by Galtung (1967) were critically analysed. Fundamental principles grounding the nature of election violence was discussed, revealing that election violence fits neatly into the description of the 'new wars' in contemporary Africa as advanced by Kaldor and Rice.

Electoral violence as noted from the study has several actors who include official opposition supporters or incumbent elites fighting over power and control close to election time. It was also established that electoral violence occurs within a cycle comprising either pre-election, during election or post-election periods. There are those countries that only experience electoral violence during the pre-election periods while in others, electoral violence takes place during voting. A few countries such as Zimbabwe, Nigeria, Kenya and Madagascar have cyclic election violence each election year with violent conflicts orchestrated in all the periods of the electoral cycle. Considerations of the timing of these

outbreaks of electoral violence are important for conflict managers so as to mitigate the situation accordingly. The theory on basic human needs and its role as a source of electoral violence, as well as the protraction of deep-rooted conflicts in Africa, were determined, thereby, placing the protraction and causes of electoral violence in the field of conflict management as posited by Burton and Azar. The causes of electoral violence were found to be multi-faceted and multi-layered.

CHAPTER THREE

MEDIATION AND REFORMS

3.1 INTRODUCTION

This chapter provides a critical review of the scholarly works relevant to mediation as a conflict management approach in managing electoral violence. The chapter will therefore synthesis significant work for understanding mediation and its relevant theories. The chapter is divided into eight sections. Section one critically defines and discusses the characteristics of mediation. Section two outlines the main types of mediation. Section three critically discusses measuring mediation success and failure. The role of mediation in electoral violence is critically assessed in section four. The role of the African Union as a mediator is discussed in section five. Section six deliberates on the mediation models for solving electoral violence. Section seven examines the mediation process. Lastly, the peacebuilding process and reforms that follows a successful mediation are critically discussed.

3.2 MEDIATION: DEFINITION AND CHARACTERISTICS

Narratives about handling conflicts and the art of managing them have been recorded throughout the history of every nation, ethnic group and human society. Mediation has been used to resolve conflicts and restore peace. It is for this reason that the United Nations (UN) in 2011 endorsed the notion of mediation, as noted in the UN Charter (UN Charter 1945, art VI, 33). Following this endorsement of mediation as a primary means of settling disputes, in 2012 the UN Secretary General issued a report on the continued strengthening of mediation and its role in the peaceful settlement of conflicts and their prevention (Giuseppe 2014: 13).

Just as in ancient times, mediation has been utilised in modern times, coupled with the UN mandate on mediation, to transform conflicts whose orbits ranged from international to interstate, intrastate and family grouping. Electoral violence, as one of the conflicts experienced in Africa, has obligated the use of mediation to bring peace between and among contending parties.

In cases of intractable electoral violence, it is important to note that mediation has not always worked or ended in an agreement. In some cases, mediation failed while in others it succeeded and transformed the conflict, subsequently establishing its ability to overcome other intractable election related violence. For this reason, mediation as a conflict management tool in the context of conflict management and resolution processes is increasingly being used to reinforce democratisation and transition to democratic rule, as well as to promote good governance.

Due to its wide use from family conflict to international conflicts, mediation has acquired a range of definitions. This study adopts Bercovitch and Houston's definition of mediation as "a reactive process of conflict management whereby parties seek the assistance of or accept an offer of help from an individual, group, organisation or regional body to change their behaviour, settle their conflict, or resolve their problem without resorting to physical violence or invoking the authority of law" (Bercovitch & Houston 1996: 13). This definition has been adopted because it is broad and incorporates both voluntary outsourcing of both mediation and coercive mediation. It similarly incorporates the varied ranges of mediation typologies from facilitation to use of 'carrot-and-stick' approaches.²⁸

African intra-state mediation of electoral violence has been mainly coerced mediation due to the nature of the violence and the political disputants (Bellamy 2014: 1). Mediating electoral violence has been an obligation of neighbouring states, regional bodies and the UN in a bid to sustain peace, together with the 2005 responsibility to protect the (R2P) mandate of the UN (Bellamy 2014: 1).²⁹

Mediation entails negotiation. There can be no mediation without negotiation as mediation is a facilitated form of negotiation (Zartman 2000: 225). In the case of electoral violence,

²⁸ This is the characterisation of use of both rewards known as 'carrot' and threats of punishment known as 'stick' to induce cooperation between disputing parties to reach a settlement. This trend towards the use of 'carrot and stick' is not only common in mediation but has also been observed in legal systems and social control mechanisms. The debate over the use of 'carrot and stick' has been furthered in the book *The Rise of Carrots and The Decline of Sticks* By Geest, G. and Mattiacci, G., 2014. Washington, D.C. Washington University School of Law.

²⁹ Responsibility to protect (R2P) is a principle adopted by the UN general assembly in 2005 in the aftermath of devastating genocides such as those in Rwanda, Srebrenica, Kosovo, and the German Nazi holocaust. R2P holds that any sovereign state has the R2P their own population from four crimes of genocide namely, war crimes, ethnic cleansing, racial cleansing and crimes against humanity. It requires that other states assist each other if others lack the capacity either physical, or political will to do so. The international community is supposed to respond timeously and decisively using diplomatic, humanitarian and other peaceful means (Bellamy, 2014: 1-2). With the mobilisation of R2P emerged coercive diplomacy and coerced mediated efforts to reach a ceasefire. To read further on R2P see Bellamy A. J. 2014. *Responsibility to Protect: A Defence*. Oxford (UK): Oxford University Press.

mediation means that the disputants decide to resolve their conflicts by agreeing to a negotiation process facilitated by a third party—the mediator. According to Zartman, negotiation is a mutual agreement on a formula for narrating electoral violence issues, identifying mutual perceptions, establishing a criterion of justice and resolving the problems based on the agreed formula (Zartman 1978: 7-11).

Similarly, Zartman and Berman define negotiation around electoral violence as a process in which divergent values are amalgamated into mutually accepted decisions used to improve the structures that create electoral violence (Zartman & Berman 1982: 1-2). In this way, mediation either begins or continues a negotiation process that has reached a stalemate (Ibid.). It seeks to support the political parties to the dispute by identifying solutions to their issues and ending the electoral violence. In the process, mediation aims to narrow the participating parties' divergences, recognise contending goals and move opponents towards accommodating a framework of mutual affiliation where the political parties perceive a constructive future in the outcome (Ibid.). Mediation therefore has certain characteristics that support its emergence as an acceptable approach to conflict resolution. These characteristics include the fact that mediation is a confidential, either formal or informal, and flexible process. It is also a voluntary process whereby mediators try to be impartial and neutral. Most mediators attempt to produce a win-win outcome (Ibid.).

A central characteristic of mediation is the confidentiality that accompanies the process (Spencer & Brogan 2007: 38-39). In Spencer and Brogan's view, there are two levels of confidentiality. Firstly, the mediation process relating to electoral violence in itself is held under strictly confidential terms laid down during the establishment of ground rules (Ibid.). Discussions about sensitive electoral issues remain confidential until the outcome of the agreement is reached and announced. Secondly, the disputants are able to communicate confidentially in caucuses with the mediator (Ibid.). The mediator keeps the information confidential and does not divulge it unless consent has been given by the party providing the information (Ibid.). The mediator ensures that confidentiality is preserved by all participants in the negotiating team (Ibid.).

Mediation, according to Brand (1997: 24), is also informal, flexible and at the same time also a structured process. Brand suggests that, to ensure effectiveness of mediation, parties have to consent as to who should attend or not attend. He asserts that in the course of the process parties can also change their agendas according to what suits them best (Ibid.). This kind of flexibility is a major boost to mediation, making it more politically responsive and less stressful to the political parties involved.

Mediation as an approach to conflict management is characteristically a voluntary process in which the parties freely decide to engage and find solutions to their issues of conflict. Parties that enter mediation freely are usually highly motivated by the process, aiming to achieve an agreement. However, Brand (1997: 3) explains that mediation, in effect, is not always voluntary. The disputants may be coerced or compelled to a negotiation table by a regional body, or the United Nations or other powerful states. However, whether coerced or not, for mediation to progress it has to be voluntary at the initiation stage (Smith 1998: 852).

Finally, mediation should take place without prejudice. Mediators are supposed to be impartial, neutral and independent of the disputing parties (Ibid.). The mediation process should be managed without bias, paying equal attention to all the parties. Some scholars argue that impartial mediators have proven successful in intractable conflicts (Yassine-Hamdan & Pearson 2014: 32). Others posit that intractable conflicts are characterised by deep-seated distrust and require a partial mediator to create trust between the disputants (Bercovitch, Huang & Teng 2008: 5).

3.3 TYPES OF MEDIATION

Mediation is carried out in various styles. The styles, or types of mediation, are the mediator tactics used in managing the mediation process. There are fundamentally as many mediation types and tactics as there are types of conflicts. Types of mediation include a range of tactics mediators use to enable effective communication during interventions, both procedurally and reflectively (Miller, 2009). These approaches range from least coercive to the most coercive. This study will however dwell on the four major

mediation types that the relevant literature covers—namely facilitative, evaluative, manipulative and transformative.

3.3.1 Facilitative mediation.

Facilitative mediation is also known as communication mediation. In this case, a mediator structures a communication process to assist disputants to arrive at a mutually acceptable outcome (Hanna 2003: 64). Hanna stipulates that in facilitative mediation, the mediator focusses particularly on the process aspect of the mediation. The mediator may collect information about the conflict, set the agenda for the negotiation period, organise meetings, communicate intelligibly information between the conflicting factions, ask questions, validate disputants' point of view, identify their interests, and assist them to analyse their alternatives to arrive at the desired outcome. The mediators are thus strictly in charge of the process, while the disputants are in charge of the outcome (Hanna 2003: 65). In this way, the mediator serves as a conduit of communication, both before face-to-face meetings of disputants and later to clarify the issues arising from the negotiations.

In facilitative mediation the mediator creates no solutions nor tries to coerce the parties into accepting what they do not want as the outcome. He instead assists the parties to the conflict to find a solution to the dispute without depending on the intervener but as a result of their own interactions. His main duty is to facilitate the communication process by listening, paraphrasing, and restating issues and responses by using reflexive questions. The mediators in this respect keep parties focused on mutual desires for a resolution of what is important for all the parties. He also keeps track of the issues by summarising them and recording intended outcome options as they are discussed (McDermott & Obar 2012: 12).

When parties to a negotiation reach stalemate (as they sometimes do), the mediator should encourage and push for more openness and honesty, allowing parties to talk directly to each other and openly. He explores negotiation fairness and encourages parties to explore options with each other (McDermott & Obar (2012: 12). As disputants discover an acceptable outcome, the mediator facilitates and assists parties to assess how realistic the agreement is.

Facilitation is a type of mediation tactic at the low end of the coercion and resolution spectrum as the outcome relies on the disputants' negotiated agreement. The mediators' role is more of a passive one but with authority to ensure the progress and facilitate cooperation. According to Bercovitch (2004: 3), the mediator passive role is very important in intractable conflicts as the parties in the conflict will have already lost direct communication channels between and among each other. Besides, he argues, the parties in this regard are able in the course of facilitative mediation to listen to each other and together explore options that may benefit all parties in the conflict. As a result, facilitative mediation is fundamentally perceived as producing disputant satisfaction on both the procedure and the win-win outcome measures (McDermott & Obar (2012: 29).

Even though the facilitative type of mediation potentially gives a win-win outcome, the intractable electoral conflict and violence mediated by the African Union (AU) in Ivory Coast in 2010 failed to explore such options and had to be resolved by force, in the form of a combined army led by the French and Economic Community of West African States (ECOWAS). In contrast, the European Union (EU) - mediated electoral dispute in Ethiopia in 2005 succeeded with a win-win resolution (EU 2012: 5). Reasons for the successes or failures of mediation are discussed later in this chapter.

These facilitative styles are intended to empower the disputants to take responsibility for their own conflict and achieve a resolution (Hanna 2003: 67). However, according to Hanna, these mediation styles may also take too long to accomplish as relating the narratives on the underlying causes of the conflict can take too long. Some conflict mediations end without agreement as they drag on for too long. It is also possible that outcomes may be contrary to standards of fairness as mediators may not be able to assist a weaker party (Ibid.).

3.3.2 Evaluative mediation

Evaluative mediation, sometimes called formulation mediation differs from the facilitative mediator. Hanna (2003: 65) argues that evaluative mediators are mandated by courts and need to have legal skills or expertise related to the area of actual dispute. According to Meyer and Giacomini (2009: 132), an evaluative mediator narrows down topics for

discussion to legal issues—such as contract related matters—and pushes hard for settlement to rebuild relationships. Hanna further states that evaluative mediation works well where existing relationships are already entrenched and the potential for continued relationships is evident, such as in organisations.

In evaluative style of mediation, mediators have the opportunity to offer and propose a solution to the dispute (Bercovitch 2004: 1). They provide legal or technical opinions to the disputing parties, with a view to narrowing the settlement range so that parties to the conflict may find a solution (Hanna 2003: 65). Evaluative mediators opine, challenge, suggest, predict and attempt to influence a party's perception or position (McDermott & Obar 2012: 12). They also explore the best alternative to a negotiated agreement (known as BATNA). Bercovitch explains that the parties are basically passive because the mediator assists the parties to come together and then exerts a certain degree of control over the outcome and the process of the conflict management. In his view, the control is manifested in relation to the logistics, the meeting place, agenda issues, information distribution and the formality of the meetings, controlling the features of collaboration and relations as well as proposing solutions for the outcome (Ibid.).

The mediator may attempt to persuade the parties to accept a particular outcome (Brand, Steadman & Todd 2012: 22). These authors additionally explain that the evaluative style is appropriate where parties are in contention over single issues, such as electoral system disputes. The issue of choice of electoral system may become crucial for disputing political parties in intractable electoral violence as the parties may not have the political will to interact and agree to a more representational system (Bercovitch 2004: 2).

The merits of evaluative mediation in electoral violence are that the process minimises stress and disruption arising from members who have limited knowledge of negotiation procedures. (Bercovitch 2004: 3). One of the main demerits is that it does not address either the underlying forces or the root causes of the conflict. Moreover, the mediator may be perceived as being impartial by one of the parties (Brand, Steadman & Todd 2012: 22). Ultimately, evaluative mediation limits the role of the parties in self-

determination of the outcome and is generally perceived as inherently suspect by either or both parties (Bercovitch 2004: 2).

3.3.3 Manipulative mediation

Manipulative mediation, also known as directive mediation, has been deemed by Bercovitch as the most powerful form of intervention (Bercovitch 2004: 12). This is attributable to the fact that it has one of the strongest positive effects on reaching a successful outcome since both pressure and offers of incentives, both positive and negative, are applied. Pressure is applied by offering each disputant incentives, threats of diplomatic sanctions, promises of support or what is generally called 'carrot and stick' by Bercovitch and Jackson (2009: 8). 'Carrot and stick' in directive strategies take the form of promises of rewards or threats of withdrawals if certain agreements are not made or actions not taken (Bercovitch 2004: 2). In either case, they are significant in getting parties in an intractable conflict to change their values and behaviour.

In this mediation style, Bercovitch (2004) adds, the intervener works hard to outline the content and nature of the ultimate outcome. Mediators threaten the parties to the dispute to overcome deadlock otherwise they will have to take responsibility for additional costs (Pfetsch & Landau 2000; Zartman 1995a). For that reason, the mediators act as potential enforcers of outcomes (Bercovitch & Gartner 2008: 193). Gartner and Bercovitch state that this type of mediation style requires more resources and greater bargaining power to handle intractable hostility, such as electoral violence. When a mediator engages in behaviour sanctioned by manipulative approach to mediation, the parties to the dispute are confronted with new resources or the prospect of losing resources. The mediator resources may change the value they attach to their conflict and produce behaviour that is more in keeping with the requirements of conflict resolution.

Directive strategies are crucial in any intractable conflict (Bercovitch & Gartner 2008: 193). They allow a mediator to break through a cycle of violence by changing the factors influencing the parties' decision making. By making financial or diplomatic support contingent on co-operation, people who are otherwise opposed to a settlement might be persuaded to agree to one. A mediator who manipulates, provides a substantive

contribution to the negotiation as they come with abundant leverage and resources for encouraging parties to resolve the conflict (Ibid.). Barkai (2012) describes them as mediators with 'clout'. 'Clout' here means having strong influence or political power.

3.3.4 Transformative mediation

Transformative mediation is the recent mediation style. It is based on the idea of empowering each of the parties and enhancing their recognition of each other's needs, interests, values and point of view. Its aim is to transform the relationship existing between and among the disputants (Hanna 2003: 65). Unlike other methods that may have high influential international spoilers, transformative mediators meet all the disputants together since only the parties can recognise each other and come up with a mutual liberal solution to their problem (Ibid.). The disputants are encouraged to acknowledge each other's viewpoints. There is realisation and concern for the humanity of others. It is therefore termed as a self-determination and self-reliance process (Ibid.). Transformative mediation also puts pressure on the disputants to come up with a resolution more quickly (Hanna 2003: 66).

3.4 TRACKS OF DIPLOMACY

The increase of election violence in Africa has become a critical challenge in the field of conflict management in terms of the approaches used for its management. Election violence erupts more often in intra-state and takes on the ethnic dimension (Mapendere 2001: 66). Electoral violence has been managed using several approaches of conflict management. In trying to find the best approaches of managing violence and other conflicts, various types of diplomacy have been identified that include track one diplomacy, track two diplomacy, track one and a half diplomacy and the multitrack diplomacy (Ziegler 1984; Diamond & McDonald 1996). This study discusses these tracks of diplomacy.

3.4.1 Track one diplomacy

Track one (T1) diplomacy sometimes known as 'official diplomacy' is an approach with roots in the remote annals of humanity (Mapendere 2001: 67). T1 diplomacy is a formal

approach at the state-to-state level. Hence, T1 diplomacy is an instrument of foreign policy which involves interaction with other states or high ranking official representatives of a state, heads of state, diplomats, ministry of foreign affairs, or other ministries with an aim to influence structures of political power (De Magalhaes 1988: 17). Other than the states, the T1 players also include among others the UN, the Vatican, the regional and economic bodies such as AU, Arab league (AL) and EU. T1 diplomacy has been esteemed as a foreign policy to improve relations among nations. As such, T1 is the primary peacemaking mechanism of many state's foreign policy. The strengths of T1 are numerous but the main ones as summarised by Sanders (1991) and Rothchild (1996) and include, firstly, the ability to influence negotiation outcomes by use of political power. Secondly, third parties in T1 come with financial resources giving leverage during negotiations. On the contrary, T1 can be corrupted by power, thereby, suppressing the identification of the root causes of conflict. The grassroots issues are not addressed because it is headed by elites who are detached from grassroots issues. To this end, T1 has proven ineffective in intrastate conflicts as governments tend to marginalise certain grassroots ethnic groups from negotiations. T1 can be limited to interests of political leaders. Due to the weaknesses T1 has, it has been supplemented by Track two (T2) diplomacy.

3.4.2 Track two diplomacy

Track two diplomacy is unofficial, informal interaction conducted by professional practitioners such as non-governmental organisations (NGOs) and theorists (university academicians) with an aim to develop strategies, influence public opinion, organise resources in ways that can mitigate the conflict (Montville 1991: 162). The mediators engage representatives of groups involved in the conflict. Montville summarises advantages of T2 as an intervention that has the ability to express own viewpoints and issues that affect community and family thereby addressing grass root issues (Ibid.). T2 also yields long-term results with less leverage. However, the T2 is less effective in autocratic regimes where leaders are dictators (Ibid.).

3.4.3 Track one and a half

Track one and a half (T1½) diplomacy is peacemaking as undertaken by eminent personalities or individuals such as Carter former United States (US) president, retired President Nelson Mandela, Desmond Tutu or organisations. It is unofficial interactions between official representatives of states. T1½ is a bridge between track one and track two diplomacy where official and non-official actors engage in conflict management (Mapendere 2001: 69). The interveners in T1½ are not representing any political organisation or institution. T1½ aims to influence attitudinal reforms between and among the parties and subsequently change the political power structure that caused the conflict (Ibid.). As such, the main difference between T1 and T1½ is that the interveners are not representatives of any political institution. T1 has government representatives and representatives of political institutions such as the AU or EU. T1½ differ from T2 in terms of the parties to the mediation process. T2 party's representatives are representatives of conflicting parties, however, T1½ are not necessarily representatives of conflicting parties.

T1½ have reasonable resources which they get through private funding (Mapendere 2001: 71). T1½ complements T1 and T2 by bridging the gaps in T1 and T2. However, T1½ have no political power to command resources limiting their ability to use inducements. The tracks of diplomacy require that one analyses the type of conflict, to effectively discern the best option for the conflict type. Scholars, (Saunders 1991 and Rothchild 1996) argue that T2 can relate to influence T1 or T1½. The tracks of diplomacy can therefore be all used in a single conflict situation as they complement each other (Ibid.).

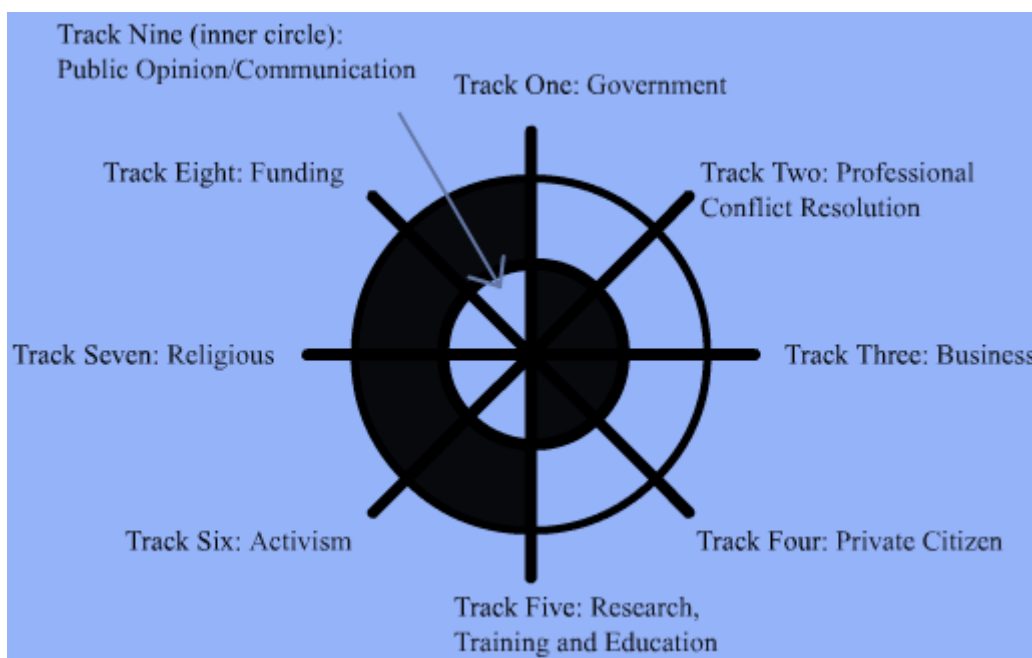
3.4.4 Multi-track diplomacy

Multi-track diplomacy is the living system of international peacemaking process (Young & Goldman 2015: 157). The system was developed by Louise Diamond and John McDonald in 1996. It developed after the track one international peacemaking (that was the only one theorised at that time) developed inefficiencies due its nature of a purely government to government intervention. It could no longer sustain the intra-state 'new

wars' that had emerged after the Cold War. Besides, intra-state conflicts increased and gradually became intractable in the early 1990s making it clearer that track one alone was deficient to secure world peace or resolve all these conflicts (Tanner 2000: 57). The track one diplomacy where one government intervened in another degenerated to government interests. Hence states resolved conflicts according to their interests, those they deemed were of little interest to them were left for annihilation effects such as the Rwandan genocide of 1994.

Electoral violence occurs within a state and depending on external governments interests, it can be difficult for them using track one diplomacy to intervene. Furthermore, in addition to government interventions, there was need for an approach that focused on complex mediation strategies (Naidoo 2002: 87). Thus, the multi-track diplomacy developed involving peacemaking activities of institutions, communities, individuals and their networking for a comprehensive goal. As a result, a multi-track diplomacy facilitates communication in a bid to resolve conflicts by use of all networking at all levels of the populace (McDonald & Diamond 1996: 3). Below is the multi-track diplomacy model developed by the McDonald & Diamond and mediation practitioners.

Figure 6: The tracks of diplomacy



Source: McDonald & Diamond (1996) (IMTD) in Faget Jacques (2011: 15).

Figure 6 shows the nine categories of the tracks of diplomacy. The tracks of diplomacy (ToD) above have been defined as diplomatic initiatives by other states or non-state parties to transform conflict through communicating information, propositioning new resolutions and influencing the crisis directly through the use of carrots and sticks that has the capability to direct the parties and the conflict towards potentially negotiating positions (Bohmelt 2011: 83). Depending on the contexts of conflicts, the multi-track diplomacy can be used differently or in combinations in a complex mediation like electoral violence for peacemaking efforts.

The track three diplomacy (T3) encompasses the business community engaged in peacemaking through commerce. The business world has the potential for peace (Diamond & McDonald 1996: 39). The business relies on stable political environments for business to thrive and for the safety of its employees. Hence they have a say in the peacemaking process. Moreover, the business community can give pressure to a government to resolve political electoral anarchy by directly engaging the government to end the conflict for the sake of the country's economy (Diamond & McDonald 1996: 40). Peacemaking initiatives by the business community can also be in form of interaction with the parliamentarians to discuss approaches to peaceful end of political and electoral violence. They also mediate on how to create symmetry between responsibility and profitability (Mapendere 2005: 76).

Track four diplomacy (T4) is any attempt done by the citizens for peacemaking and peacebuilding through exchange programmes, democracy fostering groups, development programmes, interest groups advocacy, professional groups and voluntary institutions. The track is mostly run by NGOs in their wide ranges from international, regional and local. They work to give the government at the top level the feedback of their failure to bring peace to the ordinary citizens. They seem to carry the voices of the populace from the people's point of view. During the 2008 Kenyan Electoral violence, the citizen diplomacy was one of the best that informed the government, pressured of mediation and informed the mediation process that ended the conflict (Mwangi 2008: 35).

Track five (T5) involves research education and training (IMTD 2004: 1). The academic institutions, research centres, and think tanks are similarly part of this diplomacy category. The track concerns itself with the production and versatility of important information for realistic usage in conflicts (Fromkin 2012: 25). They achieve these through the education of the people, transfer of skills and giving new trends of policies on the field of conflict management. Although it is an educative and research oriented programme, making it a slow process of peacemaking and peacebuilding, nevertheless, it is the foundation stone of the citizen diplomacy (McDonald 1991: 1). The aim is to humanise the enemy, decrease mistrust and antagonism opening the way for other tracks to build sustaining peace (Fisher 1997: 118). In an electoral violence, they would work to prepare ground for actual mediation.

Track six diplomacy (T6) captures peace and environmental activism through advocacy on disarmament, social issues, economic justice, and human rights issues (Fisher 1997: 119). Peacemakers engaged in this track often attempt to modify policies, institutions and attitudes. They generally are oriented towards single topics such human rights by the Human Rights Watch (HRW) and Amnesty International (AI) or corruption by Transparency International (TI). Despite the spread and surge of democracy in the world, there are no specific groups that work specifically for the rights of citizens' voice in elections or safeguard their voices self-determination. This would ensure sane elections and reduce fraudulent elections.

Track seven (T7) diplomacy covers the religious efforts of peacemaking through the activities of religious groups and morality-based activities such as pacifism and non-violence (Fisher 1997: 119). Churches due to their nature majorly work for reconciliation among the conflicting parties with long term activities and act as confidants of the disputants. A good example is the Save Somalia Women and Children Islamic group. This group has been instrumental in peace negotiations and demanding for peaceful elections, women seats in parliament and negotiating for rights of the children in Somalia (Suad & Afsana 2003: 549).

At the centre of funding of communities' activities is track eight diplomacy (T8). The T8 diplomacy include the foundations that provide funding for peacemaking and

peacebuilding (Fisher 1997: 119). These are philanthropists who support peacemaking activities in many of all the other tracks. Examples include the Swisspeace, Worldwide Initiatives for Grantmaker Support (WINGS), and Sydney Peace Foundation (SPF) among others. These philanthropists gauge projects for funding by looking for measurable results within a certain limited time that is two to three years. In electoral violence, this time has been debated as inadequate to timely implement long-term agendas. The timing has been criticised by Baun (2011: 33) as offering too little in such a short time. Baun argues that peacebuilding process is a long term approach that should have a limit of between six to ten years.

Track nine diplomacy (T9) incorporates peacemaking done by communication and shaping the public opinion through media (Fisher 1997: 117). The communication is intended to inform the public and engage them in issues and problems of achieving sustainable peace. The demerit of this track is that the media prefer bad news to good news (Baun 2011: 35). Baun also claims that media has been blamed to fuel electoral violence by biased information mostly favouring the incumbents.

Although the tracks have overlaps among them, the system is at the leading edge of addressing the worlds many conflict challenges. Despite its leading ability in addressing conflicts, Fisher (1997: 119) argues that the multi-track system lacks resources to move flexibly and thoroughly.

The study concludes that the greater the leverage and resources of tracks of diplomacy the higher the success for the mediation. This view is supported by Bohmelt (2011: 84); Diamond and McDonald (1996); Notter and McDonald (1996: 36) and Chigas (2003). Greater resources and leverage determines the successful and effective outcome of mediation and apply more enforcing strategies that transform the electoral conflict and violence setting preventative measures in place (Bohmelt 2011: 84).

Some quantitative research has sought to evaluate the relative effectiveness of different models of mediation. Most find that, broadly speaking, multi-dimensional approaches that involve a range of actors and styles are most effective. This view is supported by Fisher (2007) who argues that a combination of official and unofficial interventions tends to be the most effective approach to addressing intractable ethno-political conflict.

Svensson (2007a) argues that a combination of powerful and biased mediators with pure mediators with diverse strategies is the most effective mediation strategy. A recent study by Beardsley et al (2010:58) found that slightly different outcomes are associated with three broad models of mediation: facilitation, formulation and manipulation. They argue that 'manipulation has the strongest effect on the likelihood of both reaching a formal agreement and contributing to crisis abatement' and that 'facilitation has the greatest influence on increasing the prospects for lasting tension reduction', concluding that 'mediators should use a balance of styles if they are to maximize their overall effectiveness'. A few studies challenge this dominant view. Boehmelt (2010) finds that the 'size of an intervening coalition and mediation effectiveness are characterized by an inverted U-shaped relationship' (they are most effective when they are not too narrow and not too broad), and that a coalition of interveners is likely to be more effective when the mediating actors have a history of co-operation and when they are largely democratic (because this is likely to improve information flows). Beber (2009) finds that multi-party mediation does not appear to be more effective than single-party mediation.

Whether mediation is a complex multiparty mediation or a single mediator process, it is important to note that not all mediated conflicts have ended peacefully nor culminated in agreements. The culmination of mediation agreements is considered a success to mediation. Yet, studies of mediated electoral violence lack consensus on how to measure mediation failure or success. Nevertheless, most of these studies agree that mediation is relevant in securing successful peace.

3.5 MEASURING SUCCESSFULLY MEDIATED ELECTORAL VIOLENCE

According to Nhema, Zeleza and Currey (2008: 1), the wars of a 'third kind' or the 'new wars' have proved challenging to mediators as they are complex with multidimensional causes, involving internal and external actors' (Soderbaum & Tavares 2013; Bercovitch & Jackson 2009), all with distinct interests. Moreover, wars of a third kind are mediated in environments that are hostile, volatile and violent (Carey 2012: 22). Analogous to Carey's view, Walton claims that mediation has increasingly become a sophisticated activity as conflicts have become more complex involving both internal and external actors (Walton 2010: 13). Intra-state electoral violence falls under this type of war. Despite

the fact that mediating electoral violence in Africa has had its successes, as well as minimum achievements, it is not always clear how the success of a mediated electoral violence can be measured.

3.5.1 Measuring the success of mediating electoral violence

It is important to consider how mediation success in intractable electoral violence of wars of a third kind in emerging democracies in Africa is measured. Mediation is primarily used in intractable conflicts which are long drawn out and accompanied by impasse, escalation of costs in resources and a diminishing intention to end the impasse Bercovitch 2011: 1). Debates around successful mediation abound with divergent understandings which reflect the fact that the successful mediation of electoral violence still poses serious conceptual, methodological and theoretical challenges (Bercovitch & Jackson 2009: 45). The definition of success and failure of mediation has recently become more contested in the literature due to lack of clarity of what is involved in the conceptual and procedural assessment of mediation success.

The contestation has tetralogical strands.³⁰ One of the contested issues is from whose perspective success or failure is viewed. Other issues are the criteria for success, the nature of the outcome or achievement (Bercovitch & Jackson 2009: 45-49) and, finally, the relationship between mediation goals. One consideration is whether success is viewed subjectively or objectively. Bercovitch and Jackson categorise success criteria as altering behaviour either subjectively or objectively. On the one hand, subjective criteria refer to disputants' or interveners' views that the aims of mediation have been reached and a desired change has been achieved. Given this perspective, mediation of electoral violence is successful if disputants express satisfaction with the process or outcome of mediation. The outcome in this sense, is seen as fair, efficient or effective (Susskind & Cruickshank 1987; Bercovitch 2009).

Disputant satisfaction as measure of success is also advanced by Pearson and Colby (2006) as well as Shields (2013: 1) who posit that success in mediation is defined by the

³⁰ Tetralogy is a set of four elements, in this case, the four perspectives of peacebuilding (Connolly 2013: 5).

political antagonists ensnared in the electoral violence. For success to be acclaimed, disputing parties need to feel that there is a shift. According to Shields there has to be some change, transformation in the mentality of the disputants and acceptance of the outcome. In this way, Shields' defines success as evaluated from the disputants' standpoint (Ibid.). Hence, mediation success in the subjective tier depends very much on the assessment of the disputants. Bercovitch and Jackson note that mediation is about influencing or altering the way disputants in a conflict behave (Bercovitch & Jackson 2009: 45). Hence, subjective success is judged as such by the disputants, as a result of their behaviour, having been modified by the mediator.

On the other hand, an objective criterion refers to assessing mediation success of electoral violence relying on substantive indicators. These indicators should be quantified objectively and analytically. The quantification criterion involves observations of change and judgements of success. Hence, mediation is successful if the populace observes a ceasefire, abandons or reduces violence or completes an observed signing of a formal mutually binding agreement about the disputed elections (Bercovitch & Jackson 2009: 46).

Yet other academics simply measure political electoral mediation success as such when the process reaches a settlement. Colby (2004: 29) holds that mediation is successful once a mutual settlement has been arrived at. He evaluates the success of political election mediation by identifying five measures. The reaching of an outcome, settlement, or agreement is the first measure of success. The second measure of success relates to the quality of the process (Ibid.). The third measure relates to Colby's view that the outcome has to be of a win-win quality, while the fourth concerns the relationship of the parties after the outcome which has to be better (Ibid.). Finally, the fifth measure turns upon the requirement that the parties' relationships to the outcome and costs has to be mutual (Colby 2004: 30-31).

Scholar (Shields 2013; Bercovitch & Jackson 2009; Colby 2004) generally view success in terms of perceptions of the settlement. However, there are those who look beyond the mediated settlement. Fritz views mediated settlement as a success but wonders if the

disputants in a conflict who successfully engage in a meaningful dialogue and conversation, addressing the issues that caused the problems, but failing to reach a settlement would be termed a failed mediation (Fritz 2013: 79). Fritz's reflections echo the fact that mediation does more than just lead parties to a settlement. Even without a settlement, mediation would have brought the disputants together and mapped the political landscape of the electoral conflict and subsequent violence. Accordingly, not arriving at a settlement is not the only measure of mediation failure.

3.5.2 Measuring mediation failure in electoral violence.

Not all conflicts will require mediation. Equally, there are times when mediation does not work (Marsh 2000: 1). Marsh insists that some cases are more suitable for arbitration or litigation and trying to mediate them would lead to direct failure. Consideration of how to choose which intervention method is appropriate for the type of conflict is beyond the scope of this study. However, there are times when mediation in political electoral violence may not work—not because it was not the right choice but because of many other ethical, pragmatic and theoretical issues involved.

3.5.2.1 *Ethical strategies influencing mediation failure in electoral violence*

Mediating electoral violence necessitates principled ethical activities requiring values and integrity (without which mediation may fail). In electoral turbulence, mediation ethics is considered crucial. In this study, three elements of values and ethics that should play a role during mediation are identified. The first element is the ethical stance (Hoffman 2007: 1). Mediator ethics implies that the intervener has a set of moral values which he applies in the mediation process (Ibid.). The second element is the values and ethics of the political disputants and the third element is the ethics and values that underpin how the process is conducted (Ibid.).

3.5.2.2 *Mediator ethics*

Although mediation revolves around many ethical issues, the mediator as a person has crucial ethical concerns. Certain standards must be adhered to when mediating political electoral disputes so as to avoid the possibility of lack of confidence in the mediation

process (Hoffman 2007: 3). Ethical principles serve as fundamental guidelines that assist and guide the mediator's conduct, and promote trust and confidence in the mediator, the public and the mediation process.

The importance of mediator ethics extends even to those instances where the mediation process is one in which self-determination plays a central role. Self-determination is essential in a facilitated mediation and allows for disputants to mutually reach a settlement on their own without a prescribed outcome (Hoffman 2007: 1). Even though the mediation is a self-determined process between the political parties entangled in the electoral violence, it is the ethical duty of the mediator to evaluate the quality of the outcome to ensure that it complies with international standards of democracy and respect for human rights, albeit with a few modifications to suit the context (Cohen 2012: 2). These ethical responsibilities of the mediator entail assessment of the reality of the outcome and, where appropriate, assisting the political parties to consult with professionals so as to make informed reality choices and outcomes (Ibid.). At the same time, it would be unethical for the mediator to try to undermine mutual self-determination due to unpaid mediator fees, spoilers or some external pressures or media interference (Hoffman 2007: 1).

A mediator, however experienced, should uphold ethical standards by avoiding any conflict of interest (Cohen 2012: 3). Conflict of interest arises when mediators have relationships with one or more of the disputing parties or some form of prior engagement (whether past, personal or professional) that calls into question their integrity (Hoffman 2007: 1). The mediator should honourably disclose any such relationships for the parties to agree whether he should continue or withdraw from the process.

Mediators are engaged in diplomatic interventions by the nature of mediation as mediation is itself a diplomatic undertaking. As a result, mediators are expected to display diplomatic sobriety and gravitas throughout the mediation process (Cohen 2012: 3). Mediator language that shows lack of subtlety, refinement or that is not clearly articulated in terms of reframing, paraphrasing or interpreting may sound unethical and interfere with the success of the mediation (Ibid.).

Not all mediators may be competent enough to handle all types of conflicts. For that reason, intrinsically, mediators have the ethical obligation to know the limits of their ability (Hoffman 2007: 1). As such, mediators should have the ethical courage to avoid undertaking mandates they are not equipped to handle (Ibid.). This is particularly true in the case of electoral violence where political power is the overriding issue. Mediators who have subject expertise in political electoral violence and how world politics plays out are better placed to handle electoral violence (Hoffman 2011: 5). An incompetent, unqualified mediator can render the mediation a failure (Ibid.). For mediation of electoral violence, it is recommended that a trained, experienced mediator with skills and cultural understanding of the conflictual background be engaged (Cohen 2012: 4).

Confidentiality in mediation is both an ethical and a theoretical requirement when intervening in political electoral violence. All information acquired during the mediation process is confidential unless required by a credible legal body (Hoffman 2007: 1). This confidentiality of the mediator includes covertly withholding information on the events during the mediation process such as furious outbursts of emotions and secret meetings. According to Cohen (2012: 3), the best mediator ought to have the moral mind of a strategist, the ethical soul of a humanist with a pinch of patience for good measure.

3.5.2.3 *The values and ethics of political disputants*

The disputants in mediation are the key parties who negotiate and come up with a mutual settlement about their electoral conflict and violence (although these roles are not exclusively reserved for disputants). Political disputants engaged in electoral multi-ethnic violence and who come to the negotiation table with unethical hidden agendas may contribute to mediation failure (Hoffman 2007: 1). Unethical hidden agendas indicate a sign of bad faith on the part of the disputants concerned. Mediation may not succeed where one of the parties has bad faith and is intentionally involving courts and delaying procedures particularly to buy time, continue ethnic cleansing and deter negotiations (Hunter 2012: 635).³¹ Mediation must be an engagement in good faith as bad faith

³¹ Bad faith in mediation is a concept in negotiation theory where parties pretend to reason to reach settlement, but have no intention to do so. For example, one political party may pretend to negotiate for political effect but in fact have no intention to compromise (Hunter 2012:635). To read further on Hunter Roberts' perspective on disputants' bad faith, see, *The Gamification Handbook: Everything you need to know about Gamification*. New York: Emerco Publishing.

jeopardises chances for success. Marcil and Thornton (2008: 6) suggest that for mediation to be successful, the political disputants must have a commitment to resolve the electoral crisis. Shields describes election related mediation failure as partly lack of commitment by the parties to attend or engage ethically in mediation (Shields 2013: 1).

3.5.2.4 Consent of the disputants' political parties

It is ethical that political disputants' consent be sought because mediation in electoral disputes and violence is a voluntary process (Bercovitch & Jackson 2009: 35). Being a voluntary process, it cannot be forced (Merrills 2005: 32). The mediator too has to be accepted by both parties and should not be imposed on the process (Ibid.). The acceptance of a mediator immediately opens the doors to mediated negotiation, signalling that the disputing parties in the elections are ready for dialogue.

However, there are times in electoral violence when the regional body convenes and has a choice over the mediator from their team of mediators (Nathan 2013). Even though the regional body may wish to choose amongst possible mediators, the use of those mediators is ultimately subject to agreement (consent) being obtained from parties to the conflict (Merrills 2005: 32). The disputants are more likely to accept the mediator when they expect that he will help produce a more favourable and realistic settlement to the conflict than would otherwise be possible without him (Kleiboer 1998: 45).

3.5.3 Ethics in the mediation process

The ethical principles that underpin the mediation process in the aftermath of electoral violence are important as they can determine its success or failure (Hoffman 2007: 6). An electoral mediation that has ethical values of diligence, mutual respect for divergent opinions, is fair to both political parties, allows for moments of emotional ventilation and has ground rules to facilitate a settlement can be regarded as meeting the key requirements of ethical mediation (Ibid.). The absence of attention to the ethical requirements of the mediation process can contribute to total chaos and, subsequently to failure in mediating electoral conflicts and violence.

Ethical considerations with regard to the kind of mediation process to be undertaken is important (Merrills 2005: 32). A mediator utilising a dispute resolution process and exercise (such as arbitration) and unethically labelling it a mediation process to gain the protection of authorities, conventions and rules can lead to a failed intervention (ABA, AAA & ACR 2005: 7).³² Similarly, mediator ethics and values should guard any mediator from undertaking a mediation process in combination with another dispute resolution process and utilising them interchangeably. Such a mediation process would be unethical (ABA, AAA, ACR 2005: 7). When a mediation process turns to political witch-hunting or a blame game and the mediator is unable to break the impasse, the ethically correct action is to give the mediation process a break, postpone it or terminate it (Ibid.).

3.5.3.1 Pragmatic ethics

The necessity and value of ethical codes of conduct and standards of practice in mediating electoral violence is unquestionable (Cohen 2012: 1). Not only do codes of conduct offer useful parameters for professional behaviour in mediation but they also give rule schemas for effective outcomes of mediated settlements. Despite the use of codes, there are times when mediation requires use of innate wisdom, especially in political environments with highly contested elections (Ibid.). Conflicts in certain political environments seldom follow logical norms and predictable paths (Candless & Karbo 2011: 19).

Fisher, Ury and Goldberg (1993: 10), in discussing a theory of mediation state that the nature of the conflict and the environment the conflict manifests itself dictate the mediation process and strategy to be utilised and, consequently, the conflict's settlement or outcome. When the political situation and context is not adequately taken into consideration, mediation can fail. A mediation strategy that is appropriate to the political environment is more likely to be accepted by the warring factions (Ibid.).

³² The letters are acronyms for American Bar Association (ABA) of Lawyers, American Arbitration Association (AAA) of and Association of Conflict Resolution (ACR) who developed the Model for mediation Standards referred to and which was approved by the American Bar Association's House of Delegates on August 9, 2005, the Board of the Association for Conflict Resolution on August 22, 2005 and the Executive Committee of the American Arbitration Association on September 8, 2005.

When deep-rooted emotional issues stemming from past political historical injustices involving basic human needs or values regarding identity politics, the ethical rule is to try to get to the root of the problem rather than dismiss it as tribal or ethnic politics. Political and electoral violence engaging ethnic identities spring from the collapse of old political arrangements (Maiese 2004: 1). In this situation, a mediated process to create a new arrangement embedded in the constitution and a change in the social structures to address historical injustices should be pragmatically handled on the basis of impeccable ethical values (Ibid.).

Arrangements embedded in the constitution have occurred in contexts such as *inter alia* Zimbabwe, Kenya, Uganda, Burundi, DR Congo, Nigeria, where constitutions were changed, amended or revised to accommodate ethnic or opposition parties representing minority groups and to facilitate multiparty elections (Reidy 2013: 35). Constitutional change for redressing of social injustices is a prime example of social structural change (Maiese 2004: 1). When identity issues, accompanied by deep-rooted emotions of past unjust systems, are not adequately addressed the mediation can fail to reach a settlement (Ibid). An ethically aware expert with knowledge of how to incorporate fairness in identity politics and respect for human rights is required to aid the political disputants and their constituents.

3.5.3.2 Theoretical ethics influencing mediation failure

A clearly articulated theory is the backbone of any successful practical process. Mediation theory has made advances towards the integration of theories and pragmatism. In electoral violence though, such theories remain ethically a *modus operandi* for practicing mediators. Four of these *modus operandi* are identified here, including timing to mediate, mediator impartiality and neutrality, reality outcomes and leveraging and resources as being decisive in electoral violence.

First, it is important to know when to mediate. Judgemental timing to mediate has been floated by scholars (Zartman 1985, 2001 and Bercovitch 2009) as not only significant, but also a time to grab an ethical imperative as an opportunity to mediate a violent conflict

and save lives. Disputes that are bleeding and need immediate action such as electoral violence require mediation (WIPO 1996: 29).

The logic behind the notion of immediacy is an argument from Makkawi (1996) drawn from his study of ethnic aspects of political electoral violence. When electoral violence is accompanied by tribal cleavages, ethnic groups suffer and people become embittered by such deaths- normally, they need to solve the conflict immediately. This is because political electoral violence in Africa quickly turns one ethnic group against the other (Newman & DeRouen 2014: 95). Makkawi claims that mediation becomes a handy and timely option in such environments (1996: 160). Mediation in this respect has the ability to hold a ceasefire, as compared to the lengthy process of litigation that may drag on for a couple of months, years or even decades (WIPO 1996: 29).

The exact time to intervene in electoral violence as a mediator is a matter of good judgement rather than statistical accuracy (Haas 1988: 232-251). Haas qualifies that shared perception of the situation and the cajoling of ripeness or its inducement with the right strategies is important. Crocker emphasises that ripeness is a time that must be seized as it is not self-implementing but rather has to be activated (Crocker 1992: 373). The decision to withdraw Cuban troops from Angola and South African troops from Namibia was timed on ripeness. Crocker concludes that exact and correct timing of ripeness is a matter of feel and strong instinct (Ibid.). The failure of mediation in the Ivory Coast electoral violence is attributed partly, but not wholly, to late timing of the intervention (Crocker 1992: 374).

Yet, Bercovitch (2011: 272) emphasises the importance of identifying the ripe time. Bercovitch argues that a mediation initiative launched before a conflict has 'ripe', is doomed to fail. The conflict must be 'ripe' for the initiation of mediation (Bercovitch 2011: 272). Podszun (2011: 23) as well as Zartman (2001: 8) express ripeness as only a condition for entry into the conflict but not the only sufficient condition in reaching a settlement.

Fisher (2001: 24) asserts that timing and ripeness in mediation takes place after the violence is manifest and has been on-going for some time now. Additionally, attempts by the political parties to enter into dialogue have failed, costs have been incurred, positions and attitudes have hardened and dimensions of the conflict are escalating (Ibid.). These environments present the mediator with a challenge (Fisher 2001: 24). While Zartman (1985) refers to 'ripeness' of conflict, which literally means that there is a right time to begin an engagement of intervention in a conflict, others think that the time is only ripe when the resources have been exhausted and it is then that the mediator becomes key in the intervention moment (Bercovitch 1997; Bercovitch & Houston 1993).

'Ripe time', which has also been referred to the 'ripe moment', or the 'hurting stalemate' in other literatures (Greig 2001; 2005; Regan & Stam 2000; Zartman 1985 and Bercovitch 1989) only provides opportunity that needs activation. Zartman asserts that political parties seek third party intervention after their exhaustion of costs, resources and social support in the electoral violence (1985: 45). The disputing parties then see no exit point without the other, failing which the anarchy of the electorates in the conflict situation will only worsen in severity (Ibid.). The political parties find that they are interdependent in the satisfaction of their interests and goals of solving the disputed election results (Moore 2014: 26). At this time, they are able to sit at the negotiation table, either on their own or assisted by a third party, to reach a negotiated settlement (Ibid.).

Mediation in electoral violence will succeed when it is the ripe moment and that ripe moment is ethically utilised before it lapses. Mediation of electoral disputes can fail when the intervention is premature or when the ripe time is not activated (constituting a missed opportunity for intervention). Signs of ripeness for a negotiation suggest that the mediation might be successful.³³ However, Rull believes that ripeness can be created by the international community by giving deadlines for a settlement, which subsequently reduces the political parties' procrastination (Rull 2013: 56). In support of this view,

³³ The signs of ripeness include failed attempts by disputing parties to engage in dialogue, resources getting exhausted, costs of continuing the violence escalating, social support declining and the two parties see no exit point without the 'other' disputant.

Zartman argues that ripeness can be created to avoid more bloodshed (Zartman 1985: 24).

The second is mediator impartiality and neutrality developed through trust between disputants and the mediator. All the way through the mediation process, mediators work to develop trust and nurture cooperation (Moore 2005: 160). This process is known as conciliation (Ibid.). It consists of a pragmatic psychological scheme intended to modify perceptions, decrease unwarranted fears, and humanize communication which allows for logical negotiations and discussion of the issues at hand (Moore 2005: 161). Moore identifies the five fundamental barriers to conciliation as mistrust, strong emotions, stereotypes, misperceptions, and communication barriers. Strong emotions may act as a barrier to agreed settlements, inhibiting the creation of any positive relationship. It is common for mediators to allow for ventilation of emotions but in a safe and controlled environment (Ibid.). Where emotions are deemed as a serious hindrance, they are suppressed. The mediator works on misperceptions and deeply rooted stereotypes by empowering parties to identify them, separating facts from opinions, interests from positions and the inaccurate from accurate (Crocker 1992: 373). All these processes should take place in an atmosphere of impartiality and neutrality as acknowledged by the disputing political parties.³⁴

Shields (2013: 3) identifies two key areas when mediation fails as a result of political disputants' reaction to unethical, impartial or biased behaviour of the mediator. First, a feeling by the disputants that the mediator is partial, predisposed and biased can bring about failure of mediation. Secondly, mediation can fail when disputants do not believe that confidentiality is being honoured. Impartiality is a central issue, especially in electoral violence mediation. The parties need the assurance that the mediator is impartial throughout the mediated process (Ibid.). Any feeling that the mediator is becoming politically partial with regards to the outcome, at any stage of the mediation, may result in

³⁴ In electoral violence, a multi-partial mediator rather than an impartial one is preferred. A multi-partial or omni-partial mediator is ethically concerned with how to help achieve satisfaction of all political parties' issues and interests (Clove 1994; Moore 2014). Neutrality is viewed in three ways. Firstly, neutrality as disinterestedness occurs where the mediator has no personal or profitable interest in the outcome. In electoral violence, the political parties may try to bribe or corrupt a mediator, who should avoid this at all cost. Secondly, neutrality is seen as the independence of the mediator, in which the mediator has no prior relationship with the political disputants or their political parties. Thirdly, neutrality can be described as even-handed, which requires the use of mediator ethics of handling the mediation process evenly and unbiasedly (Boulle 2001:73).

the withdrawal of either political party from the talks, consequently aborting the process (Crocker 1992: 373). A European observer in the 2005 presidential elections was expelled in Ethiopia when he was perceived as not being impartial, having pre-conceived ideas of the outcome (Herberg & Bloomberg 2012: 7). Mediator partiality may lead to failure and escalation of the electoral violence.

In light of the benefits of impartiality, (Crocker 1992: 375) has argued that insider-partials are equally or even more legitimate mediators in certain contexts than the typical outsider-neutrals. There are times when such mediators may work on their own, while at other times they may team up with one insider who is partial working with one outsider who is neutral to cultivate trust and confidentiality between and among the political disputants in a complex, multi-party political impasse (Leeds 1997: 78).

Impartiality is the ability to maintain an unbiased relationship with political disputants (Yarn 1999: 216). The mediator must be seen to remain physically equidistant from any favours. Impartiality does not mean that the mediator has totally separated himself from the conflict or the parties or the issues (Bowling & Hoffman 2000). Cloke (1994) uses the words 'multi-partial' and 'omni-partial' to describe mediators who are honestly concerned about how to assist in the outcome of negotiation of electoral violence for political parties. Mediators still hold their personal opinions on the outcome of the mediation but the party's choice is upheld. Neutrality is also important as it creates amicable relationships among or between mediator and parties in a dispute.

Third, there is need to have a realistic outcome. Many scholars (Touval 1982; Bercovitch 1992; Kleiboer 1996; Elango Van 1995) have examined factors influencing mediation failure from an ethical theoretical view of the outcomes. Touval (1982) identified important attributes of a failing mediation. He characterises them as an inability to assist the disputing political parties in identifying common interest areas with reality outcomes. While it is the moral function of the mediator to provide a healthy measure of reality to participants in the mediation process and outcome, an inability to evaluate an outcome may render the mediation unproductive (Erickson, Marilyn & Erickson 2014: 45).

According to Erickson et al., reality assists disputing parties to distinguish possible outcomes from the impossible ones.

The fourth is mediator leverage and resources. Rubin (1992: 251) outlines one more requirement without which mediation may be insignificant. He notes that mediator resources go a long way in making mediation a success, especially those that need resources such as are required for electoral violence (Ibid.).

Mediators who are deficient in expanding the common interest are not viewed as wise mediators. Mediators linked to resources, experience and competencies usually bring all these to the mediation table. Mediators need leverage and resources to exercise influence on a conflict. Leverage entails the capability to remain a relevant actor in conflict management and its process by tactically offering inducements to the parties or putting pressure to them to move towards a settlement (Kleiboer 2002; Bercovitch & Kadayifa 2009).³⁵ Touval reports that many mediators failed where they had initially succeeded as they lacked the leverage that was critically required to focus on settlement (Touval 1992: 233). Kleiboer (2002: 127) adds that leverage must be employed skilfully and with caution.

Kleiboer (1998: 44) considers neutrality as secondary if a mediator can have effective leverage and resources. Moreover, he argues that disputants prefer mediators with leverage resources to those who are merely neutral (Ibid.). He illustrates this using the case of the United States mediating between Egypt and Israel (Ibid.). Mediator resources and leverage have the ability to break through the political parties' games and impasses and persuade them to settle (Kleiboer 1998: 44-45). The post-electoral violence that took place in Ivory Coast between the presidential incumbent, Gbagbo, and the opposition party of Alassane Ouattara, who won the elections in 2010, was mediated by the African Union with Thabo Mbeki (former president of South Africa) and Raila Odinga (former

³⁵ Leverage means the mediator has the necessary force to successfully mediate a conflict to its settlement. Leverage is the diverse array of mechanisms and tactics a mediator can utilise to influence the mediation process and ensure the disputants end their conflict amicably. Reid (2014: 1) identifies two types of leverage he credibility leverage and the capability leverage. Credibility leverage derives its influence from the trustworthiness of the mediator, the mediators' cultural, religious or historical ties that make the mediator contextually knowledgeable about the conflict while capability leverage has the undertones of economic and military might. According to Lindsay, the credibility leverage of a mediator proves more successful than the capability leverage of a mediator. For further knowledge on leverage and resources read Lindsay (2014) *Examining Leverage in Civil War Mediation: Dynamic Theory of Mediator Leverage*. University of North Carolina.

Prime Minister of Kenya). The mediation failed as Gbagbo claimed that the two were not neutral as they had earlier made public their bias for Allassane Ouattarra.

In 2007, Sierra Leone electoral mediated efforts saw the first democratic transition in the country after the end of their civil war (Kumar & Haye 2011: 16). The United Nations Development Programme (UNDP) provided the resources and equipped the political elites' parties for electoral registration, maintained the disposition of local level mediators, and also reinforced a sustained advocacy campaign for peace among the youth. With all this leverage, there were peaceful elections and a smooth transfer of power to the opposition (Kumar & Haye 2011: 17).

Another factor in mediation is mediator strategy; behaviour and performance in assisting the parties to reach a settlement (Bercovitch & Kadayifa 2002). On mediator strategy, Bercovitch (1992: 16) notes that it is crucial. He defines mediator strategy as the set of plans utilised by the mediator to manage disputes and come to a settlement.

3.6 THE ROLE OF MEDIATION IN ELECTORAL VIOLENCE

The Literature shows scant attention to analysing the role of mediation in electoral violence. What is the role of mediation in electoral disputes and violence when the end result of elections is a system of zero-sum winner take-all? The need to explicate the role of mediation in electoral disputes, like in many other conflicts in Africa, is imperative. For this reason, United Nations Security Council Resolution 62/283 of June 2011 and 66/291 13th September 2012 both call for strengthening the role of mediation in peaceful settlement of disputes as laid down by the UN Charter Chapter VI article 33 regarding mediation (UN charter VI Article 33). Mediating electoral violence involves divergent roles depending on the environment, the needs of the society at the time of the conflict and the disputants' ability to mutually negotiate an outcome that is realistic.

3.6.1 Mitigation of violence

Mediation in electoral violence prevents recurrence of violence (Gillies 2011: 4). Mediation using leverage and other conflict management tools influence dialogue where

there is deadlock, standoff through international community pressure. A ceasefire took place in a challenging conflict environment such as that in Ivory Coast 2009. Lindenmayer and Kaye (2009: 21) contend that once mediation begins, leverage, diplomatic pressure, support and efforts all contribute to moving the process forward smoothly and with commitment and responsibility. This ensures a continuous ceasefire and that the politicians in electoral dispute are under pressure to come up with a solution, thereby ending the violence.

3.6.2 Mapping causes of electoral violence

Mediation will map causes of electoral violence from its roots when trying to understand the underlying causes of electoral violence in a state. Mediation assists the political parties to map electoral violence to its historical issues of distributive injustice, human needs, identity and value based disputes that are common as part of the basis of the struggle (Crocker 1992: 373). As Hoeffler (2012: 2) writes, there is no one cause of electoral violence.

Conflict mapping is the process of identifying all the dynamics influencing a conflict, leading to impartial understanding (Ryan 2014: 30). Mapping provides a fair analysis of the issues causing the violence, the actors and their interests. Mapping enables the conflict resolution practitioners to be aware of the historical past of the violence and the political reality of the conflict, that is, whether it is authoritarian or democratic (Ryan 2014: 34).

According to Ryan (2014: 34), electoral violence is context specific. It has multidimensional and multi-causal factors such as weak political institutions, socio-economic problems, political marginalisation and exclusion, power struggles between different ethnic groups, corruption, and failure of the social contract (Ibid.).

Ryan identifies the socio-economic issues as inequality, identity politics, segregated employment, weak social cohesion, poverty and resource based. For Ryan, causes of electoral violence also include scarce resources and environmental elements of insecurity, and unjust resource exploitation. In mediation, these issues are identified and

understood from their correlates, dimensions and dynamics of the electoral struggles. According to some academics, these issues are thereafter used to design appropriate methods and approaches to mitigate election violence, management, prevention, resolution and transformation (Smith, D. 2004; Ohlson, T. 2008; Hoeffler, A. 2012).

In mapping conflicts, disputing parties are given the opportunity to listen to each other and identify the underlying structural inequalities at the heart of electoral violence (2014: 4). During mediation, the identified causes are narrated on what Taminnen (2012: 15) calls 'the table of narratives' or the negotiation table. Electoral violence requires mapping because they are a symptom of deeper structural injustices faced by the populace in trying to fight for their rights (Selim 2012: 2). Selim notes that distributive justice comprises of economic, cultural and human rights violations. He exposes the camouflaged issues of structural injustices, historical injustices, political biases, political exclusion, distributive injustices, unresolved human needs issues, cultural values and interests as being part of the grievances in electoral disputes. All these grievances may culminate in electoral violence which politicians exploit for their own ends.

3.6.3 Paving the way for Implementation and peacebuilding processes

According to Taminnen (2012: 4), mediation does not end with the signatures or signing of the agreement on the narrative table. On the contrary, it ends with a pact to start full short-term, medium- and long-term implementation of the agendas in the agreement pact. The act of signing begins the implementation and peacebuilding. Signing also sets up the process of follow-up for long-term decisions on reforms and creates local mediatory teams to handle electoral disputes. Reconciliation and peacebuilding begins in earnest, particularly if the ceasefire is still holding and there are prospects of a peaceful return to normalcy (Ibid.).

Mediation sets up a system of educating the citizens through civil education geared towards knowledge of their human and democratic rights. The populace learns how to unlearn and change their mind-sets, attitudes and narrow ethnocentric worldviews (Gerzon 2014: 2). Mediation, increases the capacity of the public engaged in mediation

to manage conflict before it spreads (Ibid.). A sense of responsibility is created amongst the citizenry that they can make a difference within their own society and that they matter.

3.7 THE AFRICAN UNION AS MEDIATOR

The African union has been involved in mediation since its inception as the Organisation of African Unity (OAU). Most of OAU interventions were interstate as it was reluctant to resolve intra-state intervention, quoting the Westphalian theory of the sovereignty of state (Totten & Ubaldo 2011: 7). The OAU were, therefore, strongly blamed for the genocide that took place in Rwanda in 1994 (Ibid.).

Most mediations in Africa at the time of OAU were Track One diplomacy conducted by African heads (Zartman 2009: 218). AU, the predecessor of the OAU, had been faced with a plethora of intra-state conflicts that were intractable and impervious to conflict resolution (Totten & Ubaldo 2011: 12). In 2004, the AU, in a bid to resolve these conflicts, established a Peace and Security Council that aims to promote peaceful resolution of disputes and conflict among member states, utilising the tracks of diplomacy to support peace processes (Ibid.).

The AU also mandated its sub-regional bodies to adopt the resolution in promoting through mediation peaceful settlement of disputes (Totten & Ubaldo 2011: 7). The sub-regional bodies include the Economic Communities of West African States (ECOWAS) in West Africa, the Southern African Development Community (SADC) in Southern Africa, the Arab Magreb Union (AMU), the Economic Community of Central Africa (ECCAS), the East African Community (EAC) and the Intergovernmental Authority on Development (IGAD) in the east and Horn of Africa (Zartman 2009: 208). These have revitalised the institutions for intervention and negotiation.

Thus, the AU as a mediator has been at the forefront in mediating a variety of conflicts in Africa. This study examines Africa Unions' Track One official diplomacy in Kenya in assisting political parties negotiate their issues and transform them amicably. In this sense, the role of mediation as a conflict transformation mechanism has been re-energised in Africa. Mediation's role in building consolidation of political structures for

democracy has been slow in Africa. Mediation has been able to build a consensus between political parties in a conflict, as was manifested in AU involvement in the political violence in the Comoros in 2007 (Zartman 2009: 208). However, an electoral model for mediation that can effectively assist the mediators in Africa is lacking. This study therefore intends to develop a model for mediation aimed at transforming the political structures to end electoral violence and sustain peace.

3.8 MEDIATION MODELS OF ELECTORAL VIOLENCE

Resolving election-related conflicts depends heavily, but not exclusively, on alternative dispute resolution mechanisms. A wide array of literature is available about African elections, including philosophies of the structures of election management bodies in Africa and theories of mediation. Additionally, there are models of how elections should be conducted and a voluminous literature on the monitoring of elections in various countries.

Viljoen (2007) analyses the African human rights systems, which includes organs of the African Union. Viljoens' work is useful in explaining how AU organs can be used in conflict-related matters. It does not, however, mention any aspects of elections *per se*. In a study by Nohlen, Krenerich and Thibaut (1999), an overview is given of electoral systems in Africa. The systems are known to either generate electoral violence or mitigate them. In their study proportional representation is perceived as mitigating electoral violence in comparison to the winner-takes-all system of First-Past-The-Post. Their work provides a useful overview of choices of electoral systems, but it does not offer any strategy in the management or handling of contemporary electoral violence.

Sisk and Reynolds (1998) have written voluminously on elections and conflict management in Africa, describing the exact nature of electoral related conflicts in Africa. Sisk and Reynolds give a deeper understanding of how elections can be used to stop conflict, the limitations of elections and when they can cause conflict. Sisk and Reynolds present a model that strongly advocates elections to promote democracy and peace and end political violence. It does not however mention conflicts triggered by elections and their subsequent transformation through mediation.

Koki (2009: 3) describes the 'Bridge project model' of 2007 developed by administration and costs of elections project (ACE) network. The model predicts early warning signs for electoral violence. Using the model, one can predict violence based on past experiences, present tensions and an assessment of the prevailing environment. The 'bridge project model' was used in Kenya in 2007/2008 to predict violence; however, the magnitude of violence cannot be predicted nor can conflict management strategies and mechanisms be suggested. In addition, the 'bridge project model' makes no mention of the inverse nexus of mediation and election violence.

The Electoral Institute for the Sustainability of Democracy in Africa (EISA), an NGO established in 1996, has a model for a prevention and management mechanism inspired by African social and cultural practices which nevertheless adheres to regulatory and legal frameworks for the organisation of elections. The model was established in 1998. It involves local communities through the establishment of election conflict management panels. Panel members are elders, church leaders or other persons of integrity chosen from the community by the community. The panel members look at the origins of electoral conflicts and violence; build capacity in the Interim Electoral Commission (IEC) for free and transparent elections in a peaceful environment; encourage high voter turnout; resolve conflicts through mediation at the grassroots by facilitation and arbitration. The panel members also function as an early warning system for potential conflicts; involve all the populace of all social classes to promote peace; compile statistics and databases on the nature of conflict; and inform the masses to avoid the risks of violence.

The 'bridge project model' is quite elaborate but does not address the root causes of electoral violence through reforms nor does it spell out clearly the leadership roles. These roles are not sufficiently defined to make it a cohesive model. It may also be ineffective in ethnic communities where people vote along tribal lines as directed by their leaders since the mediation panel comes from the same community. The 'bridge project model' may be very difficult to implement where violence is instigated by the incumbent, using government forces to manipulate elections. The mediators from the same region may not be able to quell conflict where rigging is blatantly obvious.

Ilona (2007: 5), in United Nations Development Programme (UNDP) Guidelines on prevention of election violence, analyses the importance of efficient electoral dispute mechanism bodies at governmental and political levels, mentioning South Africa's permanent electoral tribunals/courts as one such mechanism. Ilona's text is useful in explaining how independent institutional government bodies can work. However, where these appointments are made by the incumbent president, there is the temptation for him to nominate only those who support him. This is particularly the case in countries with many different ethnic affiliations. How does mediation work to have a win-win solution that would satisfy all ethnic groups within a country? This study aims to find out how a win-win solution that satisfied all the 42 ethnic groups in Kenya worked.

As evident from the indicators used in deriving the mediation models, the vast majority are predictive models and adhere to the underlying assumptions of retrospective voting theory. It is clear that models for election violence in Africa are rare. Few nascent models exist that attempt to manage the emerging phenomenon of electoral violence. The literature related to the study of election conflict mediation falls within a broad category of general studies that examines the occurrence and development of political conflicts in states and, in a narrow sense, within the analysis of intra-state conflict management strategies. This study intends to develop a model for mediation for electoral violence that identifies and addresses the root causes through constitutional reforms that ensures sustainable peace.

3.9 STAGES IN ELECTORAL MEDIATION PROCESS

Mediation is a voluntary process during which political parties to an electoral dispute meet with an independent third party intervener who assists them to explore their issues and reach an amicable outcome by designing and conducting an assisted negotiation strategy (Totter & Ubaldo 2011: 66). Mediating electoral violence comprises several distinct stages and phases. Mediation usually move smoothly between the stages as a flexible process. According to Brand et al., (2012: 36) mediation may move forward or backwards between these phases. Nevertheless, it is useful that a conceptual framework for the process be provided and agreed upon by both political parties in the dispute (Ibid.). These

set out the phases that occur before mediation, as sequential and distinct. The mediation consists of several phases; pre-negotiations, the opening statements, the negotiation that explores the issues in the conflict and the final mutual agreement.

3.9.1 Pre-negotiation

The pre-negotiation phase in an electoral violence requires that the mediator acquaints himself with the political environment in the country. The pre-negotiation is stage important as it gives the mediator the background to the electoral dispute. It sets the tone for negotiation to begin and prepares the environment for resolving the political conflict (Singh 2008: 102). After the parties have agreed to mediation, the mediator makes frequent contacts with the political parties or their representatives (Moore 2014: 208). The purpose of the contact is to gather information about the conflict, prepare the parties for mediation, build confidence in the process, build rapport, identify any obstacles to a settlement that can be addressed before mediation, and deal with administrative and logistical matters or the preliminaries (Brand et al., 2012: 36). The mediator also prepares some consultative documents with proposals for a mediation process, providing an outline of the logic behind the mediation, the scope, the conventions of negotiation and procedures for use in the approach (Sidaway 2013: 76).

Sidaway explains that at the pre-negotiation stage, terms of agreement are addressed. The requirements for an opening statement from both political parties are explained and any other parties from both internal and external actors that have interests that need to be dealt with in the mediation are identified, so that they may be fully canvassed once mediation commences. Then the dates to start mediation are set and time schedules, venues and facilities agreed upon (Ibid.). The mediator gets to know whether there have been other past conflicts or a history of electoral conflicts and violence and familiarises himself with these previous negotiations as well as their outcomes (Sidaway 2013: 82). Mediators who bypass the pre-negotiation stage do not fully appreciate the circumstances facing the disputants and their underlying causes (Brand et al., 2012; Pitswane 2014).

The political parties disputing the election also have time to organise themselves and articulate their issues before mediation commences. The parties at this time determine

what their goals are, what they anticipate to achieve and prepare themselves for a negotiation process. It is important that they discuss and analyse the conflict situation, and make a comprehensive list of their problems (Vise 2011: 2). The issues from both or more parties should form the basis of the agenda in the mediation process.

3.9.2 Opening the mediation

The opening phase lays down the ground rules for the mediation process (Brand, Steadman & Todd 2012: 37). The ground rules in turn, ensure an effective mediation process. They also ensure that the parties understand at least the basics of the mediation process. The parties at this phase are free to explain to the mediator, and between themselves, how they view the problems in the dispute before them and what they may want to achieve (Brand et al., 2012: 37). They argue that the mediator at this stage should demonstrate neutrality and impartiality as this will build trust and confidence in the mediation process (Ibid.). This is where ground rules are laid down to ensure orderliness and strict confidentiality. The mediator then explains briefly the process of mediation, including pauses or caucus meetings done in private (Brand et al., 2012: 38). The mediator warns against undermining the mediation process and spells out the consequences of a failure to reach agreement.

3.9.3 Opening statements

Each political party will be required to make an opening statement without interruptions from any other party. Then the other political party will also make its opening statement without interruption. The opening statements by the political parties serve the purpose of allowing the disputants to begin to understand the issues at the core of the conflict and to ventilate or 'let off steam' (Brand et al., 2012: 38). The opening statements may include information on the background of the electoral violence and the historical past up to the triggers. The opening statements release emotions for effective relationship building during the mediation process. The mediator will ask questions to clarify certain points (Ibid.). He then identifies key issues and sets the agenda based on them for a joint meeting (Brand et al., 2012: 39).

3.9.4 Exploration and negotiation phase

The main purpose of negotiation stage of mediation (also known as narration stage) is for the mediator to develop a full understanding of the electoral dispute, the positions of the political disputants, the needs and interests of the parties and their underlying needs and goals (Sidaway 2013: 81). This is usually conducted in side meetings, before the politically antagonistic parties meet face-to-face, so that they gain confidence to present their case confidentially to the listening mediator in a safe environment (Ibid.). The mediator in caucus meetings gets to know the deeper issues at stake in the electoral violence. Then the face-to-face narrations of the electoral issues at stake begin (Sidaway 2013: 82). This negotiation stage may arouse heated debate. The mediator must possess techniques to handle such a situation and environments by giving directions and observing the agendas and ground rules of the mediation process. Keeping the negotiation focused is the main duty of the mediator (Ibid.).

Having generated a range of settlement options, the parties must next evaluate them. Moore (2014: 234) describes two evaluative tools. The settlement range and the best alternative to a negotiated agreement (BATNA). Moore explains that a party's settlement range is defined by the range from target point to resistance point. He adds that the target point is their optimal outcome. Moore notes that the resistance point is set by those outcomes which are too costly or not beneficial enough to accept—that is, below the party's BATNA. When the parties' settlement ranges overlap there is a range of possible mutually acceptable settlements available to the parties (Moore 2014: 235).

Interest-based bargainers will seek the solution which provides maximum mutual benefits (Moore 2014: 235). When the parties' settlement ranges have no overlap, there are no mutually acceptable settlement options (Ibid.). In such cases the parties may be encouraged to shift their target or resistance points, or the issues available for trade-off may be expanded. Mediators can help the parties to identify and understand their settlement ranges, and can lower the parties' inflated expectations. Assisting the parties in identifying their BATNAs can also help to close any gap between the parties' settlement ranges (Moore 2014: 234).

The exploration and narration stage also captures agreement using the single text technique (Brand et al., 2012: 42). In this technique, the mediator drafts a potential outcome from the mutual agreements articulated so far by the political parties and sets out these as potential for signing the final agreement (Moore 2014: 235). The draft becomes the disputants' document of potential outcome. The mediator uses the draft to move systematically from party to party to confirm, reaffirm or amend the draft until a final agreement is arrived at (Ibid.).

3.9.5 Finalising the agreement

At the phase of finalising the agreement, which is known as the final stage by Brand et al., the mediator assists the parties to either reach the agreement or confirm a deadlock (Brand et al., 2012: 42). The mediator summarises all the foci areas by referring back to the electoral issues that have been articulated (Moore 2014: 235). He confirms that all the electoral structural issues spoken about have been addressed and that the political parties have understood the agreement. He then confirms action plans for reforms and their deadlines. The mediator sets up a timetable for follow-ups and monitoring of the agreement by the political parties and himself. He also organises how resolutions to issues arising from the agreement during the implementation phase will be dealt with and by whom. The political parties are then requested and encouraged to sign the agreement (Brand et al., 2012: 43).

3.9.6 Post-negotiation

In the post-negotiation phase the mediator makes systematic follow-ups to get updates on the success of implementation by monitoring the progress (Sideway 2013: 76). He also receives feedback on the deadlines met and those not met and reasons for the delays, if any. To achieve an overview of the implementation process, the mediator meets each party on their own in a confidential meeting. The confidential is may be followed by a questionnaire to the parties for feedback (Brand et al., 2012: 43).

A review of the implementation may be necessary, especially if there are political changes that affect the structure of the agreement or render some parts irrelevant (Moore 2014:

235). A good example is when, in a coalition government, a majority leaders' seat becomes *de jure* defunct because defections from his party now make him a minority leader. Implementation adheres to the reform agendas agreed upon during the negotiation. The reform agendas that are carried out during the implementation stage are facilitated by the government through its various institutions (Ibid.). The end of mediation marks the beginning of post-conflict reforms (Brand et al., 2012: 43).

3.10 POST-ELECTION VIOLENCE REFORMS

Kriesberg and Dayton (2009: 5) draw attention to the fact that ending intra-state violent conflicts marks the start of reforms, modifications, amendments, implementation and stabilisation process. This process aims at achieving peace, characterized by welcoming 'the other' through reconciliation (Achieng-Oyier-Ondigo 2013: 1). Mediation should therefore, identify root causes of election violence and subsequently the reforms required for peacebuilding. This section explores what peacebuilding entails and its ever expanding role to ensure structures are in place to promote sustainable peace. The question of how long peacebuilding and reconstruction should take, including what hinders full implementation of reform agendas in Africa, is examined. Other questions relevant in Africa relate to whose concept of peace is established during reforms or is it part of a neo-colonialist agenda?

3.10.1 Peacebuilding as post-election violence prevention mechanism

The term peacebuilding was coined by peace guru Johan Galtung in 1976. Galtung (1976: 1) called for the creation of peacebuilding structures to promote sustainable peace by addressing the root causes of violent conflicts. The practice of peacebuilding as a concept became widespread after its introduction in the 1992 report known as *An Agenda for Peace* by Ghali, the United Nations (UN) Secretary, The document gave a conceptual outline of peacebuilding as a means for the UN to prevent conflicts and to augment, reinforce and sustain capability for world peace. The text highlighted four phases for UN international operation and action—namely, preventive diplomacy (abstracted as early warning signs from fact finding missions on potential strife), building trust and reassurance, mediating conflicts, and preventive deployment. Peacemaking, according to

the UN, is action intended to bring discordant parties to agreement through diplomatic and peaceful means as enshrined in Chapter VI of the UN Charter. The intention is to change a violent conflict into nonviolent discourse, and reconcile divergent interests and views through politically representative institutions. Among the four phases, peacebuilding and reforms that fall in the scope of this study has critically been discussed in the literature that follows. However, from the literature the meaning of peacebuilding and what it entails is vague, divergent and hard to comprehend. Moreover, literature on peacebuilding after electoral violence is minimal.

In September 2003 the then UN Secretary General, Kofi Annan, appointed a panel headed by Brahimi Lakhdar to assess the shortcomings of the existing system of UN peace operations and come up with recommendations for lasting peace. Brahimi and his team produced a report on how peacebuilding could be activated coupled with policy implications. In this report (2000), peacebuilding ranges from humanitarian programmes aimed at reconstruction, reconciliation, reduction of HIV/AIDS, infectious disease control and actions that encourage advocacy, fighting corruption to political reforms and strengthening democratic governance. In 2005, Kofi Annan established a United Nations Peacebuilding Commission (UNPBC). Later in 2006, the African Union (AU) adopted a post-conflict peacebuilding and development policy and framework. The sub-regional bodies in Africa too followed suit. Reflecting these developments, non-governmental organisations (NGOs) working on post-conflict peacebuilding in Africa have increased significantly from five in 2005 to 310 in 2010 (Obodo 2012: 23), all engaged in supporting reform and building sustainable peace.

The work and programmes of post-conflict reconstruction began in earnest after the formation of the peacebuilding commission. However, from the literature, indications are that shortly after 2007, confusion began to emerge about the actual *meaning* of supposed post-conflict reform activities. Activities became fragmented and disagreements arose as to what *process* or standards were best suited for peacebuilding as well as the duration of peacebuilding activities. Scholars gave differing definitions of post-conflict peacebuilding.

Charbonneau and Parent (2013: 5) commence by noting that there is no canonical definition of post-conflict peacebuilding, particularly in relation to electoral violence. Ramcharan (2014: 92) defines post-conflict peacebuilding as efforts that assist nations emerging from conflicts to repair destruction and resolve root causes of violent conflicts. The resolution of root causes of violent conflict is the key point made by Ramcharan. The United Nations High Commissioner for Refugees (UNHCR) refers to post-conflict peacebuilding development as a return to rule of law and national protection. This definition leaves out much that is usually required in post-conflict peacebuilding, such as upholding human rights and building democratic institutions.

Newman and Schnabel (2014: 166) define post-conflict peacebuilding as the absence of political and socially overt violence, the creation of pluralistic forms of government, distributive justice, and judicial reforms. The term peacebuilding is expanded by Newman and Schnabel to include strengthening national institutions, promoting human rights, monitoring elections, rehabilitation, re-integration and strategies for the resumption of development (Ibid.). Lederach (1997) extends the meaning of post-conflict peacebuilding to include conflict transformation and making post-conflict peacebuilding a multifaceted holistic model of transforming structures, behaviour, social relationships, and attitudes so as to strengthen an “infrastructure for peacebuilding” and build positive peace. This definition encompasses many aspects of rebuilding post-conflict societies that may require well planned financial budgets to achieve. In the same line of thinking as Lederach, Schellhaas and Seagers (2009: 210) assert that peacebuilding involves negotiation and re-integration of values and interests, with or without a consensus.

3.10.2 Hermeneutics of peacebuilding

Peacebuilding has no clear-cut hermeneutics.³⁶ From the literature, post-conflict peacebuilding may not be conceptualised as a single activity but rather as a set of activities, procedures, strategies, schemes and notions from a mediated process between parties and actors at all levels—whether international, regional, national or community. It

³⁶ Hermeneutics is the process of knowing the basic meaning and how it is interpreted. It is the understanding of concepts as presented in comparison to reality (Gadamer 1989: 254-264).

is a communicative toolkit for a continuous contestation of activities of global, regional and national politics in a bid to reconstitute lasting peace. The activities of post-conflict peacebuilding do not seem to have a borderline or an official end as more and more activities are assumed by both scholars and practitioners as necessary for reforms.

The widening activities of post-conflict peacebuilding mean that electoral system reforms, electoral management body (EMB) changes, making institutions independent, reforming the security sector, disarmament, demobilisation and re-integration (DDR) are all categorised as important though, in practice, the full range of activities is not always carried out (Curtis 2013: 204).³⁷ The most criticised peacebuilding activity is the DDR. Eboe Hutchful (2012: 67) censures the African system of DDR and security sector reform (SSR) and its claims of establishing “effective” systems of security during peacebuilding have mainly failed. Instead continental militia militarisation is on the increase. Furthermore, Humphreys and Weinstein’s (2007) study on Sierra Leone provided no significant evidence that DDR programmes that were funded by the international community from 1997-2007 resulted in successful re-integration or demobilisation of former militia and rebel soldiers.

Other criticised peacebuilding activities involve the ever expanding tasks of peacebuilding. Peacebuilding has come to include activities of state building, reinforcing legitimate forms of political authority friendly to the West and strengthening state institutions (Ali & Mathew 2004: 7). By 2004, the UN identified environmental degradation, poverty, infectious diseases, terrorism, armed conflict, organised crime, gender equality, distributive justice, access to education, destruction of weapons of mass destruction and development and as major threats to security that post-conflict peacebuilding should address. The expanded activities are supposed to stress movement from negative peace

³⁷ Disarmament, demobilization, and reintegration (DDR) and security sector reform (SSR) processes should be interrelated and mutually reinforcing. As DDR and SSR share the same objective—consolidation of the state’s monopoly of force to uphold the rule of law—should be well planned, resourced, implemented, and evaluated in a coordinated manner. The natural point of intersection for DDR and SSR is in the reintegration phase, as many ex-combatants find employment in the security apparatus that SSR creates. DDR helps ensure the long-term success of SSR, as it shifts ex-combatants into the new security forces, where they no longer threaten the state’s monopoly of force. If done properly, this re-enforces the peace settlement by fostering mutual trust between former enemies, encouraging further disarmament and transition into civilian life.

to positive peace and the absence of structural violence (Ali & Mathews 2004; Galtung 1969).

Furthermore, Curtis (2013: 205) claims that post-conflict peacebuilding encompasses reconstitution of individual and group identities and re-building relationships. According to Curtis, all these have amplified the notion of the activities that post-conflict peacebuilding entails, leading to duplication of efforts, contradictions and tensions (Ibid.). At times conflicts of interests arise between initial and secondary actors, aggravating an already volatile environment. To exemplify the confusion experienced in the area of peacebuilding, Branch (2011: 34) contends that in the Great Lakes region there were differing UN mandates on post-conflict peacebuilding in Democratic republic of Congo (DR Congo) in 2010 that concentrated on strengthening government military capacity and consolidating government authority. In Uganda, post-conflict peacebuilding focused on the military defeat of the Lord's Resistance Army (LRA).

In many parts of Africa, including Darfur (Sudan), Somalia and Angola, post-conflict peacebuilding activities have been halted, redesigned, subverted, queried, and re-appropriated by various actors making the trajectories messy, repetitive and multifaceted (Devon 2013: 202). For Devon, post-conflict peacebuilding resembles a contest between many practices and ideas that keep shifting, fomenting the possibility of violent conflict. He concludes that post-conflict peacebuilding in Africa, and particularly in the Great Lakes Region where Kenya is situated are contested and confusing by the various NGO bodies working in peacebuilding projects (2013: 203).

Boutros Boutros Ghali at first perceived post-conflict peacebuilding as a linear process, beginning with humanitarian assistance, conflict management, peace settlement, peacebuilding and reconstruction and development. However, academics and practitioners (such as Curtis Devon 2013: 204; Barsky Allan 2014; Katrien Hertog 2010) realised that peace processes rarely follow a linear framework. The term post-conflict was also found to be a "misnomer" by Curtis, who considers that violent conflicts continue, albeit at different stages of intensity, even after signing peace agreements or formal endings of hostilities. Curtis implies that peace and conflict exist simultaneously. He notes

that peacebuilding may take place after, during or before conflicts. This line of argument suggests that peacebuilding can and should be initiated at various points in time without necessarily waiting for the aftermath of violent conflicts.

3.10.3 Whose peacebuilding?

An Agenda for Peace by the UN Secretary General Boutros Boutros Ghali (1992) attempted to clarify who plays the role of peacebuilding or who are the actors in a post-conflict process. Scholars have tried to articulate the role of peacebuilding in differing perspectives. Call and Elizabeth (2008: 55) state that peacebuilding involve actions taken by international, regional, sub-regional and national actors to institutionalise peace. Due to outsider involvement in peacebuilding and the imported nature of its methods, critics have viewed the activity as neo-colonialism. McMullin (2013: 73) argues that post-conflict peacebuilding in Africa, is basically viewed as a European neo-colonialist strategy. This argument is supported by Richard (2010c: 63) who asserts that peacebuilding is seen as something from the outside, not built within the internal structures of sovereign states as an activity, and it therefore rejects and ignores local agencies. Critics of post-conflict peacebuilding activities, such as Schellhaas and Seegers (2009), perceive the international community as bypassing the contextual environment by introducing pre-determined reforms as disguised imperialism with a view to maintaining the economic and political interests of the international community.

Doyle (2007: 9), however, dismisses the notion of imperialism and neo-colonialism and explains that peacebuilding is a long-term investment intervention by the international community aimed at creating structures for positive peace. But Doyle criticises the wide-ranging and prolonged presence of international community actors in the name of peacebuilding projects as neo-colonialism and hegemony of “liberal peace” (Doyle 2007: 6). The hegemony of liberal peace is where the West claims to have the know-how to achieve peace, development and democracy and the rest are recipients (Dillion & Reid 2009; Duffield 2007). In this sense, peacebuilders are called to be facilitators and not occupiers (Lucuta 2014: 6). This study will seek to establish whether the peacebuilding reforms in Kenya incorporated any African approaches.

3.10.4 Appraising peacebuilding

Peacebuilding is not always successful in all post-conflict societies. The UN (2013) outlines one of the reasons as lack of support from donors for important development and reconstruction projects in the aftermath of violent conflicts. According to Newman and Schnabel (2014: 166) the West has abdicated responsibility and disengaged itself from its work in peacebuilding, citing lack of accountability by states recovering from violent conflicts.

While Newman and Schnabel view accountability as a problem, others (like Lucuta 2014) criticise the models used in peacebuilding. Lucuta explains that most Western states have models for addressing peacebuilding in states that find themselves in conflict with each other or within themselves. Most of these models are aimed at rebuilding state structures in line with Western structures. Peacebuilding efforts from the international community are largely regarded as external models (Tadjbakhsh 2011: 230). Lucuta (2014: 7) claims that the US model being enforced at all costs has failed to address the root causes and problems of conflicts, thereby jeopardising the opportunities for full implementation of peacebuilding and consolidation of democracy in emerging democracies.

Lucuta (2014: 8) calls for shifting the strategic processes of peacebuilding from deductive to inductive structural views. She explains that the deductive methods are capacities and mechanisms established by the donors that insist on institutional processes, as opposed to inductive methods that focus on strategies and using conflict parameters, such as involving local participation and identifying local priorities. Lucuta recommends using grassroots local mechanisms integrated with international solutions. This she argues, focuses on prioritising local needs over donor needs. She does not however state how much of each should be integrated

Forman and Stewart (2000: 12) criticise the gap between effective deliveries of donor support and unfulfilled pledges that end up jeopardising the consolidation of sustainable peace. Forman and Stewart allude to the fact that peacebuilding is often left half-done as soon as normalcy begins to take root and that pledges given are rarely satisfied to the full.

Given the literature reviewed on post-conflict peacebuilding, it is evident that the term needs to be clearly defined. The main questions on peacebuilding from the literature relate to variations of opinions on when peacebuilding should end; what type of peace is entailed; what approaches are needed to achieve peace. It also requires to know who the actors should be and what exactly their roles are. Lastly, what models of peacebuilding are acceptable in which context is important.

3.11 CONCLUSION

The chapter has defined mediation from the scholarly works of mediation. It has also critically discussed the literature on the concept of mediation, its structures and the process of mediation. Various types of mediation have been discussed with the aim of delineating the types used in mediating electoral violence and achieving sustainable peace. Recent literature sources on the tracks of diplomacy that inform mediation have been described. The role of mediation as a tool of peacemaking and conflict transformation was discussed. The study also examined the literature on reasons why some mediation processes fail and others succeed. Lastly, post-conflict reforms have been critically debated as perceived by various post-conflict scholars. From the literature on mediation models, it is clear that little work has been done with regards to model for mediation for electoral violence in Africa.

CHAPTER FOUR

RESEARCH DESIGN AND METHODOLOGY

4.1 INTRODUCTION

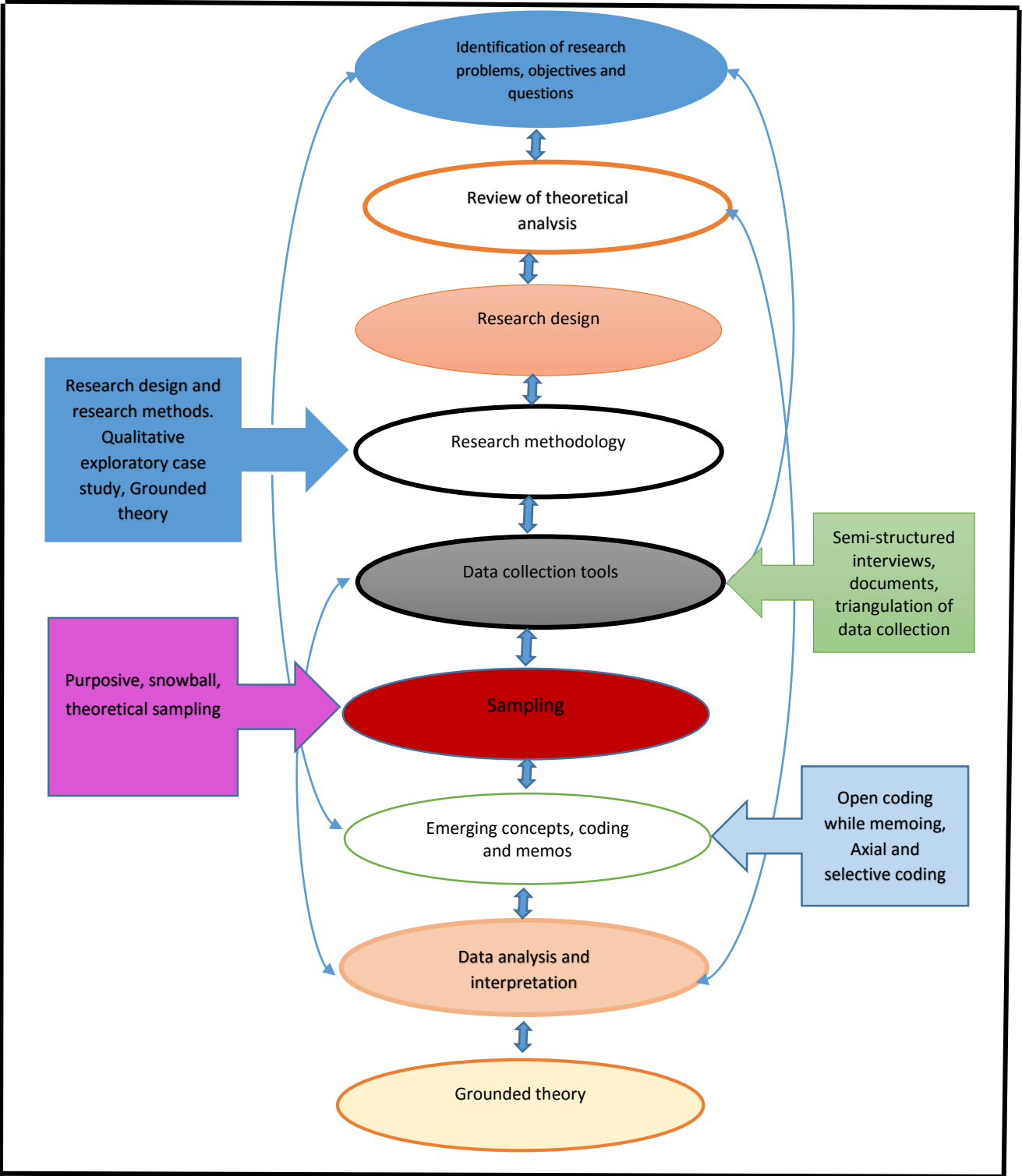
The primary objective of this research study is to explore the causes of electoral violence, the mediation process, the reform agendas in transforming electoral violence and the role of mediation with the aim of developing a model for mediation for resolving the problem of electoral violence.

This chapter presents an overview of the research design and methodology utilised in addressing the main objective and the sub-objectives. The chapter also discusses the justifications for each step taken in the research design and methodology. According to Farrington (2009: 331) and Kumar (2008: 1) providing a clear outline of the research methodology is a crucial requirement-hence, the thrust of this chapter.

The analysis, categorisation and synthesis of the data gathered for this investigation relies on recent approaches in the field of conflict management. Furthermore, data collection instruments and how participants were sampled is explained. The organisation and categorisation of the data, including the data coding approaches used is also outlined. Qualitative research requirements for assurances of trustworthiness have also been deliberated upon. Finally, ethical concerns are elucidated.

4.2 RESEARCH DESIGN

The research design for this study was planned in relation to the research questions and objectives. It gives the basis for the whole research work plan (Rajasekar, Philominathan & Chinnathabi 2013: 22). Figure 4.1 illustrates the research design framework.



Source: Researchers' own design 2015.

Figure 4.1: Research design and methodology framework.

According to Sumathi and Saravanel (2009: 85), the framework starts with the identification of the research problem and ends with the findings and study report. As demonstrated by this framework, this research design aligned the objectives of the study with pragmatic strategies on how to achieve them systematically (Kish 1965 & Davies 2006).

4.3 RESEARCH EPISTEMOLOGY

Collins and Hussey (2006: 11) propose that determining the research epistemology for a study is the first step in creating a research design. Epistemology, as a paradigm, can be seen as a matrix of perceptions and beliefs in a particular school of thought. Foucault (1972: 1) explains that paradigms are 'mind-sets of the age.' These 'mind-sets' emerge through discussions, actions and experiences of the people who subscribe to a particular discipline. While Kinash (2013: 1) argues that epistemologies as social issues are unique to time and place contexts, Du Plooy-Cilliers, Davis, and Bezuidenhout (2014: 51) on the other hand give the perspective of shared traditions and philosophical assumptions of research approaches.

This research study is founded on an interpretivist theoretical framework which draws, though not exclusively, from the idealist philosophical foundations of behavioural sciences. The interpretivist approach looks at the systems the participants create to interpret their experiences in the world in which they live. With this epistemological view, this research investigation holds that the social and cultural world experiences of individuals or groups and their meanings are not objective but rather created or socially constructed through socialisation and human interactions (Du Plooy-Cilliers et al., 2014: 50). Therefore, "thick" descriptions of the subjective knowledge of the participants' experience' provide the central data for the present study. According to Du Plooy-Cilliers et al., the interpretive theoretical framework argues that the subjective individual qualification gives detailed and rich knowledge established through subjective understandings of the personal accounts and experiences of the participants (2014: 51).

Subsequently, the interpretivist system is very much in line with the objective of this research, in that it aims to explore the causes, the mediation process, analyse the role of

mediation and develop a model for mediation for resolving electoral violence. Correspondingly, the interpretivist approach lends itself to qualitative methods of data collection, such as semi-structured interviews, that have the potential to yield exhaustive information on the causes of electoral violence and the intervention via a mediation process based on certain reform agendas. Furthermore, the interpretivist method can enhance the systematic analysis of socially constructed meaning and understanding of the participants' experiences of the social conflict (Neuman 2006: 88).

The disadvantages of an interpretivist method include, first, the fact that the information collected was sometimes sensitive with rebounding impacts on participants (Du Plooy-Cilliers et al., 2014: 51). Individual participants' subjective experiences often rebounded in painful ways as they narrated the ordeals they suffered during the election crisis. Individuals affected in this study were mainly the participant victims of the post-election violence who re-lived their experiences via comprehensive, robust and empathetic accounts of the causes and playing out of electoral violence, together with their views on the reform agendas and the actual mediation process. The mediators too had to suffer the rebounding effects of the various stalemates that threatened to slow down the negotiations or 'cut short' the process, something that would have been disastrous for the people of Kenya. The next section outlines the methodology to be used in interpretive method.

4.4 QUALITATIVE EXPLORATORY CASE STUDY

This study used an exploratory case study approach. According to Du Plooy-Cilliers et al. (2014: 73), it is important to use the appropriate research method so as to arrive at valid findings. Case study research is a method of inquiry that utilises single or multiple units that are specifically bound in place and time (Braun & Clarke 2006: 3). Hence, this case study research took place in the natural environment in which the phenomenon under study took place (Rossman & Rallis 2012: 8-11). The researcher was interested in this case study because the phenomenon directly impacted on the researcher during the 2007-2008 violence. This position, hence, led to the decision to explore the causes, reforms, and conflict resolution mechanisms for its management.

However, according to Merriam (1988: 29) qualitative and explorative case studies possess three key characteristics:

...an intensive investigative holistic description and analysis of a single entity, phenomenon or social unit defined by an interest in a particular phenomenon within its real-life context. It can be characterised as being particularistic, descriptive and heuristic.

This case study was “particularistic” because it focused particularly on post-election violence in Kenya during 2007-2008. This specificity enabled the study to generate information relating directly to the post-election violence in Kenya. It was “descriptive” since the data collected from the process provided rich descriptions of the events. Finally, the qualitative case study was “heuristic” as it explored the Kenyan electoral violence 2007-2008 through the participants’ personal views of their involvements and experiences (Morgan 1993: 6). Hence, the study was heuristic, meaning that the case study illuminated the understanding of electoral violence through emerging variables from the case study.

The qualitative explorative approach was used in this research for several reasons. To begin with, the study aimed to explore and understand the values, meanings and beliefs of individuals and members of Kenyan identity groups, including ‘what they assigned to the social phenomenon’ of the post-election violence (Creswell 2013: 3). Next, was selected because this study aimed to explore the participants’ fundamental concerns with regard to the root causes of the electoral violence, the mediation process, the reforms and the role of mediation in electoral violence (Annemi & Bezuidenhout 2014: 173). Besides, the choice of a qualitative study research method facilitated the capturing of details concerning the electoral violence in Kenya in 2007/2008. These details include intimate feelings and lived cultural values and beliefs as expressed by participants. This perspective is encapsulated by Neuman (2011: 424) who claims that qualitative research attempts to capture all the details of a social and geographic setting via extremely detailed descriptions while also conveying the intimate feelings and beliefs of people involved in it.

The research participants included mediators and negotiators who were involved in handling the Kenyan electoral crisis, as well as Kenyan citizens who experienced the actual violence. These participants helped to make this case study rich in diverse experiences and knowledge from different vantage points (Strauss & Glasser 1967: 16). The necessity of a choice of participants with first-hand experience is emphasised by Annemi and Bezuidenhout (2014: 176) who argue that the case study must be from the participants' frame of reference. Case study research in this sense must elicit, broad patterns of responses from participants' constructions as perceived from their social and cultural world (Cresswell 2007; Corbin & Strauss 1990). The case study also allowed the use of a wide spectrum of data from individual participants, documents and literature (Yin 2003: 21).

Moreover, a case study approach made it possible to gain an understanding of important concepts. The approach facilitated the finding of answers to the research problems and provided opportunities to study the various reasons, conditions, and policies behind violent behaviours (Du Plooy 2001: 48).

The study also corroborated Morse's (2001: 1) argument that exploratory, qualitative case study methods "smooth out" contradictions and during data collection "are a mysterious strategy for collecting images of reality" experienced by the participants. It transpired that an exploratory case study approach proved to be a commendable plan for capturing answers suffused with images of reality to the research questions (Reis 2009: 12). Moreover, it offered a means for investigating the multiple variables of the study (Reis 2009: 13). The multiple variables explored were the causes of electoral violence, the reform agendas and the mediation process following the Kenyan post-election crisis of 2007/2008. Furthermore, as pointed out by De Vos, Harry, and Hart (2008: 278) the sole criteria for selecting qualitative cases for study should be 'the opportunity to learn in context'.

The method of qualitative exploratory case study has been seen as fostering creativity and innovation and opening up space for new ideas, models, theories, approaches, and conclusions (Creswell 1994; Morse 2001; Du-Plooy 2001). Thus, it seemed particularly

appropriate for a study that was exploring new areas of first-hand experience elicited from the victims and perpetrators, as well as from mediators and negotiators in order to develop a model for mediation. The case study approach to the post-election violence in Kenya of 2007-2008 breaks relatively new ground because it is rare to have a study that has explored the phenomenon using the views of mediators, negotiators and citizens. In order to develop a model for mediation grounded on the data, this study explored conflict deterrence skills for mediating violence related to elections through the use of an exploratory case study approach. To this end, the data gathered were theory-generating and inductive. Case study approach is consistent with the grounded theory that the study undertook to employ (Reis 2009: 13). According to Neuman (2011: 12) it is important to note that qualitative exploratory case study research has several approaches. However, this study used grounded theory methodology.

4.5 GROUNDED THEORY

Grounded theory is an inductive systematic procedural research method that aims to generate theory that explains at a broad conceptual level, a process, an action, an interaction or new models emerging from the data (Glaser & Strauss 1967: 1). According to Glaser and Strauss, theory is generated from an empirically collected data which are methodically analysed. Hence, the main aim of using grounded theory methodology is to advance the central objective of this study, which is, the development of a model for mediation for countering electoral violence. Grounded theory method subsequently moves the qualitative inquiry into the realm of a theoretical framework (Charmaz 2014: 8).

As proposed by Glaser and Strauss and as a requirement of the grounded theory framework, data collection and analysis were conducted simultaneously (Glaser and Strauss 1967: 3). This involved reading transcripts with an open mind and writing memos in order to identify concepts, categories and patterns (Rossman & Marshall 2013: 26).³⁸

³⁸ Corbin and Strauss (2014: 186) define memoing as a way of data analysis used to clarify ideas, magnify important concepts and generate meaning that can inform the coding process. See Corbin, J. and Strauss, B., 2014. *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. London: Sage Publications.

The concepts that were similar were grouped into a category (Corbin & Strauss 1990: 7). These categories were further constantly compared with the data and literature from documents for further categorisation. From these categorisations of concepts, theoretical models that emerged were built up (Bernard & Ryan 2010: 34). This process is what Charmaz calls 'systematic research of analysis of qualitative data to construct grounded theory' (2014: 1). Therefore, abstract conceptual understandings of the causes of electoral violence, and also of the mediation process, the reform agendas and the role of mediation could be reached. The data that were used were from multiple sources such as interviews with the participants, and relevant literature, documents and memos (Glaser 1978: 42). Developing the concepts and categories from the data was done by means of an inductive and iterative technique of constantly comparing emergent data concepts and categorising them in terms of social patterns. The identified social patterns were then linked into formal theoretical models (Corbin & Strauss, 2008; Glaser & Strauss 1967).

The logic of grounding a model from multiple data sources is supported by several scholars (Barbuor, 2008; Braun & Clarke, 2006; Punch 2014; Charmaz 2014; Trochim, 2015) who argue that grounded theory allows for extrapolation to generalisation. The approach utilised enabled the use of participants' data on issues of electoral violence and mediation for the development of the grounded theory that which explains the electoral violence phenomenon in new theoretical terms (Glaser 1978: 42). Grounded theory has been used by several scholars including Reese Melanie (1996) who explained the role of communicative process of mediation from grounded theory approach. Similarly, Bosma Theo developed effective leadership practices of conflict resolution in cross-cultural environments on grounded data.

There were many advantages for using grounded theory. One was the employment of systematic comparative techniques to create codes and find themes by categorising concepts. Assertions were supported with evidence collected from data. To this end, the theory developed became significantly grounded on the evidence received. Secondly, grounded theory gave new insights into the causes of electoral violence, the reform agendas and how they were arrived at. It also enhanced the vivid description of the mediation process, and the role of mediation in resolving electoral violence. Grounded

theory assisted in determining the insights of the participants on electoral violence and mediation, hence helping to answer the research questions appropriately.

However, grounded theory had difficulties. Some of the main difficulties was related to the coding technique of line by line analysis. This proved to be time consuming because the data were massive and had to be studied to capture the relevant information relating to the topic.

4.6 QUALITATIVE DATA COLLECTION METHODS

The aim of this section is to discuss the method used for data collection. A method is a well-defined procedure utilised to collect and analyse data (Crotty, 1998; Trainor & Graue 2014: 13). In data collection approaches, it is essential to distinguish between primary and secondary data. Trainor and Graue state that there are two types of qualitative research data, commonly known as secondary and primary data (2014: 14). The research used both primary and secondary data collection methods and procedures.

4.6.1 Primary data

Primary data used for this study comprised the original data collected as narrated at first-hand accounts by the participants, specifically for this study and its research goals (Silverman and Patterson 2015: 1). Primary data has diverse advantages. For example, it gave first-hand information, distinctive and relevant to the research study via research questions that yielded valid information for analysis (Silverman and Patterson 2015: 25). Primary data in this qualitative research were elicited through the methodology of semi-structured interviews which helped to create rapport with participants and also provided a more descriptive perspective to the electoral violence.

However, the exercise of collecting primary data took time. Research was conducted over a long period of time due to the location of the various participants, as illustrated in Figure 4.2. As a result, the collection of primary data was conducted over periods of several months. Another drawback was that some participants were not able to provide

responses as some information was too sensitive and, some of the information needed could not be divulged due to societal values and norms.

4.6.2 Secondary data

The secondary data for this study included official documents, minutes of negotiation and dialogues recorded during the mediation of 2008 in Kenya. The documents for initial meetings between mediator and disputant, and general documentaries on the PEV crisis in Kenya, 2007-2008 were also used, as indicated in the next section. Permissions were sought for the use of these documents from the mediating teams. Other secondary data records included media reports and literature reviewed on the mediation process, and some of the recorded speeches by the main mediators. Documents were carefully chosen and only those that had distinct relevance to the study research questions and the objectives were employed. Secondary data enhanced the trustworthiness of the research evidence.

Secondary data have many advantages. The main advantage is that the costs of collection are relatively cheap in comparison to obtaining primary data. Following that, obtaining secondary data was less time-consuming as they are easier and faster to gain access to. NPI and APFO libraries in Nairobi offered the free entry and access to documents on the violence. The PEAP had documents that the researcher accessed through written permissions.

Secondary data disadvantages included the fact that some data may be outdated.³⁹ The old Kenyan constitution, for example, is not adequate for the current study due to constitutional changes. Other documents may refer to the individual personalities of some of the then sitting political members. These too were not fully utilised by the study because the political transfer of power had taken place since the time the documents were created. Additionally, some of the secondary data required permission letters from the various institutions due to copyright issues and research ethics. Nevertheless, keeping in view

³⁹ It important to note that in Kenya, there are two constitutions. The old constitution (used until 2010) and the new 2010 constitution. As such, it is essential to note that the 2007-2008 crisis took place while Kenya was using the old constitution.

the advantages and disadvantages both relevant and accessible primary and secondary data were used in combination to give proper coverage to the research topic under study.

There are several types of approaches for collecting both primary and secondary data. Trainor and Graue (2014: 125) identify several types of methods for primary data collection. This study used semi-structured interviews and data from primary and secondary documents as required of qualitative research and grounded theory methodology.

4.6.3 Semi-structured interviews

Semi-structured interviews - also known as 'soft interviews' - provide a method of research using verbal exchanges where the interviewer (one person), elicits information from the interviewee (another person), by asking open-ended questions (Njageh 2009: 56). The use of semi-structured interviews, therefore, enabled questioning of selected participants on a one-on-one basis.⁴⁰ These open-ended interviews were recorded with the help of an electronic recording device - and with the permission of the participants.

To be able to conduct the semi-structured interviews and the data collection process, certain skills are required. The skills include the ability to devise semi-structured questions, and maintain a keen listening throughout. First, the semi-structured, open-ended interview guide had to be developed. Secondly, the topic had to be explained and a relaxed atmosphere and rapport with the participants created. Thirdly, keen listening was necessary in order to be able to ask probing or follow-up questions. In this manner, in-depth information could be collected from the participants.

The semi-structured interview technique advanced the study in many ways. Most importantly, it allowed accessing data that may not be obtained in any other way (Gay 1996: 224). The unique advantage of semi-structured interviews is that they allow for further probing of responses that are not fully understood. Probing allows the participants space to expand their accounts of their experiences and feelings. As a result, the interview

⁴⁰ A semi-structured interview is a social science approach that is open-ended, allowing new information to be brought up during the process while answering the interviewer's questions.

process presented openings for narratives to unfold through further questioning of less understood topics. In this manner, it provided a flexible approach, allowing participants to offer new information. As such, the semi-structured interviews generated profoundly expressive data and knowledge from the participants that could be used for analysis (Warren 1988: 12). In addition, the semi-structured interviews allowed for the exploring of Kenyan electoral violence and the mediation process from the Kenyan people's subjective interpretations of their own social world (Tuckman 1999: 237). Moreover, the semi-structured, face-to-face interviews invited interviewees to express themselves openly and freely (Neville 2007: 21). Lastly, semi-structured interviews proved to be particularly well-suited for this study because there is very little other empirical research on Kenyan post-election violence with the views of mediators, negotiators and citizens incorporated in one single case (Njageh, 2009: 41).

By using a semi-structured interview approach, flexibly worded questions could be posed in two categories; the first was for 'mediators and negotiators' and the second for 'citizens.' The questions asked were as follows:

Examples of semi-structured questions to 'mediators and negotiators':

- In your opinion, what were the causes of the post-election violence?
- What were the pre-mediation processes?
- What were the barriers to the use of mediation that warranted further investigation?
- During the mediation what step-by-step process was used?
- How were standoffs (impasses) dealt with during the mediation process?
- What is the potential of a mediation process in transforming election-related violence?
- What reform agendas were set up in managing the conflict?
- How were these reform agendas arrived at?
- What, in your opinion, was the role of mediation in the electoral violence crisis?

Examples of semi-structured questions to 'citizens' were:

What in your opinion were the causes of electoral violence?

What is your suggestion with regards to electoral violence being mediated?

In your opinion, were the reform agendas adequate? If yes, or no, kindly explain why.

What, in your opinion, was the role of mediation in the electoral violence crisis?

The face-to-face interviews were accompanied by note-taking and tape recording of the session with permission from the interviewees. As advocated by scholars, audio-taping is the best way to record the interview interaction (Neville, 2007: 28). However, those who did not want audio taping were interviewed orally and the information was gathered through note taking.

4.6.4 Design of interview schedule

The study followed the McNamara (2009) application of the eight principles for the interview schedule of a research study. First, the interviews for mediators and negotiators took place in their preferred office settings as was requested by their gatekeepers.⁴¹ Interviews in a hotel room that could ensure the privacy of the participants provided the setting for citizens from zones 1, 2, 3, 4 and 5. The zones (see full explanation in section 4.6.2) include Nairobi, Eldoret, Coast, Thika and Kisumu. Secondly, the purpose of the research study was explained to all the participants. Thirdly, the participants received the terms of confidentiality. Fourthly, the format to be followed for the interview sessions was explained and agreed upon. Fifth, the length of time the interview would take (i.e. between fifteen minutes and one hour) had to be calculated. The interviews then officially began after the consent of the participants to the use of an audio tape recorder, in line with the McNamara's sixth principle. Participants were then asked if they had any other questions for clarification, in accordance with McNamara's seventh principle. In accordance with the eighth principle the participants were provided with the interviewer's contact details.

⁴¹ Gatekeepers are defined by Given (2008:2) as individuals who can be used as entry points to specific target groups meant for the study. Gatekeepers usually have inside information about participants that can help the researcher in determining the best participant (s) to access. Gatekeepers establish a relaxed atmosphere for the research process as they connect the researcher to the next participant. Gatekeepers also can assist researchers with time allocations and settings for the interviews. To read further on gatekeepers refer to Lisa Given., 2008. *The Sage Encyclopaedia of Qualitative Research Methods*. New York: Sage Publications.

4.6.5 Sampling

Since it was not feasible to collect information from everyone in Kenya, a country that has 47 million people, a part of the population was selected.⁴² The selection of the research population was conducted via systematic non-probability sampling (Du Plooy-Cilliers et al., 2014: 132) where representatives from Kenyan citizens, mediators and negotiators were selected as a subset of this accessible population (Du Plooy-Cilliers et al 2014: 132). The accessible population was thus a section of the larger population of the citizens, mediators, and negotiators that were willing to take part in the research.

4.6.5.1 Non-probability sampling approach

Khumar (2008: 41) defines non-probability sampling as a procedure where a researcher does not estimate the likelihood that each participant in the population can be included in the sample. Hence, the preferred population targets were selected via a non-randomised approach which aimed to select participants who could provide deep accounts of the causes of the electoral violence and the mediation process that was being explored (Du Plooy-Cilliers et al., 2014: 136). According to Du Plooy-Cilliers et al., it is important to get the 'right' persons who can share in-depth perceptions of their experiences. Non-probability sampling is preferred in qualitative studies where a smaller sample size is able to provide information to a theoretical saturation point. Theoretical saturation was the signal point where categories, concepts and variables required for the framework under study had been sufficiently achieved (Lisa 2008: 875).⁴³

Non-probability sampling has certain limitations. For example, the study findings may not be generalisable to a larger population within a different environment (Babbie 2013: 199). There is the danger of researcher bias influencing the outcome of the study. However, in this case, researcher bias was dealt with through triangulation of data collection methods. Non-probability sampling may employ different methods. According to Babbie (2015: 8), the different methods include snowballing, theoretical sampling and purposive sampling.

⁴² Johnson (2015: 1) states that Kenya has 47 million people.

⁴³ Theoretical saturation is also defined by Lisa (2008: 875) as the point in grounded theory where concepts and categories for a theory are sufficient for the development of the new theory. To read further see Lisa, G., 2008, *The Sage Encyclopaedia of Qualitative Research Methods*. Thousand Oaks, California: Sage Publications.

The data in this study was therefore solicited using purposive sampling, snowballing and theoretical sampling as explained in the next section.

4.6.5.2 Purposive sampling

The research employed purposive sampling, which involves strategic sampling based on the participants' particular characteristics (Babbie 2013: 62). The sample participants were identified as those possessing relevant expert information (either as a mediator, negotiator, or citizen) related to the purpose of the research study (Johnnie 2011: 73). Thus, the participants selected were believed to be those who had a comprehensive understanding of the subject being studied (Tongco, 2008; Bernard, 2002; Lewis & Shepard, 2006). The following were adjudged to be the most appropriate participants. The mediators, some of the actual negotiators who participated in the negotiations and finally, citizens who were actually present during the violence, either as surviving 'victim's or as perpetrators. Together, these respondents gave credible data from experience and perceived understandings of the electoral violence. These key informants selected through this technique were thus "information rich" (McMillan & Schumacher, 2001: 176).

4.6.5.3 The snowball sampling

Babbie describes snowballing as a research method where the researcher identifies one member of the target population and requests him/her to identify others with similar characteristics (2002: 215). These identified participants in turn identify others and so on. As such, the researcher approached the United Nations Communications Office in Nairobi, which then provided access to AUPEAP through an email letter, following which arrangements and appointments were made and gatekeepers identified. NPI was known to the researcher by snowballing from the liaison officer at the AUPEAP. The NPI also made known their counterparts in the APFO team. Thus, the sample group grew like a rolling snowball, and as it built up, data were gathered that proved useful for this research (Morgan 1993: 816).

Similarly, the citizen participants were identified via snowballing. Citizens from the various hot zones of the country who knew fellow citizens who had participated in the violence confidently shared their experience. The first citizen was from Kibra in Nairobi. He then

introduced other Kibra participants and later citizens in Kisumu, who introduced Eldoret citizens who in turn connected the researcher to the Mombasa participants. Lastly the Mombasa participants introduced participants from Thika. The snowball technique thus enhanced the gathering of expert information from participants that would otherwise have been difficult to access (Morgan 1993: 817). It also increased the efficiency of the study as the number of participants grew to a level of theoretical saturation (Johnnie 2011: 86).

4.6.5.4 *Theoretical sampling and saturation*

In grounded theory, sampling began purposively [as discussed above] and then reverts to theoretical sampling (Corbin and Strauss 2015: 115). Analysis of preliminary data collected through purposive and snowballing data methods, led to emerging categories of concepts. Where the analysis revealed information gaps, what data to collect next and where the data could be collected was determined (Glaser and Strauss 1967: 45). Participants' potential manifestation of important theoretical constructs thus emerged (Patton 2001: 238). This process constitutes what Glaser and Strauss (1967) call theoretical sampling in grounded theory. The process of data collection culminated in theoretical saturation or saturation of concepts (Glaser & Strauss 1967: 61). Theoretical saturation constitutes the point at which all the concepts in the substantive topic [model for mediation for electoral violence] being developed were well understood and could be substantiated from the data (Corbin and Strauss 2015: 116). It was also the point at which further data collection could cease following three attempts before theoretical saturation was established.

4.6.5.5 *Target sample profile*

The target population for this study included mediators. In addition, the study sampled the main disputants from the two political parties. These were politicians who actually negotiated the dispute. They were from the Orange Democratic Party (ODM) and the Party of National Unity (PNU) which was the ruling party at the time. Lastly, the study sampled Kenyan citizens from the 'hot zones' regions which had experienced fierce fighting and high death rates.

For purposes of this study, the researcher was more interested in research rich data and thick descriptions than in the number of participants. However, theoretical saturation finally determined the sample population size which numbered 45 participants. The mediators were thirteen (13). The negotiators were four of whom two of the participants were from ODM and two others from the PNU political party. Citizen representatives interviewed numbered twenty-eight (28).

The use of pseudonyms (pen names) was discussed and agreed upon. Pen name use is in line with the ethics of research where, according to Lisa (2015: 101), a researcher gives participants pseudonym names.

Table 4.2: Target sample and sample size

Name of participants	Acronym name	Number of participants
Mediators 1-13	M1-M13	13
Negotiators-Orange Democratic Movement (ODM)	ODMn1 and ODMn2	2
Negotiators-Party of National Unity(PNU)	PNUn1 and PNUn2	2
Kenyan Citizens	Citizen 1-citizen 28	28
	Total	45

Source: Researcher’s own table of target population and sample sizes after saturation.

As shown in Table 4.2, the target population and size was diverse. As such, the mediators interviewed named “M” and would bear the names M1 up to M 13. The negotiators were the political elites who took part in the negotiation of the issues that beset the Kenyan electoral process. The political parties involved were Orange Democratic Party (ODM), which was the main opposition party, and the Party of National Unity (PNU) who were in

government. They have been named by this study as ODMn 1 and ODMn 2 while their counterparts have been named PNUn 1 and PNUn 2.

The citizens from zones of Nairobi (Kibra), Eldoret, Coast (Mombasa), Thika and Kisumu that were involved or experienced the phenomenon of electoral violence were also sampled. The citizens were from the hot zone areas that experienced the most lethal violence with the highest number of deaths of post-election victims, including Thika in central Kenya, the zone that was ravaged by revenge attacks.⁴⁴ These will be called citizen N 1 to citizen N 28. All participants were informed about their ethical rights and were free to participate in the interviews or withdraw at will.

Mediator 'M' as respondent in the study and use of dialogue documents

The African Union regional office that mediated the electoral violence is based at the Nairobi headquarters and is known as the liaison office. Other mediator bodies that took part in the research were the NPI and APFO who are also having their headquarters in Nairobi. The AU PEAP liaison office and other mediators provided letters of permission to access key documents, books and literature relevant to the mediation dialogue specifically for research purposes on the causes of the crisis, reform agendas and the role mediation played in transforming electoral violence. The mediators, that included the two non-governmental peace mediating bodies in Kenya that informed the mediation, work across Africa and specifically in the Horn of Africa area to transform conflicts. Their teams are composed of Kenyan citizens who have mediated conflicts in Sudan, Somalia, South Sudan, and Burundi, among others. They have worked with the Intergovernmental Authority on Development (IGAD) and had formed a Citizen Initiative for Peace to address the post-election crisis in 2007/2008.

Both are based in Nairobi working to promote peace in the African continent. These two mediator teams were informative of the mediation process and added substantially to the understandings of the violence and gave suggestions on how to deal with the Kenyan

⁴⁴ Hot zones are those regions within the country that experienced high violence in terms of deaths and destruction of property. The hot zones had potential for more violence.

electoral crisis. They also acted as informants to the international community, the United Nations, and the two disputing political parties. These mediators were chosen as they fitted the background to the crisis, and had the qualities needed for conducting the mediation process that ended the impasse and resulted in the cessation of hostilities and a signed accord.

Negotiators ODM and PNU

The negotiating team that negotiated the Kenya electoral violence 2007/2008 came from both sides of the political divide. They were brought together through African Union intervention to negotiate the issues behind the electoral violence and seek a solution to the problem. The negotiating team had a total of eight political elites at the negotiating table, with four from each side representing the disputing political parties. Of the eight members, however, this research study interviewed two from each side of the political divide. The negotiators were from the ODM political party and the PNU political party respectively. They therefore made a total of four participants from the negotiating team. They are named ODMn 1 and ODMn 2 and PNUn1 and PNUn 2 respectively.

Citizens

The target zones that the research collected data from are also illustrated in Figure 4.2. The zones are geographic regional areas within Kenya. The four zones chosen were the hot zones of the crisis that had the worst death tolls and had experienced the fiercest violence. The fifth zone, however, initially had relative calm but later there were revenge attacks on perceived ethnic opponents that lived among them. The zones have been numbered as Zone 1 (Nairobi Kibra), Zone 2 (Eldoret), Zone 3 (Coast), Zone 4 (Thika) and Zone 5 (Kisumu).

Each zone had a gatekeeper who had actually participated in the violence and who then introduced the rest of the participants through snowballing. After theoretical saturation, zone 1 had seven (7) participants, zone 2 had six (6), zone 3 had five (5), zone 4 had five (5) and zone 5 had five (5) participants. The total number of the participants interviewed in this category was thus twenty-eight (28). The citizen participants are labelled as citizens

N1-N28. The participants were interviewed until the researcher felt the study had saturated sufficient concepts for the theory. Therefore, the total number of participants in this category was defined by the saturation point reached during the interviews. All these participants shared the experience of the post-election violence and its mediated resolution.



Figure 4.2: Map of Kenya, with various research zone sites

Figure 4.2: Maps of research target zones in Kenya. Source: Adam (2014: 3) Central Intelligence Agency, London: Map of Kenyan Towns.

4.6.6 Documents analysis

Secondary data as already stated under secondary data acquisition were provided by the African Union Panel of Eminent African Personalities (AUPEAP) from their documents dealing with the *Kenya National Dialogue and Reconciliation* (KNDR) and from *On the Brink* and *Back from the Brink*. Others were from Kofi Annan's book on the Kenyan PEV, *The Interventions: A life in War and Peace* and from published books by the Nairobi Peace Initiative (NPI) entitled *Concerned Citizens for Peace*. Some of the documents used as already described under secondary data (see section 4.6.2) were extant documents from the archives which are in the public domain such as from AUPEAP, the (NPI-Africa) and the Africa Peace Forum (APFO) accord agreements. Others were from the reform agendas, and the memorandum of understanding that provided invaluable guidance in collecting research chronicles. Other documents included articles, journals and newspapers that had information relating to the electoral violence and the consequent mediation process. The additional documents were used to support and complement primary data and to supplement discursive experiences (Charmaz 2014: 48).

The use of the documents was legitimised by the named mediating institutions. For that reason, an extensive and critical literature review is provided (see Chapter 2 and 3) of the scholarly texts on violence, conflict, electoral violence, mediation, types of mediation, mediation processes and other conflict management models, including the United Nations (UN) literature and charter on peaceful resolution of conflicts. The documents strengthened the specific debates regarding this study. According to Coffey and Atkinson, a researcher in grounded theory should analyse documents as data to support experiential information because researchers ignorant of the relevant literature may be prone to irrationality (1996: 157).

Crucial insights and concepts emerged from an interplay between literature readings and data collected, thereby heightening theoretical sensitivity by contrasting and comparing conceptual interpretations. In this context, literature actually furthered the conceptual

ordering and development of grounded theory and enhanced its trustworthiness (Corbin and Strauss 1998: 47). The information was then summarised and interpreted in order to address the research questions under investigation. Moreover, with the inclusion of secondary data analysis, triangulation was thereby ensured (Hancock & Algozzine 2006: 13).

4.6.7 Triangulation

Methodological triangulation is the use of more than one method of data collection (Babbie 2013: 63). By using triangulation, the strength of one procedure [interviews] compensated for the weakness of another approach [documents] – and vice versa (De Vos, Strydom, Fouche & Delport, 2005: 314). As De Vos et al., point out, by integrating the primary and secondary methods in the same study, the researcher can partially overcome the deficiencies that flow from one investigator or method.

Triangulation brought to the fore some of the contradictions between the participants' perceptions and the secondary data. In this way a more detailed and balanced picture of the causes of electoral violence and the various mediation process techniques was afforded and understanding of the research topic could be enhanced.

4.7 QUALITATIVE DATA ANALYSIS

This study adopted the Glaser and Strauss (1967) grounded theory analysis process. The first step in the grounded theory analysis was to go through data for coding purposes. Different parts of the data were identified and marked with appropriate labels or 'codes' and later these codes were combined into 'concepts' that would explain the theory. A concept was a labelled section of data based on a series of significant facts (Glaser & Strauss 1967: 28-52). Concepts in this way, were abstract representations of interactions, events, and actions that permitted the researcher to group together similar items of information for a better understanding of the topic under study.

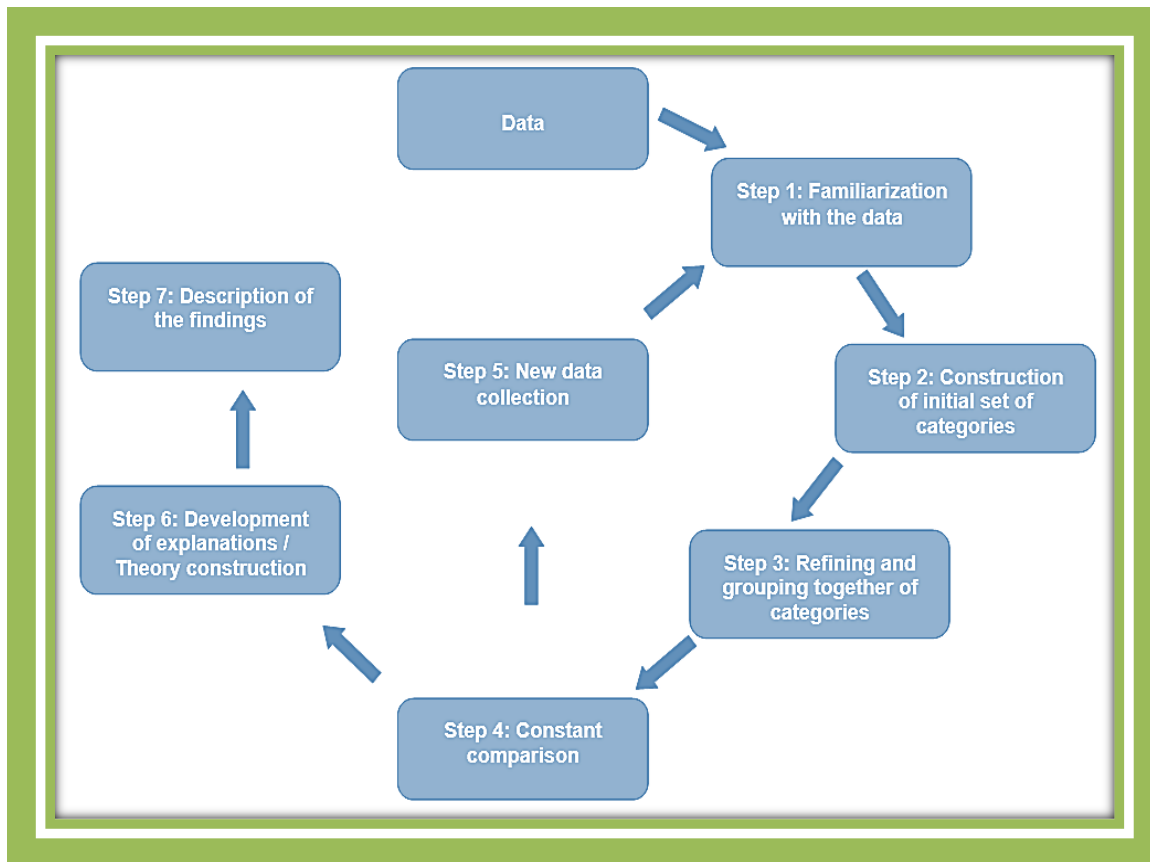
4.7.1 Iterative and interpretive data analysis

Iterative and interpretive data analysis involved the repetition of the analysis and interpretation processes in a continuous comparative cycle (Bezendenhout & Cronje 2014: 229). The cyclical nature of the process allowed for the repeated analysis, isolation and synthesis of the data. Emerging categories and patterns can thus be identified, thereby, facilitating the attainment of deeper and thorough comprehension of the data (Kelle & Bird 1995: 170). These included the meanings the participants as social actors gave to the occurrence of electoral violence (English 2006: 148). This enhanced comprehension of the social issues related to the PEV in Kenya.

4.7.2 Data organisation

Data were organised corresponding to the requirements of grounded theory. The analysis of data was an exercise occurring simultaneously with the data collection. This meant that the analysis took place during the collection period between August 2013 and August 2015. Every interview that was collected was analysed directly afterwards. As a result, each step of data collection was organised and fed into the analysis. Data collection and consequent analysis were done three times.

Figure 4.3 illustrates the process of data analysis in grounded theory utilised by this research. One of the unique features of utilising grounded theory was the dynamic interplay it afforded between data collection and analysis and the multiple collection of data (Payne 2007: 68). Hence, the data derived from interviews was organised by immediately transcribing the raw collected data from audiotapes into written texts (Glaser 1998: 68). The several cycles of transcribing proved useful during the analysis as the data had become increasingly familiar.



Source: Modified from Birks and Mills (2010: 13). *Essentials of Grounded theory*. Sage Publications.

Figure 4.3: Grounded theory data collection and analysis process.

4.7.3 Data coding

Through the process of coding, categories and subcategories emerged from the data and were subsequently identified and recorded. (Corbin and Strauss 2014: 203). Glaser and Strauss (1978: 73) advocate that in grounded theory research, the three levels of coding are to be used progressively. These three coding systems are open coding, axial coding and selective coding which subsequently lead to grounded theory in an inductive process. These are discussed in the next section.

4.7.3.1 Open coding

Open coding is basically the initial phase of data analysis in grounded theory (Glaser and Strauss 1978: 72) where data is analysed for identification of potentially relevant

concepts. Open coding began with transcripts of interviews coded line by line (Corbin and Strauss 1990: 72). Any gap was a guide to further data collection and theoretical sampling (Glaser 1978: 61).⁴⁵ Open coding had the advantage of stimulating the generation of codes and further interviews where they were deemed necessary. Next, open coding organised the research data into manageable and meaningful categories. In this manner, categorisation of concepts to higher levels was facilitated.

4.7.3.2 Axial coding

Axial coding, the process of relating categories to their subcategories from the outcomes of open coding, was the second stage of coding and of data analysis (Corbin & Strauss 1998: 123). The categories provide a higher level of abstraction (Glaser 1992: 38). Therefore, the task of axial coding involved the identifying of a category and its dimensions (Strauss & Corbin 1998: 127). By using this process, the relationship between a category and its subcategories could be teased out. By linking concepts together, the manifestations of the electoral violence and the mediation process could thus be clarified. This allowed for further emergence of novel relationships. Axial coding served an important stage in developing the relationships between open coding and selective coding.

4.7.3.3 Selective coding

At this stage core concepts and core variables emerging from the data categories and subcategories were identified through open and axial coding (Corbin and Strauss 1990: 42). The core variables were identified by a closer analysis of the coded list from the open and axial codes, together with information from, literature sources, and from the various documents– all viewed in the light of the research questions and objectives. In this way, the main purpose of selective coding was to establish the core category. It is this core

⁴⁵ Theoretical sampling in grounded theory is the collection of data based on emerging gaps by a researcher deciding where and what data to collect next after initial purposive sampling (Strauss & Corbin 1990: 72). To read more see: Strauss, A. and Corbin, J., 1990. *Basics of qualitative research Grounded theory procedures and techniques*, Newbury Park: Sage Publications.

category or core variable that was used to induce a theory grounded on the research data, as proposed by Strauss and Corbin (1998: 114).

4.8 TRUSTWORTHINESS

Koonin (2014: 253) argues that validity and reliability are not useful terms for qualitative researchers. Instead Koonin proposes that qualitative researchers use the concept of trustworthiness to measure reliability and validity. Trustworthiness in this qualitative study aimed at providing an understanding of the PEV that was being explored. This made trustworthiness a practical skill since the participants' responses were not objectively measurable because they were unique to each individual's own experience (Koonin 2014: 258). Koonin further divides trustworthiness into four areas of focus, that is, credibility, transferability, dependability and confirmability. However, (Guba and Lincoln 2011; Shenton 2004) all add a fifth one, that is, 'authenticity' as outlined in the next section.

4.8.1 Credibility

Credibility refers to the accuracy of the interpretation of the data gathered from the participants. This study painstakingly included extensive probing questions to ensure the credibility of what was being heard and to clarify concepts. Further credibility was ensured via triangulation and thorough analysis of documented sources of data. The documents enforced the participants' 'truths' as seen from their personal viewpoints. The usage of documents, probing questions and triangulation enhances credibility as stated by Koonin (2014: 258).

4.8.2 Transferability

The term transferability refers to the applicability of the findings from the data to other similar situations (Du Plooy-Cilliers et al., 2014: 28). Rich and "thick" data descriptions were collected in order to ensure transferability. Responses from mediators, negotiators and citizen participants were also sufficiently various. The data obtained from documents and literature also opened further doors for transferability.

4.8.3 Dependability

The research study integrated the processes involving data analysis, and various data collection and interpretation approaches, consequently generating a model for mediation from the data gathered. The integration of various data collection methods for triangulation is what Koonin (2014: 257) calls 'dependability' in qualitative research.

4.8.4 Confirmability

The evidence gathered from the participants and supported by data from the documents, notes written, memos and literature that together generated the findings of the study enjoyed an overall coherence due to a smooth flow from data gathering to coding, analysis and interpretation (Koonin 2014: 259). This clearly described coherence for future scrutiny of the research design, ensuring confirmability. Therefore, any future examination of the data has a likelihood of arriving at similar conclusions, despite human perceptions that keep changing.

4.8.5 Authenticity

Authenticity is the degree to which a study is useful and meaningful (Neuman 2011: 85). Authenticity in this study is ensured by the development of the model for mediation for electoral violence from a rigorous empirical exercise. The model for mediation can enhance conflict management mechanisms of electoral violence. The authenticity criteria are further subdivided into fairness and ontological authenticity (Barbour 2008: 58).

4.8.5.1 Fairness

Fairness deals with the quality of impartiality (Neergaard & Ulhoi 2007: 388). Fairness was maintained as the participants' responses were presented in a balanced, unbiased and even-handed manner to prevent marginalisation (Ibid). Moreover, careful comparisons and contrasts ensured that all voices were represented with fairness and balance in the study findings.

4.8.5.2 *Ontological authenticity*

Ontological authenticity means that constructions of participants who took part in the inquiry must be enhanced and their understandings improved (Neergaard & Ulhoi 2007: 388). Consequently, all constructions and re-constructions of experiences were enhanced as the participants narrated their perceived understandings of the electoral violence in Kenya 2007/2008. They were able to learn from their experiences by recognising their missed opportunities and their failures during the electoral violence under study. Moreover, it is hoped that each will receive a copy of this study report after completion so as to provide an opportunity for further enhancement of their constructions.

4.9 ETHICAL CONSIDERATIONS

Ethical considerations are specifications apropos a set of basic ethical principles underpinning and guiding the research (Burnham, Karin, Wyn, and Zig, 2004: 253). Steps were taken to ensure that no harm was suffered by participants or others not involved, at the same time, care was taken to prevent any violating of professional standards of conduct, in line with Kervin's (1992: 38) concept of ethics.

Saunders, Lewis, & Thornhill (2003: 131) summarise the main issues to consider, in terms of individuals' rights to privacy. These include firstly, the voluntary nature of participation and the rights of participants to withdraw partially or completely from the process at any time. The withdrawal from the process was stressed to the participants particularly the victims and the perpetrators to avoid any harm of possible traumatisation during research. Attention was also given such that information considered sensitive by the participant was disclosed in an accepting setting. Privacy and confidentiality of participants names not revealed. Secondly, the maintenance of the confidentiality of participants who provided data - and the security of their anonymity-was paramount. Thirdly, due consideration and objectivity had to be accorded to participants during collection, analysis and reporting of data (Neville, 2007: 35).).

The researcher controlled the use of information about individuals and the institutions involved in the study. Their input, was used specifically for research purposes only.

Consequently, the identities of the participants were protected. The consent of each participant was sought through letter writing and the participants all signed an agreement to voluntarily provide information without coercion or force.

4.10 DISSEMINATION OF RESULTS

The results of this research will be disseminated in the following ways:

- As a Doctoral thesis for completion of a DPhil in Political and Conflict studies at the Nelson Mandela Metropolitan University.
- To the African Union Panel of Eminent African Personalities, the Nairobi Peace Initiative-Africa and the Africa Peace Forum in Nairobi, Kenya.
- Via presentations at conferences, colloquiums and workshops.
- Where possible in appropriate articles and academic journals.
- To all interested participants of the study.

4.11 CONCLUSION

This chapter has aimed to provide a comprehensive outline of the research design and methodology for this study. Hence, the research design, that is, a qualitative and explorative case study aimed at producing grounded theory, has been described. The methodology, including the data collection instruments used in the study, has been discussed. It should be noted that some of the research methods, while seemingly sequential, in fact occurred simultaneously. The methods that took place simultaneously included data collection, coding, memoing, theoretical sampling and analyses.

CHAPTER FIVE

PRESENTATION OF FINDINGS

5.1 INTRODUCTION

This chapter focuses on the analysis and interpretation of data from the three empirical data collection phases in order to answer the central research question and address the objectives of the study. The central research objective was to develop a model for mediation for electoral violence, using the case of Kenya during the period 2007-2008. Other research objectives were to explore the causes of electoral violence, the mediation process and the reform agendas that were utilised to transform the violence. This chapter is therefore structured into three sections; the first section discusses the causes of electoral violence, the second section focuses on the mediation process and the reform agendas and the third section presents findings on the benefits of mediating electoral violence.

The data for the study were collected using multiple sources, including interview transcripts, documents, reports and newspaper articles. The participants were from mediators, the negotiators- the Orange Democratic Movement (ODM) and the Party of National Unity (PNU). Citizens were also interviewed from five Kenyan communities who were either victims or perpetrators of the violence in the hot zone areas of Eldoret, Thika, Nairobi-Kibra slum, Kisumu and Kakamega during the Post-Election Violence (PEV).⁴⁶ Forty five (45) participants were interviewed. In line with grounded theory methodology a combination of interviews, documents, reports and other scholarly literature provided the relevant data for analysis.

For the sake of anonymity and to comply with research ethics requirements, all participants have been given pseudonym codes (Lisa 2015: 101). This is indicated in Table 5.1.

⁴⁶ Hot zones of the conflict were the regions within Kenya that displayed the greatest manifestation of unrest and violent behaviour.

Table 5.1: Pseudonym codes allocated to research participants. Source: Researchers' own coding 2015.

Participants	Pseudonym codes
Mediators	M1-M 13
Negotiators-ODM	ODMn 1 and ODMn 2
Negotiators-PNU	PNUn 1 and PNUn 2
Citizens	Citizen N1-Citizen N28

The mediators were named 'M' and given numbers M 1-M 13. ODM and PNU were named ODMn1 and 2 and PNUn 1 and 2 respectively. Citizens were named Citizen N1-N28. In the discussion that follows participants' verbatim quotes are used to support the presentation of the findings.

5.2 CAUSES OF ELECTORAL VIOLENCE

The first question this research study explored was the causes of electoral violence. The announcement of the election results on the 31st of December 2007 generated, in all opposition strongholds, immediate spontaneous demonstrations which subsequently turned violent. The study shows that participants had a plethora of views on the undercurrents and root causes of the 2007-2008 PEV.⁴⁷

5.2.1 Structural factors

Structures are government basic plans needed to govern a society. Political institutions such as, among others, the judiciary, the executive, the legislature, the EMB are the actual mechanisms that the government utilises to execute essential government functions to

⁴⁷ PEV abbreviation for Post-Election Violence

serve its citizenry and reflect on a nation’s culture, belief, interests, values, policies, history and its aspirations. For example, governments have mechanisms that create laws and policies and implement them, deliver resources and services to the public. The government mechanisms often reflect how a society’s structure is run. The structures can either be violent or peaceable. Objective structures that serve equitably are known to generate peace while unjust ones generate violence. Galtung (1969: 171) posits that social, political, economic and government institutional structures are termed violent when they produce oppression, discrimination, exploitation and deny citizens certain rights. Structural violence is systemic, embedded within the institutions of power, which leave citizens vulnerable to many kinds of abuses - economic, social and political.

Table 5.2: The structural causes of electoral violence

Structural causes of electoral violence
Corruption
Abuse of state resources
Statelessness
The electoral system
Weak democratic institutions

The structural causes of electoral violence are shown in Table 5.2 and include corruption, abuse of state resources, statelessness, the electoral system and weak institutions presented in the next section.

5.2.1.1 Corruption

A pressing issue undermining governance, democracy and elections in Africa is corruption (Lindberg 2008: 189). Corruption involves dishonest, illegal, unethical and fraudulent conduct by those in power (Ibid.). It involves bribery, deceit and double-dealing practices that destroy citizens' trust in the functioning of their government (Ibid.). Most of the citizens and opposition negotiators interviewed felt that corruption was a major cause of the electoral violence that took place in 2007-2008 in Kenya. As was discussed in the literature review, Sisk (2008: 4) identified corruption as one of the key causes of electoral violence. This is consistent with the views of Citizen N25 who - when questioned on the causes of electoral violence said:

The government has entrenched corruption within the public sector, making it difficult for government officers to be accountable. I wanted this corrupt regime out. I voted to send them packing (home) for destroying our economy. Now they have rigged themselves back through the same corrupt ways.

In line with citizen N25's response, the study indicates that the election was rigged through corruption. Rigging claims are further supported by the literature from the EU Election Observation Mission that outlined election irregularities related to the 2007 elections (EUEOM 2008: 27). Equally, Rannenberger, the US ambassador to Kenya, claimed that there was compelling evidence of irregularities and corrupt practices in the tallying of votes and that this was the cause of sporadic electoral violence (Kanyinga & Okello 2010: 11).

Similarly, citizen N12 replied to the same question by reporting that:

Corruption was the main cause of this election war. The youth are not engaged effectively because the industries that used to support our youth have all been closed due to corruption. Corruption is killing people and destroying this country.

ODMn 2 noted that corruption was a cause of post-election violence by asserting that the government over the years had allowed corruption to penetrate every sector of society, thereby letting it grow roots within government structures as illustrated:

The government has allowed corruption to grow its deep roots within the governments' fabric, making it hard for this government to be able to provide for the common services such as education, healthcare and to ensure adequate service delivery. Therefore, people are disgruntled and dissatisfied. They are unable to meet some of their goals, and they then turn violent.

This participant, ODMn 2, echoed what many other participants had said that the insidious corruption in Kenya is actually generating structural violence by denying the citizens their rights to healthcare, good education, and adequate service delivery. The citizens' anger at corrupt practices enhanced violence, as witnessed in 2007-2008.

ODMn 1, in response to the question of the causes of PEV, mentioned that, "corruption was one of the main causes of the violence that took place in 2008." He further explained:

Corruption, which is dishonesty with impunity, is seen as an erosion of societal virtues. In Kenya corruption has become endemic in both the private and public sector, denying millions of people of their right to economic development. Kenyans have, to an extent, come to accept corruption as inevitable. It seems this country has institutionalised corruption.

Participant ODMn 1 views corruption from the angle of societal values and ethics. Just like many other participants, ODMn 1 believes that ethical values and economic development are intertwined, therefore, the erosion of societal values such as honesty will have consequences for a country's economy. Further probing as to the reasons why he thought corruption has become institutionalised elicited the following response from ODMn 1:

This is because no effort is being made to curb the practice or at least contain it, despite the fact that it is widespread. Corruption is our major problem and an impediment in the functioning of our government. Ending corruption would quickly change the prospects for all Kenyans and create programmes for development and peace.

According to participants' statements, corruption seems to have denied Kenyans the opportunity to enjoy economic benefits as it has reversed development. Corruption could

be attributed to the high poverty rate among the majority of Kenyans and the inequality gap, as indexed in the United Nations Development Programme 2013 where Kenya ranks 145 among the 186 countries in terms of its poverty and inequality index (UNDP 2013; SID 2013). Corruption, as perceived by the participants, seems to deny many innocent citizens their electorate voice and undermines the rights of citizens for a free and fair voting process.

Most of the AUPEAP mediators that were interviewed supported the view that corruption was a major issue in the PEV. For example, the M3 noted that:

The high rate of corruption has made many youths desperate, a sign that was clearly observable in the number of youths who took part in the violence. Due to corruption, the government seemingly was unable to roll out workable programmes for the youth, making them vulnerable to political elites' use and abuse during the PEV. Unemployed youths are very many in Kenya.

M3's view is supported by documents from the Society for International Development's (SID) report. The unemployment rate for young adults in Kenya is at 58% (SID 2014: 4). This means that more than half of the youths in Kenya have nothing concrete to do in order to earn a living. Other mediator participants interviewed all agreed that corruption played a role in the dynamics of politics that brought about violence. M7 saw corruption as the basis of the PEV. In his view:

Corruption is a very illegal act performed by immoral people by abusing their office, authority and power to avert what is meant for the public service for personal gain and that of their ethnic groups. You see, in Kenya, the corruption level is so high and so deeply rooted that it will need a change of attitude and behaviour through re-educating the public officers for any meaningful change to take place in Kenya.

M7 indicates that corruption in Kenya is not only deeply rooted but is accompanied by "clientelism." Machika describes clientelism as a political and social order or style of corruption that favours a particular ethnic group (2009: 23). He further explains that the socio-political order depends on an ethnic identity group for votes so as to consolidate its power. Once elected, the political elite uses government assets to reward the ethnic group

supporters in terms of employment, resources and other social and individual goods through corrupt means (Machika 2009: 23). Clientelism has thus become the political social order in Kenya as revealed by the study.

From the document, *'Back from the Brink'* (Annan, Machel and Mkapa 2014: 16) and the study findings support the following:

“Corruption is entrenched in the political system in Kenya and has therefore generated a form of patron and client politics. The patron-clientelism has subsequently been embedded in government as exploitation of resources through corrupt means and is gradually becoming traditional. Corruption also ensured that ethnic groups in power or in an office would stuff government positions and jobs with most members of their ethnic community. This goes on with high impunity. Corrupt practices and impunity have encouraged and enhanced the behaviour of political elites to accumulate wealth at the expense of development and the poor in the country.”

From the literature Compton (2000: 44) asserts:

The politics of patron and client (as) is an informal hierarchical form of social organisation and arrangements where elected officials become intermediaries between client [in this case ethnic group] and access to government resources.

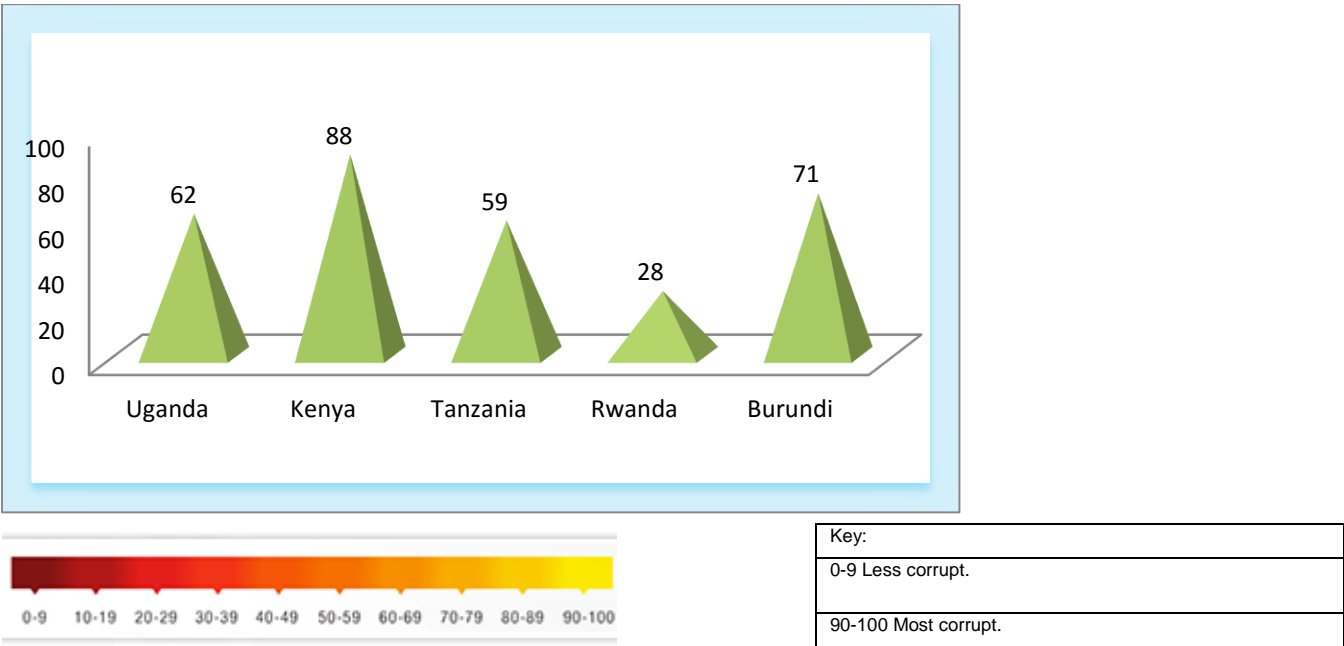
In the same vein, Ilo-Chu (2006: 108) argues that:

Winning elections and subsequent governance in Africa is 'big business' and the highest investment anyone could make. Winning an election is like winning a big lottery that changes ones' economic status immediately and those of their client cronies.

Corruption and clientelism of ethnic groups has encouraged marginalisation of the other ethnic groups. The marginalisation is fourfold. First, the rest of the Kenyan ethnic groups who are not in government have indicated that they have always felt marginalised as they have no access to the allocation of government resources. Secondly, the minority groups were concerned that they have been marginalised from political representation at the national level. Thirdly, some participants felt that marginalisation has been evidenced by

lack of political representation in terms of women in government. Fourthly, a major area of marginalisation as illustrated by the participants has been in distribution of government jobs. Marginalisation related to jobs could have been one of the reasons behind the youth violence that set one ethnic group against another during the electoral clashes. Again, the study shows that due to corrupt practices, coupled with marginalisation, poverty levels have proliferated among certain marginalised ethnic groups in Kenya. Poverty has made these marginalised ethnic groups more and more disillusioned, thus making them react with aggression during what they perceived as “stolen” elections. Kenya is ranked as the third most corrupt and unequal society in the world, with one ethnic group dominating the ranks of the wealthiest beneficiaries, both in Kenya and the world (SID 2014: 3).

Among East African countries, Kenya is the most corrupt state as depicted by the Transparency International Corruption Perception Index. Transparency International (TI) noted that there is a connection between the prevalence of corruption and electoral violence, pointing out that all the countries perceived to be most corrupt are also currently suffering from major political instability in East Africa (EA). TI then compares the EA countries’ in terms of its corruption index.



Source: Transparency International (2013: 44).

Figure 5.1: Corruption in Kenya compared to other East African Countries.

Figure 5.1 illustrates the extent of corruption in Kenya as compared to other East African countries, as analysed by TI. Countries that are less corrupt have an index of 0-9%, while those at 30-100% are significantly corrupt. Kenya has the highest index (88%), making it the most corrupt country in the East African region. This high manifestation of corruption sends a profound message, that is, that development would have improved in Kenya and many individuals' needs (for example, youth employment needs) would have been met if corruption practices had been curbed. The unemployment rate of young adults at 58% (SID 2014: 4) need not have been this high if corruption is controlled.

From the analysis of the research data, it appears that corruption in Kenya constitutes an escalating reality that is undermining the chances of a peaceful and relatively prosperous future for all Kenyan people. The fact that many Kenyan interviewees acknowledged corruption as a significant problem facing their country and also expressed their disapproval is a clear sign that Kenyans feel let down by their government's failure to tackle the 'curse' of corruption. As mentioned by the participants, electoral violence was motivated by anger at government corruption and its inability or refusal to mitigate it.

The situation described is analogous with the theory of "frustration aggression" (Dollard, Doob, Miller, Mowrer and Sears' 1939) where people who are continually thwarted may turn hostile. In other words, the widening gap between expectation and achievement produces mounting frustrations. According to Dollard et al. (1939) and, later, Gurr (1970: 253), if the frustration is widespread within the society (as it was in 2007-2008), aggression assumes the form of social violence, as was witnessed in PEV in Kenya.

To a large extent, corruption as a form of structural violence in Kenya is a harsh reality where many are faced with unjust structures generating oppression, discrimination and lack of resources. Corruption, therefore, poses a serious political, social and economic challenge in the country. Corrupt practices have also bred high levels of intolerance among Kenyan citizens. As such, the country has displayed - and the world has witnessed - manifestly aggressive behaviour, particularly during elections. Corruption, in this sense, is thus not only a cause of violence, but an aggravator of violence as well.

5.2.1.2 Abuse of state resources

Abuse of state resources involves the use of government resources for personal campaigns that render the competitive nature of an election asymmetrical for any opposing political candidate. The majority of the participants interviewed indicated that institutionalised abuse of state resources and misuse of power are a common occurrence in Kenya. Further probing with regard to alleged abuse of state resources as a source of PEV elicited further evidence regarding different forms of such abuse. The abuses include financing and providing material support (such as the use of government vehicles) to political elites by government institutions during election campaigns. Some of these resources are used to buy voters' cards from poor Kenyans cheaply for as little as 200 Kenya shillings (equivalent to 2 US dollars). The bought voter cards are then destroyed. Vote buying practice can ensure that potential opposition votes are reduced because those who have sold their voting cards will not be permitted to vote. Vote buying gives undue advantage to the political party of the vote buyers.

Most of the participants interviewed believe that there are gross abuses of state resources. According to Kanyinga and Okello (2010: 423), use of state resources and public services for partisan political party campaign purposes amounts to abuse of public office and state resources. All the interviewed negotiators from ODM believed that there are unfair practices on the campaign trail and unequal opportunities for political candidates because the incumbent politicians enjoy access to state resources for campaigns and elections, whereas the opposition must raise funds or use their personal resources. Citizen participants and the opposition negotiators were among those who raised concerns about the abuse of state resources as a source of violence.

According to ODMn 2,

“Campaigns in Kenya are usually a very expensive exercise such that when you are not financed by anyone, you would want to win through thick and thin to recover the cash used during campaigns and elections.”

When further probed by the researcher and asked to explain why it was perceived as an expensive exercise, ODMn 2 disclosed that:

It is expensive because the whole exercise of the campaign period involves financing. Financing the campaign administration and logistics, print and electronic advertising, transport, paying campaign staff and offices and others. It is a very expensive undertaking such that one has to do all that is possible to win and salvage the cash used during campaigns. Some politicians disrupt the election process through violence or engage in vote buying to ensure a win. Vote buying is rampant in Kenya and is used as a political strategy to win elections by both opposition and incumbent. Over three thousand voting cards from the opposition stronghold were found thrown by the riverbanks post-election period. These voters' cards, according to police investigations had names from opposition stronghold and were bought from citizens at a fee. Thousands of voters' cards were also found half burnt in an abandoned house in Nairobi. No arrests have been made to date. These are but just few evidence of vote buying. I know a number of people who tried politics used all their savings and are now languishing in poverty. Yes, it is an expensive exercise.

There were also complaints, according to ODMn 1 and 2 participants that the incumbent elites used state institutions and resources for campaign purposes. The abuse of public resources paved the way for political parties, particularly the incumbents, to skew the electoral playing field in their favour (Schulz-Herzenberg, Aling'o & Gatimu 2015: 6). Schulz-Herzenberg et al., assert that governments and their candidates enjoy certain benefits during election time. These government strategies involve the extensive misuse of state resources and enlarged budgets from weak institutions for campaigning purposes, thereby creating an unjustified advantage over their opponents (Ibid. 2015: 6).

The question of how weak institutions can trigger electoral violence was answered by ODMn 2 who noted that,

Politicians from the government had access to state resources and even dished out cash, giving it as bribes to citizens to coerce their freedom of choice. This is ethically wrong. The impact of money on politics has obvious enormous influence on the outcome of the voting results. Therefore, unregulated campaign financing, like the one we have in Kenya, creates an uneven playing field between those who have enough cash vis a vis those who have not. This should not happen in a democratic state. Democracy should build a level playing ground for candidates for a fair election. Let me add that in Kenya, campaigns remain a high cost activity. This yields frustration for candidates who are financially constrained and want to represent their constituents hence may trigger escalation of violence.

Use of state institutions and resources for campaign purposes by the incumbent regime was also widely reported in the local media. The fact that no legal action was taken against incumbent abuse of state resources, resulted in strengthening perceptions of impunity and continued exploitation of public resources for personal ends (Standard Newspaper, 10th November 2007).

Abuse of state resources as a form of structural violence, therefore, denied potential political candidates fair opportunities to win political seats. As a result, there has been a perpetual recycling of the same political faces in Kenyan political spaces. Moreover, evidence of this showed that a total of 240 state vehicles were seen to be in use for partisan political campaigns in the 2007 campaign trail leading up to elections (Kanyinga & Okello 2010: 478). This is further illustrated in table 5.3:

Table 5.3: Misuse of state resources

Category	Market value per use	Monitoring timeframe (days)	Monitored recorded incidences per day	Estimated cost to the taxpayer (Ksh million)
Use of government vehicles	15,000	90	240	324.0
Use of state aircraft/helicopters	100,000	90	6	54.0
Use of state media (KBC TV and Radio)	10,000	120	32	38.4
Hidden advertising using state institutions	40,000	240	3	28.8
Total				445.2

Source: CAPF campaign monitoring report of 2007 general elections in Kanyinga and Okello (2010: 479).

Table 5.3 illustrates that the abuse of state resources was mainly in the form of government vehicles, aircrafts, helicopters and state media via Kenya Broadcasting Corporation (KBC) in television and radio, as well as the use of other hidden advertisements through government institutions. The state media assisted the PNU

presidential candidate's re-election efforts through taxpayers' money amounting to 38.4 million Kenya shillings in 120 days, at a market value of 10,000 Kenya shillings.

Table 5.3 shows how state helicopters and aircraft were used over a period of 90 days at the cost of 100,000 Kenya shillings per trip amounting to a total of 54 million Kenya shillings. The Kenya Revenue Authority used 88 percent of its institutional advertisements to credit PNU presidential candidates, using government revenue (Kanyinga & Okello 2010: 479). This according to Kanyinga and Okello cost the taxpayer a whopping 445.2 million Kenya shillings. This amount is equivalent to approximately 45 million US dollars (2010: 478).

The abuse of state resources during campaigns could frustrate those with fewer resources as well as their constituents and thus conceivably lead to aggressive behaviour. Correspondingly, such abuses could easily lead to perverse distortions of democratisation by promoting an elite plutocracy - a situation where a state is governed only by the wealthy and where the poor have no stakes in a democratic dispensation.

5.2.1.3 Statelessness

One of the distinctive focal points emerging from this study is the issue of 'statelessness.' A 'stateless' person is defined by the UN as a person, not accepted as, or considered a national, by any state in the world under the operation of that states' laws (UN 2013: 3). Given this definition, statelessness then is the absence of any recognised link between an individual and any state in terms of its laws. "Stateless" persons narrated how members of their identity group who have lived in Kenya for over ten decades have not been recognised as Kenyans by law. These participants revealed how upsetting emotional and desperate the situation is- that they find themselves in. The condition of statelessness has subsequently resulted in an aggressive response during the crisis under study. For example, Citizen N2 captured the suffering they undergo comprehensively and mentioned their reasons for becoming aggressive as a cause of PEV 2007-2008:

For me, the cause of election violence that was so fierce in Kibra was about our status of statelessness. I voted against this government because I wanted change in my status and our Nubian ethnic group. As I speak to you now, I am 'stateless.' The government over the years have never been able to change my status to a citizen, to belong to Kenya, yet I was born and bred here in Kenya. I am in limbo and need to change my status.

A further probe on what participants meant by being stateless elicited the following response:

Maybe a brief story would help you understand. My great grandparents were brought to Kenya from Sudan—the Nubian highlands by the British colony and incorporated into the British Army within Kenya in the early 1880s. They were trained to fight the World War (WWI) and the WWII as soldiers against the Germans. After the war, they were given a 4000-acre piece of land to settle on the outskirts of the city of Nairobi in a forest they named 'Kibra', meaning 'land of forest' in my mother tongue. This was gazetted by the British as land belonging to the detribalised Sudanese Nubians, different from the natives. When the British left, the Kenyan government over the decades has excluded us from the Kenyan society; denying us our rights to the Kibra land; and marginalising us economically, socially and politically. Our land was grabbed from us and unscrupulously sold by the political elites. Our parents struggled to fight over the land, but these took long years of adjudication that were partial. By 1971, an international NGO fought on our behalf after which the parliament passed a Bill that the land be given to the Nubian people. Despite the Bill, this was never implemented.

Regime after regime viewed us as foreigners. Thus, we have remained as non-citizens, denied title deeds for ownership of this land. During the 10 yearly Kenyan censuses, our tribe is not listed among the Kenyan tribes. Although our great-grand parents had British identity cards and passports, my grandparents, my parents and I have no identity card of any nation despite being born and brought up in Kenya. For me and all the over 30,000 Nubians, we had hoped that a new regime that actually won these 2007 selections before they were stolen would change our status, as they had promised, to give me an identification as a Kenyan.

The issue of 'statelessness' as raised by this participant captures the situation of the other participants interviewed from the same community. 'Statelessness' among the Nubian community is one of the reasons why Kibra was named as one of the 'hot spots' during the PEV 2007-2008 because the youth here fought fiercely when resisting the police who were sent to suppress their demonstrations (Klopp, Githinji and Karuoya 2010: 3).

According to the Kenya National Dialogue and Reconciliation (KNDR) report, the Kibra region within the capital city of Nairobi remained volatile six months after the post-election violence (Makumi 2008: 14). The fierce fighting could be attributed to their emotional vulnerability due to the deprivation of fundamental human needs of recognition and belonging. Varynnen (2001: 33), for example, argues that a sense of belonging is a fundamental human right and a prerequisite for survival. According to Varynnen, this stems from deep-felt emotions and, if not met, is very likely to produce violence. The lack of recognition accorded this group, coupled with dehumanising acts such as land grabbing, tells a lot about government abuses which acts with impunity.

This issue of statelessness as a form of structural violence provides a new input from the research data as a cause of electoral violence. None of the documents or literature consulted for this study had noted this phenomenon as a cause of PEV.

As narrated by Citizen N2, the Nubian people live as stateless people and have feelings of relative deprivation in comparison with their fellow Kenyans who own land and have citizenship. Tischler (2010: 426) points out that those who feel deprived measure their disadvantaged conditions in comparison with the conditions of others whom they identify as a reference group—in this case Kenyan inhabitants. This kind of deprivation is a cause of violence and applies to the gap between what people have and what they think they deserve (Perrigrew 2015: 12). People who feel deprived form social groups that collectively advocate for a means of resolution for their grievances and hence, intergroup violence becomes a likely outcome.

Furthermore, as Stouffer (1950) argues, deprivation is also more likely to increase the chances of anti-government violence as deprived groups are encouraged to join hands with insurgents in order to overthrow the status quo that they view as an impediment to their needs and goals. According to Stouffer, social revolutionary movements, demonstrations and social violence erupt as a result of feelings of unfair deprivation. This argument is attributed to the Nubian youth who through their votes wanted to overthrow the status quo, but, were thwarted by rigged election results – hence, frustrations led to aggression. Accordingly, deprivation alone is not the only cause of aggression, but the

anticipation of not obtaining expectation like the anticipated change of leadership and the consequent change of status from statelessness to recognised citizen. Electoral violence occurred among the Nubian because the expected leadership voted for was thwarted through perceived rigging sparking frustrations and aggressive behaviour.

5.2.1.4 The electoral system

Electoral system in this context is the legally acknowledged democratic process of voting within a state (Norris 2015: 44). It is a voting method, which eligible voters (usually citizens) may use to make informed choices between political options and different candidates presented for elections (Ibid.). A good electoral system should represent all its citizens and protect their voting choices (Ibid). Protecting voting choices means ensuring several procedures are in place for the election process to be declared free and fair (Lijphart 1990: 129). Lijphart contends that first, the election procedure should ensure that the voting rules are symmetrical and are not biased. Then it should provide clear guidelines on the voting process that should be consistent and orderly. Following that, it should delineate how votes will be turned into political representation or seats and lastly, it should ensure that any manipulators of the system for illicit ends are legally and duly charged in a court of law.

Many participants view the Kenyan electoral system as a potential cause of electoral violence. The main argument was that it does not truly represent all the people of Kenya. Secondly, it allows for manipulation of voters' choices, the participants perceive the system as prone to abuse and open to exploitation, while thirdly, it is structured to generate violence during the electoral cycles. Participants point out that the electoral process has been marred by violence each election year, something that needs to be addressed if genuine democracy is to be achieved.

Therefore, the general consensus among the participants is that the electoral system in Kenya is not properly representational for many Kenyans. M6 contended that:

The electoral system in itself breeds conflict because it is not representational. The electoral system in any country is supposed to be a means by which cast votes are translated into political seats. The electoral system in a pluralistic society,

therefore needs to be representative of the people of that country. In Kenya this is not the case, especially when it comes to nationally voting for the president. There should be a way to make politics in Kenya more representational so that all votes that are cast have meaning and consequences in the political seats in the government.

Following further probing on the issue of achieving a more representative form of rule, M6 added that,

It means that we need to find a method that incorporates into the government all presidential candidates who get more than 30% of the votes nationally, despite their political party affiliation. This would mean that most regions are represented in the government. Mwai Kibaki, the incumbent who scored 4.584721 a 46.42%, and Raila Odinga, the opposition candidate who scored 4.352993 a 44.07%, both scored very highly in these presidential elections of 2007. There should be a system that recognises both the 4.584721 million voters as well as the 4.352993 million voices of voters. The idea that the 4.352993 million votes are left out of government in a pluralistic society is what I say is conflictual in itself. What I mean here is that both should form the government, one as president and the other as prime minister to represent their constituents. That requires constitutional amendment.

The Kenyan electoral system is known as First-Past-The-Post (FPTP) (Sisk 2009: 194). Participants argued that FPTP electoral system promotes political marginalisation of democratic political parties belonging to minority groups. To illustrate the origin of the electoral system that Kenya uses to date, the literature indicates that since independence from the British colonialists, the election system has not been amended to suit all Kenyans. From the literature, Kagwanja and Southall (2013: 11) observe that:

“Kenya inherited a Westminster style of First-Past-The-Post (FPTP) election system from its colonial master the British. The system encourages politics of exclusion through its zero-sum outcome. The system in a pluralistic society also tends itself to ethnic cleavages and ethnic cleansing.”

Kagwanja and Southall therefore point out that the electoral system FPTP in Kenya was wholly inherited from the British colonial masters and was based on a majoritarian

asymmetrical contest where the ‘winner-take-all’ mentality is the norm (Njogu 2011: 25). This FPTP is a voting approach that only the winner takes over the government and has the pleasure to appoint whoever he chooses in cabinet positions, ambassadorial ranks and other government levels. The winner also has a right to appoint only those from his party or ethnic group, thus denying representation of all minority identity groups in government. What this means is that the winner gains and the rest of the political parties have to wait for the next five years to participate in the politics of their country. Njogu argues that although the system is easy to use, it has been condemned by many as non-representational in a multi-ethnic society like Kenya (Ibid.). In this sense, participants felt that it promotes the inequality of votes where the winning candidate is the one who has the most votes (Njogu 2011: 25). This is illustrated in table 5.4 as adapted from Magstadt.

Table: 5.4: An illustration of how the FPTP electoral system works

Political party or independent candidate	Presidential Candidate	Votes received	Percentage of vote
Democratic	Akinyi Kimani	2.8 million	35%
National	Njuguna Wekesa	2.56 million	32%
Social	Asha Arap Wangui	1.84 million	23%
Congress	Mwadighu Coleman	800,000 thousand	10%

Source: Adapted from Magstadt (2009: 287) *Understanding Politics: Ideas institutions and Issues*.

Table 5.4 indicates that the winner has only 2.8 million votes, which translates into 35% of the 8 million votes cast. This means that 5.2 million voters translating to 65% of total votes cast, did not prefer the winning candidate for presidency. Despite the fact that most voters (65%) did not vote for Akinyi Kimani, this candidate, “Akinyi Kimani” (pseudonym) becomes the president because she has the highest number of votes, that is, 2.8 million in a majoritarian system. She takes over the government and appoints to government

posts, members of her party who represent only 35% of the citizens leaving out the 65% or the 5.2 million voters choices who preferred Njunguna Wekesa, Asha Arap Wangui and Mwadighu Coleman. This is the type of unjust electoral system that Atuobi (2008: 11-12) describes as tending to generate violence.

According to the documents consulted for this study the president of Kenya is elected for a five-year period and may serve for a maximum of two consecutive terms in office, if re-elected (COG 2013: 10). The election of the president is on a single vote per person basis and the candidate wins on the basis of majority votes FPTP, with at least 25% of the votes in at least five of each of the eight provinces in Kenya (Materu 2014: 28). Many scholars, such as Njogu (2011: 26), liken this arrangement to a 'horse race' where the fastest horse that crosses the post is declared the winner.

According to Adolfo (2013: 3), systems that are exclusive like those featuring FPTP and its principle of 'winner-take-all', are conflict-generating mechanisms. The system of 'winner-take-all' are therefore more likely to encourage violent behaviour, especially in pluralistic societies that feel excluded from the political realm, as in the case of Kenya. The 'winner-take-all' system could be the reason why, in many of the exclusionary electoral systems in Africa, there is currently a trend for using a power-sharing agreement between the president and his prime minister to resolve problematic election outcomes as, for example, in Kenya in 2008 and Zimbabwe in 2008.

The issue of power-sharing is increasingly becoming an outcome involving mediated negotiations after voting has been rigged and opposed by the people. The international community has actively encouraged power-sharing arrangements as illustrated in Table 5.5.

Table 5.5: Power-sharing in Africa

Country	Year	Agreement
Sudan	2005	Comprehensive peace agreement
Kenya	2008	National accord and reconciliation agreement
Zimbabwe	2008	Global political agreement

Source: researchers' own analysis from Cheeseman and Tendi (2010: 202) and IGAD (2015: 1)

Table 5.5 reveals that it is almost predictable that many mediated elections following violence will have a power-sharing deal as an outcome. Table 5.5 also shows how violence that has occurred in the multi-ethnic Sudan ended in a power-sharing deal between President Al Bashir and the rebel leader, John Garang, under the comprehensive peace agreement. The Zimbabwe mediated peace agreement after the election violence saw Robert Mugabe-the incumbent, share power with the opposition leader, Morgan Tsvangirai in 2008 in a global peace agreement. In addition, Kenya's mediated peace accord ended the electoral violence with a power -sharing outcome. As previously stated, it can therefore be predicted that electoral violence is often likely to end in a power-sharing outcome, based on the fact that mediators believe that most citizens will be represented at the government level when power is shared among disputing political parties. Though power-sharing has been a conflict resolution tool as depicted in the Table 5.5 many participants indicated that they prefer a long-term solution such as mediating for a better electoral system than a power-sharing deal that only lasts for a five-year term.

The power-sharing game plan in Africa as shown in Table 5.5 has, according to Cheeseman and Tendi (2010: 219), encouraged incumbent regimes to cling to power. The incumbent regime simply refuses defeat, but instead accepts mediation that results in power-sharing. The regime, then remains in power under the same president despite being voted out by its citizens. As long as they are able to retain the presidency and the

power that comes with it, incumbents are now opting for negotiated power-sharing (Cheeseman & Tendi 2010: 219). As a result, many participants view power-sharing as a potentially good tool for conflict management in electoral violence contexts, but caution that it can also be open to abuse by the political elites.

Cheeseman and Tendi (2010: 219) further argue that when political elites cling to power, democratic principles in such instances are easily abused. Citizens' right of choice and democratic decisions are thwarted, rendering elections insignificant. The power-sharing freezes the violence, but concentrates power in the hands of the incumbents, thereby failing to create political space for fair competition (Cheeseman & Tendi 2010; Mitchel 2012). If democratic consolidation has to be achieved in emerging democracies [like Kenya], then this trend sets a precedent for anti-democratic behaviour, allowing the incumbent authoritarian leader to maintain power and the opposition to accept inferior positions within the regime despite their election win (Cheeseman & Tendi 2010: 225). Thus, fair representation is what the FPTP electoral system lacks. And the political parties in Kenya have all too frequently failed to reach consensus for re-structuring the election system (Kanyinga & Okello 2010: 698).

5.2.1.5 *Weak democratic institutions*

Democracy is a form of government characterised by institutions, rights and functions designed to serve the citizens and empower them to voice their views on the running of the political affairs of their country (Miller 2015: 87). According to Miller, democratic institutions can be weak or strong, depending on the political terrain and on their functioning. This study revealed that weak institutions can play a part in encouraging electoral violence. While many participants generally perceived government institutions as part of the root causes of the PEV 2007-2008; they widely mentioned specific ones—such as the EMB, the police, the judiciary and the executive — as the weakest institutions in relation to election violence. They are seen as having the least authority to make decisions independently. Participants acknowledged that government institutions have all along been perceived as unrepresentative of the citizens and as merely serving the interests of political elites and the executive. These government institutions were seen by

the majority of those interviewed as lacking in autonomous crucial decision making abilities, and in the levels of integrity and goodwill necessary to serve independently of political manipulation. M1 indicated how the EMB - an institution that has the responsibility of running elections - is weak and vulnerable to partisan influence. He claimed that:

The Kenyan institutions have failed the society. Institutions are deemed weak and they are vulnerable to political exploitation. Once you have institutions that do not serve its citizens, democracy is at risk and produces scenes like the PEV. There is a need to transform norms and ethics governing our political systems. One of the institutions that failed totally was the EMB. The Chairman himself stated that he 'did not know who the winner of the 2007 presidential election was.' But he went ahead and announced the unsure winner from the incumbent political party 'due to pressure', as he put it. This sparked violence in the country. That alone speaks volumes about the integrity of the EMB as a government institution that should be accountable to the people.

The weakness of the EMB institution is manifest in this account, which reveals, on the one hand, how the chairman of the EMB, despite the fact that he conceded that the electoral process had been tampered with, still proceeded to announce the results, which were perceived to be erroneous. This indicates that the chairman had no autonomy to announce the outcome of the results, but was forced to declare the “winners” under duress (what he termed “pressure”) from the political elites. This manipulated electoral process that was perceived as ‘open rigging’ was the main cause of the spontaneous demonstrations and violence that took place immediately after the results were announced.

On the other hand, some participants felt that the results announced by the EMB were genuine. These participants dismissed as untrue the rigging claims. One such participant was Citizen N17 who argued:

The EMB has the mandate to manage elections and announce the winner from a free and fair process. The 2007 process was free and the results announced were genuine. The EMB according to our policies only tallies the citizens' votes and make announcements based on such results. Kibaki won rightfully as was announced. The opposition were violent because they want to take over the

presidency by force. They are 'power hungry' politicians who incited their youth thinking they could overthrow an elected government.

Citizen N17 felt that the opposition were 'power hungry' and refused to accept the election results as had been announced by the electoral commission of Kenya. In her view, the electoral commission of Kenya is an institution that had done its work according to the rule of law in Kenya. Martha Karua supported Citizen N17s' view. Karua was an incumbent politician, who held the view that the election results were a genuine reflection of the peoples' wishes (2008: 4).

According to Adolfo (2013: 3), EMBs that are easily influenced by politics should actually be made independent by the laws of the country. Although Adolfo advocates EMBs that are independent, after further probing apropos the viability of independent institutions, M1 noted that:

Independent institutions alone are not enough. Democratic institutions need democrats to run them. They also need people with values, ethics and integrity. Making institutions independent is a step in the right direction, but that alone is not enough if the people appointed to run the institutions are not trained to understand how an independent institution should run as a separate body from the influence of individual politics. They therefore need re-education. Educating government officers need to begin with the president, all elected politicians, cabinet and all who run state institutions on what a democratic institution should be. They should also be trained in ethical and moral virtues in political institutions. The training should focus on changing the attitudes of separation of powers, independence of institutions and how these work to serve the citizens. This should then be followed by amendments in the constitution making institutions independent and separation of powers between the institutions that run the government and politics. There should then be strict adherence to the rule of law enshrined in the constitution. This will give the institutions the potential to be accountable to the people and to influence the outcomes through honesty, transparency, efficacy and integrity of the elections.

M1 argues that making institutions independent is a great step towards the separation of powers and political influence in the case of institutions such as the EMBs. He advocates the training of government officials, from the president elect to all the officers serving in

various capacities. This advocacy for training could be indicative of a need to change attitudes of the political elites, as well as those who serve in these institutions.

M1's view was supported by M13 who felt that Kenyans were let down by weak EMB body. Similarly, this view was also supported by ODMn 2 who felt that the 2013 election was also rigged, despite having independent institutions put in place after the adjusting of the 2010 constitution. According to ODMn 2:

Despite having independent institutions well stipulated in our new 2010 constitution, Kenyan elections of 2013 were still marred by manipulation of election results by politicians.

The comments of M1, M13 and ODMn 2 show that institutions in Kenya are still weak. According to Oswago (2014: 1), the EMB remains in the spotlight as an institution that was unable to correctly tally the election results produced in 2013. Oswago claims that when examined, the EMB voter tally register after the closing date of the voting exercise had recorded over 1.5 million extra voters and votes that could not be explained or accounted for. They were seemingly manipulated and then successfully used in influencing the results of the 2013 elections.

Other institutions that were adversely mentioned as weak and arbitrarily influenced by politics of the day included the police and the judiciary. The participants revealed how these manipulations by politicians are carried out with impunity. Citizen N12 revealed how institutions in Kenya are inadequately prepared to serve the ordinary citizens, resulting in resentments that may motivate violence. He remarked:

Institutions are not working as they should in Kenya. They let our people down. The most corrupt institution in Kenya is the police. They take bribes from ordinary citizens and were involved in extra-judicial killings during the PEV. Another weak institution is the judiciary. Many poor Kenyans cannot afford justice because some judges require huge sums of money to skew verdict of cases. In such instances, justice is betrayed. The executive arm of government encourages the weakening of the institutions by bribing elected politicians to pass bills that do not favour the citizens but enhance their power to influence decisions. Some of the institution members were single-handedly picked and appointed into their current posts by the President and his cronies, eroding institutional integrity. Once appointed single-

handedly, they sing to the tune of the master. They serve the President and his cronies, they don't serve us. If we need service, we have to fight for it. They arouse our emotional feelings to fight. The only language the Kenyan government understands is violence. That is how we vent out about what we need.

Citizen N12 decries the lack of government commitment to serve its people through government institutions. The people lack institutions that stand up for the citizens and that can assist in ensuring equitable justice without bribes, or that can create order. They are then left with the option of violence – allegedly ‘the only language the government understands.’

Weak institutions were associated with the politics of conflation. The politics of conflation as narrated by participants occurs when the distinctions between the separate functions of the president and government institutions are blurred. The main decisions are no longer made by institutions, but are ordered from the presidential seat. Such institutions can no longer function independently because supposed separation of power and function is compromised by a president who controls all institutional matters and is involved in all crucial decisions. While weak government institutions were an issue in the literature reviewed by this research, the politics of conflation as a strategy for weakening institutions is a new phenomenon.

Participants described how the politics of conflation referred to a process of assimilating into one, the distinct and separate functions of institutions and the presidency, particularly at the decision-making level. The politics of conflation in this sense favours the political elites and their friends.

M12, in giving his perceptions of the politics of conflation as contributing to electoral violence, remarked as follows:

Political institutions failed the country greatly in 2007-2008 PEV. This failure could be attributed to the fact that politics, institutions and economic development are conflated in Kenya. The politics of conflation of institutions is intolerant of any dissenting voices, especially the opposition, and has a tendency to marginalise. This creates high incentives for manifest violent behaviour as a means of ventilating emotions generated by unjust structural conditions.

What is politics of conflation? According to him:

The politics of conflation take place when the seat of the presidency makes all important decisions across all government institutions. The institutions then assume the task of taking orders from 'above.' The separate institutions then look like one. Their separate functions are restricted and impeded to a certain degree. No one makes independent decisions based on the institutions' policies on crucial public matters. They are instead controlled 'from above' and not by rule of law. For example, all major decisions regarding justice that touch on any government official perceived as an ally are never brought to a conclusion and no one is held responsible or apprehended. This has encouraged impunity since independence and weakening of institutions.

In weak institutions, major decision-making is centralised in the presidency and his executive (Fossungu 2013: 190). Fossungu further argues that when branches and institutions of government such as the judiciary and the legislature over-rely on the executive for crucial decisions, separation of powers between the three arms of government (judiciary, executive and legislature) are limited, thus rendering checks and balances against misuse and abuse of state powers ineffective.⁴⁸ This explains the logic behind the deliberate weakening of key institutions. As a result, the politics of conflation has denied justice to many Kenyans over the years. One such justice is the perceived fraudulent voting and predetermined election results as decided by the 'powerful elites.' Politics of conflation also rationalises why it is easy for incumbent presidents to cling to power for as long as they wish.

While weak institutions have been documented as a source of violence in emerging democracies, the identification of a "politics of conflation" is novel. The finding on the "politics of conflation" adds a valuable insight into yet another cause of election violence that can aid mediation practitioners in assisting conflicting parties to resolve their differences. The "politics of conflation" evidence supports Fossungu's (2013: 192)

⁴⁸ The government branches have been used in this studies interchangeably as arms of government, branches of government or organs of government to mean the same thing. Lafargue (2009: 14) explains that these branches of government have different powers and functions to perform. The Executive branch supervises the general administration of the state and implements policies. The function the legislature is to debate and make laws necessary to regulate the society. The judiciary's functions are to determine and administer justice to the citizens.

argument that the EMB bodies may be mere puppets, making it difficult to defeat incumbent regimes through a free and fair democratic election process.

Mediator participants believed that the lack of genuinely independent institutions played a role in the electoral struggle. They gave an example of how the EMB in Kenya 2007 was unable to conduct a free and fair election process. The rigged elections could also be attributed to the fact that the EMB members were single-handedly and secretly handpicked by President Mwai Kibaki (Lafargue 2009: 254). The president appointed 22 EMB members despite the fact that there was a *de facto* inter-party parliamentary group (IPPG) agreement which stated that all political parties were to nominate a certain number of persons to the electoral commission (Olick 2013: 1).

The evidence that weak institutions directly contribute to electoral violence is closely akin to the findings of Tlalajoe's (2012) study of the causes of Lesotho's election violence of 2007. His study attributed electoral violence to a biased electoral management body. Tlalajoe proposed an independent electoral body from the African Union to run elections in African countries. Other studies (Birch 2005; Rosas 2010) found that independent EMBs were not transparent under authoritarian regimes. Birch (2011: 121-123) concluded that in authoritarian regimes EMBs become biased with strongly incentivised behaviour to conceal their biases. Hence, such EMBs lack acceptable professional ethics.

Other institutions that were viewed as partisan by participants in this study included the executive, the legislature, and the judiciary branches of the government.⁴⁹ The police, in particular, were seen as partisan. Allegations that the police were biased and were used by the regime for the extrajudicial killings of innocent Kenyans perceived as opposing the regime during the PEV 2008 were investigated by the UN-Allston (Allston 2009: 8). Similarly, Kreiglers' (2009: 48) report on the Kenyan government institutions corroborates the evidence that extra-judicial killings took place through commands from the political elites. Kreigler describes Kenyan government institutions as partisan, and as such views

⁴⁹ See Lafargue (2009: 14) in above footnote on functions of the branches of government.

them as ineffectual in conducting free and fair elections (Ibid.). Atuobi (2008: 12) also warns that weak institutions have a culture of producing conflicts.

5.2.2 ACCESS TO DATA

Data conflicts take place when people are denied access to information that is necessary in order for them to make informed decisions (Ochieng 2012: 53). Participants argued that when crucial information is withheld-people are misinformed. Denial and lack of information, particularly in terms of political candidates’ accountability was noted. Denial of information denied voters opportunities to decide conclusively on governments’ performance or on their political representatives’ performances. Other evidence indicated that the media were biased in selecting which political party to cover and which one not to cover during the news. Finally, there was sensational media reporting that was believed to have escalated the violence and further polarised the ethnic identity groups.

Table 5.6: Lack of access to data as causes of electoral violence.

Lack of access to data as causes of electoral violence
Information denial
Media bias
Sensational media reporting

Source: Researcher’s own analysis 2015.

As shown in Table 5.6, the lack of access to data as causes of electoral violence described here posed several challenges to the Kenyans as discussed in the next section.

5.2.2.1 *Information denial*

The interviewees’ responses disclosed that data-based conflicts were among the causes of violence. Data-based information causes violence in two ways. First, according to the many citizen participants interviewed, government denies citizens access to information about its performance, its accountability and its functioning. Therefore, the populace is prevented from being able to effectively evaluate and gauge the governing party’s performance for a re-election or not. In other words, people could not make informed

decisions on which government candidates to vote for. Many relied on rumours that spawned accusations and counter accusations. This may explain why most of the political elites who served in the 2002-2007 regime were not re-elected (Hornsby 2013: 758). Out of the 190 seats only 71 retained their places as members of parliament (Ibid.). According to Hornsby many constituencies dropped their members of parliament and voted for new members.

Adequate information prior to elections in a democratic process, gives voters chances to screen candidates and make good choices for electing effective politicians. Lack of information may give rise to the choice of a fraudulent candidate for office. Such officers are suboptimal in provision of services, and may be guilty of corruption and exploitation of the poor (Besley & Burgess 2002; Stromberg 2004).

5.2.2.2 Media bias

Secondly, media sources were seen as having denied citizens certain information through biased reporting. The media decided who to publicise and who not, depending on which side of the political divide they were biased for or against. Citizen N4 cited three main television stations in this respect as indicated in the table in Figure 5.2:

Source: Abegunde (2009: 13). The role of media in election campaign.

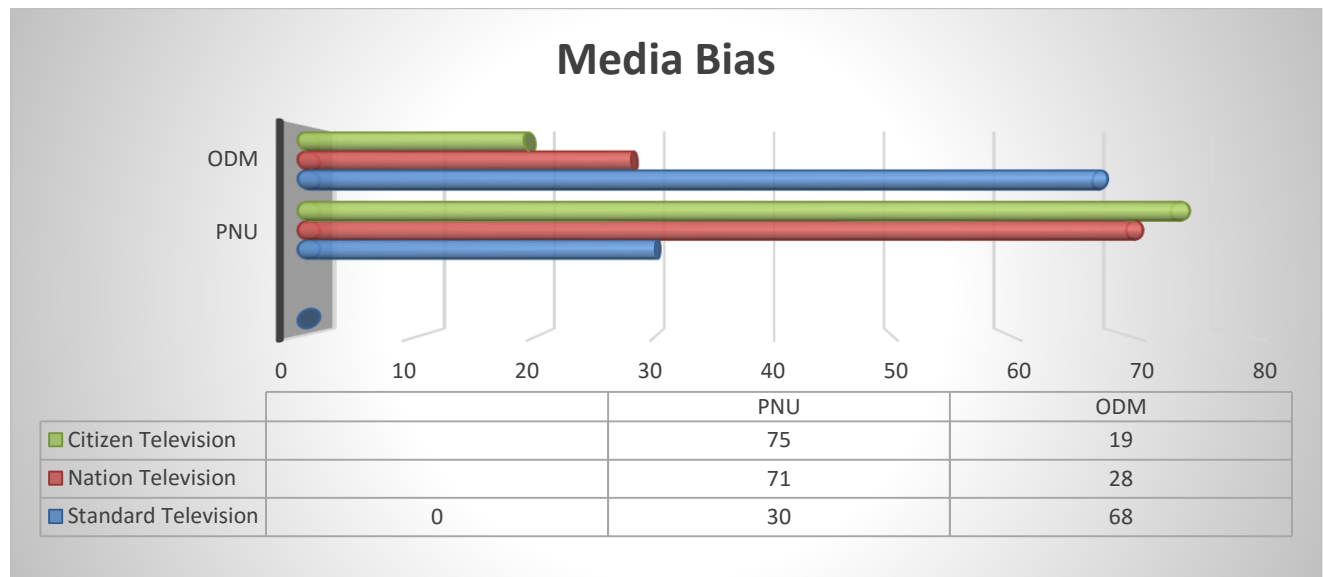


Figure 5.2: Media bias reporting 2007 elections.

According to Abegunde's (2009: 13) findings, the Standard Newspaper and its television network were, on the one hand, pro-opposition. They gave 68% of their political coverage to the opposition, while giving only 30% to the politicians belonging to the regime. On the other hand, the Nation Newspaper and its television network, as well as that of Citizen Television, were pro-government. Nation Television covered 71% of its political space with pro-government politics with only 28% coverage of the opposition party. Likewise, Citizen Television covered 75% of the political slot with government agenda publicity and only 19% was given to the opposition. This bias is attributed to media owners and shareholders and their connections to ethnic political candidates. The Citizen and the Nation media houses were owned by the ethnic group that the ruling president belonged to. He relied on their support while vying for a second term. The Standard media group was owned by the opposition ethnic group at that time. This finding is crucial to an understanding of how and why the post-election violence quickly resulted in ethnic clashes.

Mbaka (2013) studied media bias during elections in selected African countries. Her findings contrast the findings of this study. Mbakas' findings showed that all the media stations in Uganda (2008), Zimbabwe (2008) and Ivory Coast (2011) sided with the incumbent regime's presidential candidate (Mbaka 2013: 23). In these cases, the media outlets were all biased against the opposition parties as opposed to Kenyan media that were selectively biased either to opposition or incumbent.

5.2.2.3 Sensational media reporting

Thirdly, a number of participants showed that there was sensational media reporting that aroused aggressive emotions. These views are captured by Citizen N15 who stated that:

In my view, media of all sorts—print, television and the social media—were all sensationally used to spread propaganda by both the opposition and the ruling party. The propaganda focused on polarising identity groups and consolidating votes. There was sensational journalism, partially with the local language media. Sensational reporting took the forms of partisan reporting, talk shows with hate speeches, sensational claims of alleged rigging before elections, ethnic stereotyping and belittling. Sensational reporting raises emotions and emotionally

charged people may lose logical rationality, acting on sensational reports. The media lacked the responsibility and professionalism in building a democratic state.

Sensational media reporting was evident during talk shows and other coverage where hate speech denigrated other ethnic groups. Owuor and Leonard (2009: 2) also report that the media aired hate speech from the political elites, which fuelled the resultant violence. According to Ochieng (2012: 102), hate speech is an utterance written or spoken that encourages violent acts against a particular ethnic group. In turn, it can also encourage criminal counter attacks. Ochieng argues that continuous insulting rhetoric aimed at certain Kenyans – and based on their ethnic identity - provided fertile ground for electoral violence. Allan's (2014: 3) study also identified sensational media reporting as a cause of violence in Rwanda in 1994.

The media also aired claims of propaganda and alleged rigging before elections. Demeaning, unfair, derogatory and ethnic stereotyping was also noted, particularly within the vernacular media sources. Similarly, vernacular media were also mentioned as biased towards their own ethnic group, political parties and elites (Owuor & Leonard 2009; Bestey and Burgess 2002; Stromberg 2004). According to Abegunde (2014: 14), some of the vernacular media houses employ untrained journalists. To an extent, this explains why there was a lack of responsible journalism during the electoral cycle. Based on evidence relating to access to data conflicts, media can wield significant power in sharing information needed by citizens, avoiding the politics of division and subsequently shaping unity in politics. It is important that responsible journalism be adhered to.

5.2.3 INTERESTS

According to Maiese (2012: 1), interests are goals. In the Kenyan case, there were a number of interests at play by both internal and external actors that escalated electoral violence. For example, neighbouring states were accused of meddling in the politics of Kenya by the opposition and government (Opiyo 2008: 142). The interests expressed by neighbouring states could be because conflicts have a destabilising effect, with the arrivals of refugees subsequently becoming an economic burden on host states. Other

interests could be linked to strategies used by incumbent presidents to support each other in clinging to power (Ochieng 2012: 33). Yet, other state interests could be as spoilers who gain from the conflict (Ibid.). According to Ochieng (2012: 34), unsatisfied interests may generate aggression that produces violence.

Participants also reported on the presence of regional political interests emanating from neighbouring states and communities as a cause of violence. Some regional states are believed to have even taken part in the violence, thereby escalating the already volatile situation. Many reasons are given for their involvement in the politics of Kenya. Regional and immediate neighbouring states' interests were viewed as either destabilising or stabilising the country, depending on which political party one belonged to. The study indicated that regional dynamics and interests played various roles in the intra-state politics of Kenya in the 2008 crisis. The roles included subverting by siding with either of the major political parties or alleviating the conflict. There were also perceptions that some of the destabilising actors sent their soldiers into Kenya to assist the incumbent fight opposition demonstrators. The alleviating actors called for non-violent means and a round table talk to mitigate the crisis. Some of the stabilising external actors intervened through peaceable means. The research affirmed that the Kenyan government is considered to be a regional powerhouse, thereby explaining neighbouring, regional and external actors' interests (M5 interview). Table 10 indicates which communities had interests in the violence.

Table 5.7: Communities that had interests in the election outcome and violence

Communities that had interests in the electoral violence
East African Community interests (EAC)
African Union interests (AU)
Intergovernmental Authority on Development interests (IGAD)
Common Market for Eastern and Southern Africa interests (COMESA)
International Community interests

Source: Researchers' own analysis 2015.

The illustrations on Table 5.7 shows which communities openly displayed their relational interest during the violence. These are discussed in the next section.

5.2.3.1 Regional dynamics and interests

According to Bachmann and Muller (2015: 196), Kenya's foreign policy seeks to promote economic and security development. In addition, Kenya also seeks to increase the trade interests, regional integration and political stability of the East African Community (EAC), the Intergovernmental Authority on Development (IGAD), and the Common Market for Eastern and Southern Africa (COMESA). Bachmann and Muller contend that Kenya has played a major role in Track One diplomacy within the neighbouring countries that have had civil wars. Kenya played a crucial role in the attainment of peace in Ivory Coast in 2004 and in 2010, Burundi in 2005 and in 2010, Sudan from in 1985 to 2011 and Congo in 1997 (Lumumba & Mbondenyi 2014: 251). As such, the electoral violence in Kenya that was gradually becoming a civil war was threatening many regional bodies that have depended on Kenya for peace initiatives. As a result, they had to be involved to stabilise the state.

5.2.3.2 East African interest

Kenya's capital city, Nairobi, is a regional economic hub and its Mombasa port a gateway for goods' transit to the landlocked neighbouring countries of Uganda, Rwanda, Sudan and South Sudan. Kenya also hosts the United Nations Africa regional offices in Nairobi with an African Union-East African Community (AU EAC) sub-regional office. Kenya in this sense, attracts a lot of interest from its regional neighbours. According to Gekonge (2013: 97), the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA) and the Intergovernmental Authority on Development (IGAD) are regional bodies that Kenya participates in and that had interests in the crisis. Gekonge acknowledges that the region in which Kenya falls is popularly known as the 'Horn of Africa', has indeed been afflicted by violence, conflicts and deaths in thousands.

Electoral violence counts as one of Mary Kaldors' so called 'new wars' with destabilising effects in the regions emerging democracies (Omotola 2010: 51). Hence, Kenya's

electoral violence was destabilising the region economically, socially, and politically. These regional bodies wanted a political solution to the violence to be reached quickly.

Furthermore, regional states like Uganda, Tanzania, Rwanda and regional bodies such as the EAC, IGAD, COMESA and the AU had interests to protect in Kenya and, as such, were partisan (taking sides) in Kenyan elections via proxy strategies (Gekonge 2013: 98) which included the violent behaviour of some sponsored militia or security agents. This was confirmed by citizen participants from the Kisumu and Eldoret zones. One of them, citizen N23, divulged the following information:

The cause of the election violence escalation was the discovery by the local youth that Paku country had brought its security to kill the opposition youth who were demonstrating.⁵⁰ This was clear to me that Paku president directly supported the incumbent rigging. My friends and I witnessed one of the Paku soldiers shooting innocent children and women who were unarmed from opposition stronghold. We tried engaging them in conversations and immediately knew they were from Paku, because they could not speak Kiswahili our local language and their Paku accent betrayed them.

According to the M7 there was widespread news from social media of the apparent involvement of Uganda, Tanzania and South Sudan. The latter two were perceived to be working closely with the opposition in Kenya, while Uganda was working with the ruling regime. Rwanda and Burundi had taken a neutral stand with the Rwandan president pressuring the political parties to end the conflict.

Apart from Tanzania, the states mentioned above are landlocked and rely on Kenyan harbour facilities for their imported goods, particularly oil that comes via the Indian Ocean (Mbaka 2013: 62). The conflict obviously affected these countries' access to oil that is refined in Mombasa in Kenya before it is transported to its neighbouring countries. Kimani (2008: 3) confirms that oil prices in the landlocked countries of Uganda, South Sudan, Rwanda and Burundi had steeply escalated during the 2008 PEV in Kenya. As discussed

⁵⁰ Paku is a pseudonym to ensure that the particular state involved remains anonymous.

later in this Chapter, Uganda that had sided with the incumbent tried to mediate the crisis in Kenya after the AU panel of mediators had started its mediation.

5.2.4 Identity, culture and values

Identity, culture and values of each ethnic group are manifest in social behaviour and provide ways in which they perceive the world and foster certain expectations regarding politics and political power (Njogu 2008: 30). Identity, culture and values evidenced through social behaviour are expressed politically in Kenya via ethnic rivalry in competing for states' scarce resources, ethnic militia used politically for ethnic consolidation and a perception ethnicising the presidency and how these variables are used to escalate violence during elections. Table 5.8 outlines the manifestation of social behaviour as influenced by identity, culture and values.

Table 5.8: Identity, culture and values causes of electoral violence

Identity, culture and values
Ethnicised presidency
Ethnic rivalry
Ethnic militia

Source: Researcher's own analysis 2015.

In Table 5.8, the research represents how identity, values and culture appeal strongly to individuals and society as described in the next section.

5.2.4.1 *Politically ethnicised presidency and ethnic rivalry*

Evidence from the data gathered demonstrated that one of the causes of electoral violence was deep-rooted politically polarised ethnic cleavages among Kenyan identity groups. The main cause of electoral violence, as perceived by the majority of the citizens interviewed, as well as the rest of the mediators and negotiators, was the country's ethnicised political power centred on the presidency. They generally noted that there is

the ethnic marginalisation of opposition groups and ethnic reward for those in government.

Citizen N14 stated that:

Ethnicity causes electoral violence here in Kenya. We fight over elections because once an ethnic group takes over power it closes the 'others' out from equal share of government resources. The president's ethnic group gets a lion's share of government resources. We have to fight against this vice of ethnic division or else we shall always remain poor. We are fighting to make Kenya a country where we all belong—all have equitable rights to the country's resources. We are fighting to make Kenya a better place for all.

Citizen N5 pointed out that:

Ethnicity was a major cause of electoral violence. But ethnic groups in themselves do not make us fight—the politicians make us demonise each other's' ethnic group during campaigns using ethnicity to consolidate votes in their interest. They pay the youth to fight in the name of ethnic groups. If they can stop this behaviour, elections in Kenya will not be ethnically violent.

The information from analysis reveals that electoral violence is viewed as an ethnic strategy to gain access to the country's scarce resources. The political elites polarise ethnic groups as a tool to organise how to ascend to power by securing ethnic votes from their groups. The strategy divides Kenyans politically along their ethnic groups. They use the tactics, which were used by colonial regimes in the technique of 'divide and rule' strategy, to heighten division among citizens who otherwise have co-existed side by side (Gona, George, Wa-Mungai and Mbugua 2014: 115). The use of ethnicity to divide citizens was confirmed by Citizen N20 who contended that:

In my view, electoral violence is instigated by political elites who further complicate it by ethnic cleavages that make us fight each other during elections. The problem with us in Kenya is that the tribe that takes over power does not care about the rest of the tribes. Because of that, each tribe wants to rule because ruling gives access to direly needed resources. Each ethnic group's political elites plan how to consolidate their ethnic votes and form coalitions with other like-minded ethnic groups to vote together with the prospects of winning the presidential seat.

The evidence from the analysis also indicated that the electoral violence of 2007-2008 was a protest against the belief that only two identity groups had been in power, perceivably enjoying the resources for the last five decades. Other groups retributively wanting power to distribute national resources to their own people prompted ethnic violence. In this respect, Citizen N20 further narrated:

As you could have already known, the President is first elected by his ethnic group and then by another coalition identity group they may have political ties with. We in Kenya vote ethnically for our ethnic presidential candidates. We also fought ethnically over election because, since independence, only two ethnic groups out of the forty-two ethnic identities in Kenya have had an ethnic president in power for the last fifty years. The President has powers to decide how much and which resources go where. They have been abusing those powers, vesting in their ethnic groups and cronies. The presidential powers have over the years marginalised the rest of the ethnic groups in Kenya in terms of development. This has brought with it discontentedness among the other ethnic groups. Presidential power is viewed as a personalised clientele's ethnic mechanism in achieving ethnic goals of advancement and development.

I have been to the regions of the ethnic groups that have been in power, the infrastructure in those regions is excellent. They are economically empowered. That is why the rest of the identity groups feel threatened by economic extinction. For this reason, electoral violence 2007-2008 in Kenya took on an ethnic dimension.

The finding about ethnicisation of the presidency is similar to the stance taken by Kriegler and Waki (2009: 48) of the commission of the PEV in Kenya. The report argued that the political power in Kenya is ethnically personalised around the presidency and intensified by constitutional changes over the years to fortify that power. According to the report, ethnicised presidency was the main cause of the state's political restlessness in 2007/2008. The fortification of power has been a process where laws have been passed and made *de jure* to increase executive authority, such that by 1991, the legislature had deliberately amended the laws fortifying the powers of the President thirty-two (32) times (Ibid.).

The amendment of laws to fortify presidential powers weakened the states' institutions' abilities and role to function independently, or to have checks and balances commonly

associated with solid democracies. As a result, the executive arm of the government determines what happens in most government and private sector institutions. Hence, the state, according to Kriegler and Waki (2009: 49), became viewed as a biased body. The government, according to the citizens, is perceived not only as serving the interests of the political elites, but also as the preserve of the ethnic identity group in power.

Analysis has shown that election violence is caused by certain ethnic groups clinging to the power embodied in the presidency through force and via ad hoc strategies during elections, such as vote rigging. Asked about the causes of election violence, Citizen N13 answered as follows:

Electoral violence was caused by my ethnic group's attitude to cling to power and their bigotry nature. My ethnic group has to learn to share power or else my people will continue dying in the hands of other ethnic groups, as happened during the crisis. We became targets because others are not happy with us. Even though we believe we fought for independence from the colonialists as so should rule forever, Kenya is for all of us. Maybe other tribes may rule better. But I know what my tribe fears. There are those in my ethnic group who have fraudulently acquired wealth and are afraid that other ethnic groups coming to power may take back the wealth from them. This fear keeps them clinging to power. We actually vote ethnically just like the other tribes. This is another problem in Kenya. Voting ethnically divides the country into ethnic groups instead of fostering nationhood-the coordination of being a cohesive nation.

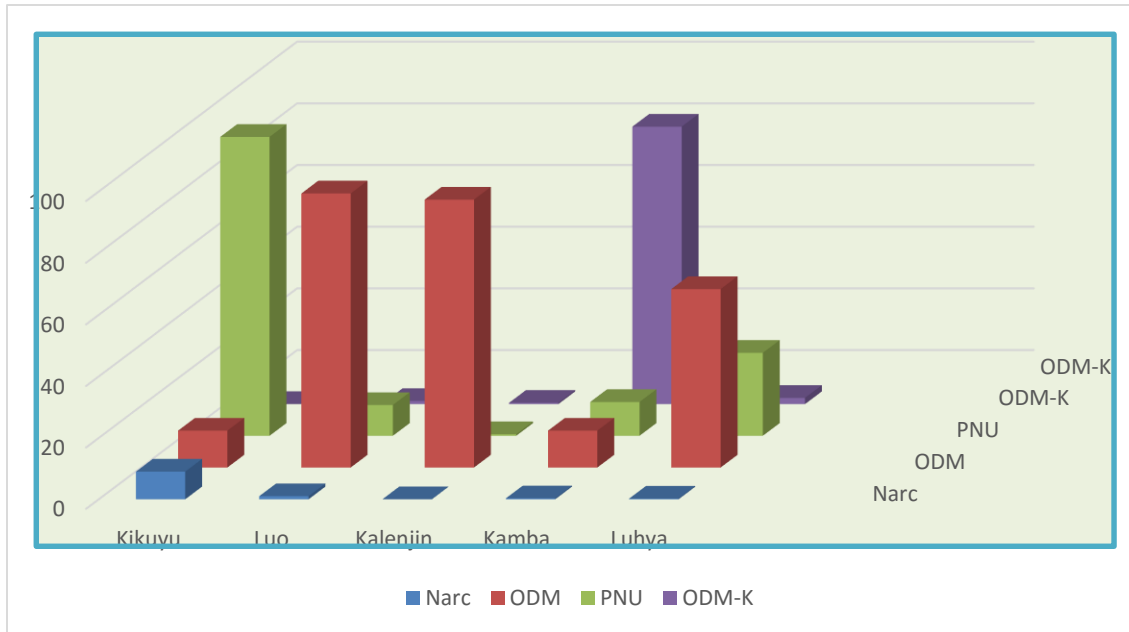
In contrast to Citizen N13, Citizen N22 felt that the other ethnic groups are avaricious, jealous and envious of his ethnic group's hard work, to which he attributed their economic gains. Interviewee N22 declared that other ethnic groups suspect that his own group dominates access to government subsidies. He went further to argue that there are poor people among his ethnic group too. It all depends on individual hard work, he claimed. Moreover, Citizen N22 avowed that:

The cause of the crisis was mere suspicion that elections were rigged and that our ethnic group enjoys government resources. The other ethnic groups were envious of our hard work. They targeted our businesses across the country and destroyed them, thinking we are spoon fed by the government. But we work very hard for what we own. Politicians give us nothing. There are many of my ethnic group who are poor and live in abject poverty too. Politicians have done nothing to assist them.

Politicians eat with their rich friends not with the poor. Kibaki won elections, but other ethnic groups think he stole the elections. No, we voted him in. We are many. But other ethnic groups were killing our tribe because they did not want my tribe to lead them anymore. They were saying they were tired of being led by one tribe. So they killed many from my ethnic group members who are not even politicians. They had sent leaflets that we should vote with them. How could we vote with anyone? Voting is one's choice. When they realised we voted the incumbent, they killed our people for no rational reason. In my ethnic group we vote as directed by elders and political elites. We even know who will be our next president. Other tribes also vote and plan ethnically just like us and all are struggling to win by whatever strategy.

According to N22, politicians only benefit their cronies and those with close ethnic ties like relatives. This view brings in nepotism as an issue in Kenyan politics. N22 also stated that election violence targeted those who voted for the incumbent for voting in the same ethnic group again. N22's perception is homogenous with Nafzinger (2011: 170) who claimed that African leaders are more likely to use their position to benefit their ethnic group's upper social class. Nafzinger additionally argues that they redistribute resources not to the poor, but to themselves, and to their allies and clients of the same social class. Nafzinger advocates political pressure from the masses to remedy this trend. He points out that responsible and enlightened citizens have a responsibility to monitor their government's performance and press for transparent accountability.

The narratives of Citizens N20, N13 and N22 all show that Kenyans vote ethnically for their ethnic presidential candidates, thereby making elections contentious polarising ethnic groups and can easily spark violence. Figure 5.3 illustrates the voting pattern of ethnic groups in Kenya 2007.



Source: Simiyu (2010: 55), Ethnicity and voting pattern in Kenya 2007

Figure 5.3: Ethnic pattern of voting in Kenya 2007.

Ethnic voting as evidenced in Figure 5.3 indicates that Kikuyus voted for PNU led by a Kikuyu presidential candidate. Luos voted for ODM led by a Luo presidential candidate and lastly the Kambas voted for their ethnic Kamba leader. The Kalenjins voted with the Luos because they had a coalition and a memorandum of understanding that their leader would be made prime minister by ODM once it won the elections. Though a good number of Luhyas voted for PNU, the majority voted for ODM as it had promised them government seats after winning. Narc was a minority party with no presidential candidate and gathered fewer than 20% of the votes.

Unlike most other African countries where a single president clings to power, in Kenya an ethnic group seeks to cling to power according to ethnic identity. The ethnic group strategises on who becomes their next ethnic group presidential candidate as proposed by their political elites and the ethnic elders. The ethnic group then assembles its members for a combined vote for the proposed presidential candidate each election year. The political elites ensure that the candidate wins by whatever means including rigging. While there might be democratic voting, winning of elections using all means has been perceived by other ethnic groups as election malpractice. The Kalenjin ethnic group ruled

Kenya for twenty-four years while the Kikuyu group has been in power for over thirty years, with these ethnic-centred groups, thereby, sequentially dominating Kenyan politics post-independence (Simiyu 2010: 53). This evidence supports United Nations findings on causes of ethnic tensions in Kenya, which demonstrated that ethnic competition for power and exclusionary politics along ethnic lines is a major source of ethnic clashes and underlies the electoral violence of 2008 (UN 2008: 14).

5.2.4.2 The ethnic militia

The majority of the citizens, negotiator participants and mediator participants interviewed reported that electoral violence was caused and fuelled by the presence of ethnic militia groups in Kenya. It was disclosed that politicians own 'ethnic militia' who are mobilised to cause chaos and violence during the election cycle. The presence of ethnic militia groups was evidenced by many participants as elicited from M5, who emphasised that:

The violence that erupted in 2007-2008 could be attributed to the outbreak of aggressive behaviour impelled by ethnic militia. Ethnic militia caused devastation during the crisis. Their use by the politicians was so evident in attacking and retaliatory cases that killed so many Kenyans. Ethnic militia are a security risk to Kenyans and have a destabilising factor in Kenya's politics because they are susceptible to violence.

M5's view supports one of Kagwanja's and Southall's (2013: 58) findings where they identify three types of PEV violence occurring in Kenya in 2008. First, there was the immediate and spontaneous reaction by the people following the announcement of wrong presidential election results; secondly, as time went by, it was clear that the violence was gradually being perpetrated by better organised ethnic militia groups and, finally, the state security agents sponsored further violence. Further probing into the use of ethnic militia elicited evidence indicating that there were contrasting views from the participants regarding the use of ethnic militia during electoral violence. Some participants emphasised the need for ethnic militia during elections, while others disapproved of ethnic militia use.

For example, M5, disapproving of militia use during election violence, lamented as follows:

Militia raises unnecessary tensions in an environment that is already hostile. Ethnic militia is not trained and pose further insecurity problems, even after the civil war is over. A state security cannot be run by multiple ethnic securities, as was done in the 2007-2008 electoral violence.

The above description is reminiscent of the Zimbabwe militia, known as the 'Green Bombers', who are used by the political elites of that country to harass opposition supporters (Gillies 2011: xxiii). Among those supporting ethnic militia use were several citizens. For example, Citizen N8 stated that ethnic militia bridge the security gap left by the state's incapacity and helplessness in responding to and managing election crises. Citizen N20, in also supporting the presence of ethnic militia in election struggles, argues that:

Ethnic militia serves several good purposes. They offer to defend their ethnic community. Their presence reduces the chances of full blown civil war as they defend ethnic territories. Intrinsically, other militia groups keep off. Ethnic militia rarely attacks, but mostly defend, hence, they stabilise the community security dynamics and demands. In this way, they reduce the numbers of internally displaced persons and refugees as groups feel protected. Such protected communities go about their business despite the violence. This has an effect of fast tracking return to normalcy and stabilising the country. They also serve to reduce collective ethnic identity emotions caused by fear of being arbitrarily attacked by others as the ethnic militia usually creates a wall-like fence, keeping day patrols and night vigils. Furthermore, the police are few and in a civil war cannot in reality protect all Kenyans. The ethnic militia does well in such cases.

The two latter views differ from most opinions that are in the literature (Mills 2015; Obadare 2013; O'Gorman 2011 and Nkejiaka 2010) where ethnic militia have been viewed in a negative light.

5.2.5 Socio-Economic Factors

There are perceptions from the participants that economic-based factors such as those involving land, poverty, inequality and unemployment have been contributory causes of electoral violence.

Table 5.9: Socio-economic causes of electoral violence

Socio-economic causes of electoral violence
Land
Poverty
Unemployment
Economic marginalisation

Source: Researchers' own analysis 2015.

The socio-economic causes of electoral violence are as shown on Table 5.9. These are further deliberated on in the next section.

5.2.5.1 *Land*

The majority of those interviewed identified the simmering and long running historical injustices of the land issue in Kenya as an underlying cause of the electoral violence. In particular, according to the citizens interviewed from the zones of Eldoret, Nairobi (Kibra) and Coast zones, the land issue as a basic human need was a cause of violence during the PEV in the Rift Valley Province of Kenya that had gradually taken on an ethnic cleansing orientation. According to the Eldoret and Coast zones research participants, the violence was triggered by the announcement of the fraudulent results, which opened up historical wounds of unjust land expropriation by the winning incumbents' ethnic group.

Most citizens from Eldoret zones believed that contemporary land issues have their origins in history, beginning with the colonial government and post-colonial regimes. According to one citizen from Eldoret, the land in the rift valley was originally owned by the Kalenjin, Turkana and the Maasai ethnic groups. Similarly, the participants from the Coastal zone also argued that the Coast province land was also originally owned by the

coastal indigenous tribes of the Mijikenda, Taita-Taveta, and the Digo, among other minority communities.

The *National Archives Kenya* (1996: 27) confirms that when the British arrived in 1895 these lands under dispute were originally places where the Kalenjin, Maasai, Taita-Taveta and Digo indigenous people had settled in for years. The literature (Dickovick 2014; Wiafe-Amoako 2015; Swainson 1980) shows how White Settlers in the British colonial rule era used rich land in Kenya for agricultural produce. Similarly, the literature indicates that after independence the British left and the post-colonial government aiming to return land to the original communities, undertook a land settlement expropriation programme (Isaac 2009: 79). However, fifty years ago, the post-colonial government of President Jomo Kenyatta did not give back land to the original indigenous owners - but instead redistributed it to Kenyatta's ethnic group members and to his own political elite cronies who were viewed as immigrants by the indigenous groups (Isaac 2009; Zwier 2013; Fouere & Mwangi 2015).

The land issue became a problem when the rural population expanded and demand for land increased in the early 1970s, leading to frequent land disputes among the indigenous landowners and immigrant communities. President Moi, who is a Kalenjin, tried to re-acquire the land from the Kikuyus in the Eldoret (Rift Valley) zone by orchestrating frequent attacks on Kikuyus, using illegal means such as ethnic clashes and pre-election violence (Isaac 2009: 79). However, this did not end the land problems.

Interviews from Citizen N9 from Nairobi Zone, who had moved from Eldoret zone after the 2007-2008 violence, yielded a different scenario. He said:

We own the land we have in Eldoret from our grandfathers and we have official tittle deeds. I believe the land was not an issue per se or the cause of electoral violence. We were targeted not because of land, we have peacefully co-existed here; the problem is that we voted for the incumbent President Mwai Kibaki instead of voting with the local community choice, who was the opposition presidential candidate. The communities had high hopes that the opposition leadership would address their developmental issues.

Though Citizen N9 had different views from others interviewed, there was general consensus that land had indeed been a source of violence in the 2007-2008 election crisis. Competition for land remains a deep-seated issue that may still produce violent clashes in response to provocation. Populations have grown and their growth has placed demands on land for expansion of industrial development and agriculture. Land in Kenya, as in most parts of Africa, according to (Osabuohien 2014: 195), is increasingly becoming a problem and a cause of violent behaviour as populations continue to proliferate and the population explosion goes unchecked by the responsible states. Osabuohien asserts that demand for land is increasing to meet a growing demand for agricultural production, industrialisation and urban growth.

Land in Kenya will continue to be a scarce resource and a source of violence because currently Kenya has a population of 47 million and a landmass of 582,650 kilometres squared. Projected population growth indicates that Kenya's population is to grow at 1 million per year and 3,000 people per day (UNP 2014: 34). The UN estimates that by 2050 the population will comprise 85 million people. The statistics show that Kenya has 79.2 people per kilometre, as compared to a neighbouring state like Uganda that has a population of 39 million people with a land mass of 241,040 kilometres and 39.2 people per kilometre, while Tanzania has a population of 49.5 million people on a land mass of 947,300 and 47.5 people per kilometre (UNSD 2015: 2). Kenya's land resource shows that the amount of land remains the same, but the demand keeps growing due to population growth. As a result, land, as resource remains a contentious issue.

The information from Citizen N 9 supports other studies that found that land was an issue in election violence. In Lesotho, Tlalajoe (2012) found that land was a major cause of electoral violence as land for agrarian communities increases in value. Land in Kenya today is a scarce resource, just as it is in Uganda where land has in recent years bred conflict at all levels of society (Sewanyana 2002: 44).

However, some argue that land is not a cause of political electoral violence. For example, Ahluwalia and Nurse-Brays' (1969: 84) study found that land was not an issue of conflict in Africa. According to their study, land in Africa is mainly owned communally without

distinct boundaries, has no individual value, is largely ownerless except communally - and has no economic value in terms of buying and selling. Land, instead, represented a sense of belonging, communal security and a communal symbol of presence in a particular region. However, their study was conducted at a time when populations had not yet increased exponentially - and land was still seen as a communal commodity. Today individuals issued with land title deeds often own land. Citizen N15 did not believe land was an issue as such, but that it reflected presidential powers at play. He views land issues as being fought over by elite powers with the people becoming the victims of such clashes. He stated that:

Land in the Rift Valley has been fought politically by the presidents, not the people. The presidents have used militia, police, ad hoc laws and violence to amass land for their tribes. When Kenyatta took over as president he gave land to his Kikuyu people from 1968-1977 with a policy in the constitution that Kenyans can own land anywhere in Kenya. When Moi became President, he gave out land title deeds to the Kalenjins in Mau, Likia and Mt. Elgon from 1992 to 2002 using his militia (Jeshi la Mzee) to displace Kikuyus. When Kibaki, a Kikuyu, took over in 2002, through Kimunya he recalled back all title deeds given by Moi and forcefully evicted Kalenjins, rendering them displaced and homeless. Kibaki then allocated this and other very rich productive land to his tribe in the Rift Valley. Their presence and number had by now swollen.⁵¹

This unique analysis shows that Kenya's' most productive land is being fought over by the presidents, on behalf of their own ethnic followers. The presidents thus use government policies, police and militia to impose and reinforce their ethnic authority over land.

5.2.5.2 Poverty, inequality, unemployment and economic marginalisation

During the interviews, one point that came out clearly was that violence was largely attributable to poverty, unemployment and economic inequality stemming from deliberate government marginalisation of perceived opposition groups over the years. The role of poverty as a cause of violence is an outcome of social processes within-the government structures. Conflict, in this sense, is situational as theorised by Bercovitch (1984: 6) who

⁵¹ Kimunya was the minister for lands at the time Kibaki was president. Kimunya is also a kikuyu.

views conflict as arising from situations in the environment or via external factors such as unjust social systems, which breed social inequalities.

Scholars (Snodgrass 2005; Ochieng 2012) argue that one of the key causes of conflict is poverty and scarce resources. Basic human needs (BHNs), such as employment, food, shelter, clothing, education and healthcare when not met, are known to be a source of violence (Baker and McMahon 2015: 20). The BHNs are vital and a precondition for survival. When BHNs are not met human beings feel profoundly threatened and chances of hostility are high (Varynen 2001: 33).

For example, M6 acknowledged that:

Poverty was a factor in electoral violence because, from the trend it took, there was more violence among the poor regions and the unemployed youth from the slums. Violence among the middle class or the wealthy was not witnessed. They saw the violence on their TV sets or when they went to the city centres where the poverty stricken youth had barricaded roads.

The involvement of young people is attributed to the high rate of unemployment among the youth in Kenya, which currently stands at sixty-five percent (Shizha 2014: 58). Some of them were injured and many died fighting. The report on 2007/2008 post-election violence in Kenya indicates that out of those who died, 72 % were young men (Were 2010: 322). Clearly the unemployed youths were easily mobilised in the PEV for scant remuneration.

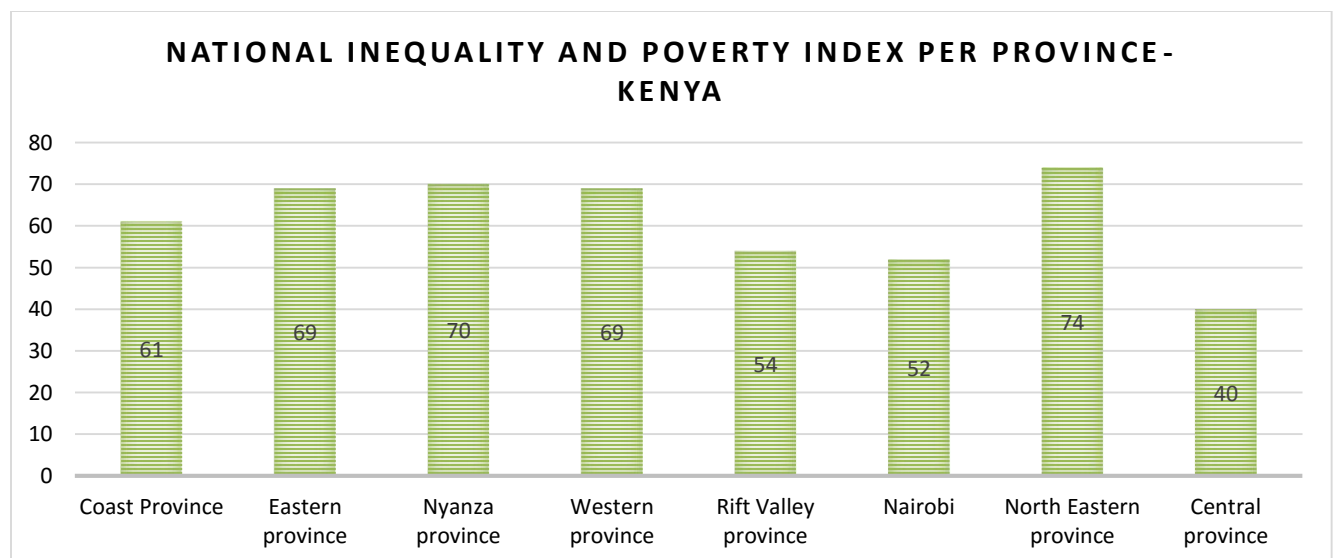
There is evidence of the relationship between socio-economic differentials in poverty levels, unemployment, resource allocation, ethnic identities and violence (Ubomba-Jaswa 1989: 323). The current analysis corroborates the view of Ubomba-Jaswa that failure to meet basic human needs triggers conflict and violence. This evidence is comparable to the findings on the causes of electoral violence in 2008 in Zimbabwe. Research showed that, among other causes, the poverty and unemployment level (which was at 54%) was a major cause of the violence in Zimbabwe (Tlalajoe 2012: 12). This was also true of the

electoral violence in Ivory Coast 2010 and Nigeria 2011 where poverty and unemployment escalated violence after perceived election rigging claims (Sakina 2012: 92).

On further probing concerning poverty areas that were affected, M7 reported as follows:

The slum areas and regions with higher levels of poverty and unemployment, such as the Kibra slums, Kisumu-Nyanza, Eldoret-Burnt forest, Western Kenya, Nakuru and the Eastlands of Nairobi, which included Kariobangi North, Dandora, Mukuru Kwa Njenga, Huruma Estate and Mathare, and parts of the Coast province had more violence because they went out to the streets to fight the police, burn tyres, uproot railway lines and burnt down some infrastructure. Most of those who died were the poor. This in comparison to areas of the social upper and middle class society like Muthaiga, Westlands, Runda, and Lavington Green, among others in Nairobi had low levels of violence or none at all.

Every election year, electoral violence dictates who wins or loses in the presidential, parliamentary and county political seats (Njogu 2011: 168). Njogu argues that the violence is more prevalent in parts of Nairobi (particularly the slum areas), parts of Eastern Province, Western Province, Parts of Rift Valley, Nyanza and Coast. The provinces, when examined closely, form part of the poorest regions in Kenya that have been politically marginalised over the years as indicated by the Kenya National Bureau of Statistics 2005 in Figure 5.4. To support these facts, Figure 5.4 illustrates the poverty and inequality index of Kenyan provinces.



Key:

0-20 less inequality-low poverty index
21-40 medium inequality-medium poverty index
41-60 high inequality-medium to high poverty index
61-80 advanced inequality-advanced poverty index
81-100 extreme inequality- extreme poverty index

Source: Kenya National Bureau Statistics (2005: 145).

Figure 5.4: The national inequality and poverty index per province in Kenya.

Figure 5.4 shows that the provinces such the North Eastern, Western, Nyanza, and Coast have been marginalised over the years, with 60% and above of poverty index indicated showing an advanced poverty level. This is because these regions have ethnic groups that have been perceptibly associated with the opposition groups. A low poverty province, such as Rift valley with a 54% medium poverty index, is perceived to be so due to the fact that the president who ruled Kenya for 24 years came from the Rift valley. The central province has the lowest poverty level and inequality as low as 40%. Low poverty level in central province can be attributed to presidency powers and resource allocation to their provincial regions as this province has had the support of the presidency for over 28 years, first fifteen years of Jomo Kenyatta, then 10 years of Kibaki and now a five-year term of Uhuru Kenyatta from 2013 to 2017.

Figure 5.4 explains why certain regions remain left behind and unprivileged, and the reasons why they fought during the electoral violence. This trend indicates that as long as the allocations of national resources remain unequally distributed and ethnicised, elections will continue to trigger violence, particularly if they are perceived as having been rigged by the same ethnic groups which are seen as already unfairly privileged. The North Eastern province with its minority groups has been associated with the opposition and the calls for liberal democratic reforms ensuring equality by various groups of activists are still on going.

The conflict, therefore, seemed to have rapidly expanded from the issue of flawed elections that sparked the original violence, to a conflict between the rich and the poor. Hence, at the heart of the Kenya PEV crisis was the politics of extreme social class and inequality. In fact, these low poverty index areas were later called 'hot spot' or 'hot zone' areas (Klopp, Githinji and Karuoya 2010: 3). The zones - some of which are in slum areas had the highest casualty rates and the highest number of deaths. Poverty has conditioned the slum inhabitants to lose hope in the likelihood of just structures and a better future.

The study shows that poverty and violence became synonymous as the violence simmered. As reported by citizen N19:

The youth turned to theft and other criminal activities in the wealthy estates and, at some point after realising that the police were overwhelmed by the crisis, the conflict was not on electoral issues anymore. It had accrued a different problem and was now Kenyan poor versus the Kenyan wealthy. They stoned people in cars.

The above perception that the poor turned against the rich corroborates a study on PEV 2008 Kenya by Jacobs (2011) of the Peace Research Institute of Germany, who conducted a spatial analysis. Jacobs noted that violence was overwhelmingly concentrated in and confined to the urban poor within the slums of Mathare and Kibra in Nairobi (Jacobs 2011: ii).

The majority of the mediators based in Kenya affirmed through the interviews that there was relatively less violence in medium income areas where poverty and the inequality gap was smaller, such as Westlands, Karen, and Adams Arcade (among others). This is ascribed to high levels of interaction between the middle class earners and, conversely, low levels of interaction between the high-income earners and the poor. From a different perspective to those who reported the conflict as an attack on the wealthy by the poor, Citizen N10 noted that the cause of election violence was the poor fighting the poor. According to her, the slums had the fiercest violence with the poor from other tribes attacking the poor slum dwellers from the Kikuyu tribes. She asserted that:

The poor fought each other. In the slums it was a war of the poor against the poor but distinguished by ethnicity. The other ethnic groups fought the Kikuyu ethnic group because they felt marginalised by the Kikuyu regime. In this war, the poor killed each other, destroyed the railway lines, burnt amenities and torched some of the slum houses. They then destroyed some of their social amenities, leaving them poorer than they were before the crisis.

Wondering aloud, Citizen N10 questioned:

How could a poor Luhya or other ethnic groups fight another poor Kikuyu dwelling in the same slum, suffering daily to make ends meet?

The relationship between the poverty levels of citizens and electoral violence is rooted in the populaces' hopes that a change in the regime would provide better prospects in terms of employment, equality, alleviate poverty and reduce the gap between the wealthy and the poor. Spiralling poverty is attributed to lack of institutional support for the struggling, largely poor populations of Kenya. Calderon (2013: 23) points out that societies with higher levels of institutional support for its less fortunate citizens are less likely to degenerate into violence.

Waki (2008: 12) claims that perceived inequalities, combined with suspicions of vote rigging, ignited 2008 PEV in Kenya. Additionally, socio-economic inequalities and lack of opportunity for access to the presidency by other ethnic groups can be regarded to a great extent as factors that fuelled ethnic rivalry and violence in 2008 (Balaton-Chrimes 2015: 60). Ubomba-Jaswa (1989: 323) argues that there is evidently a relationship between electoral violence as depicted in Figure 5.4 and inadequate socio-economic aspects. The scarcity of socio-economic goods manifested in certain ethnic groups' lack of access to presidential power, as well as high poverty levels, unemployment and unequal resource allocations enhanced the potentials for electoral violence.

Democratic processes that privilege respect for socio-economic equality, meaningful forms of accountability and gives checks and balances should be reinforced (Mutua 2008; Balato-Chrimes 2015). Balato-Chrimes insists on a need to reinforce laws and institutions

that can mitigate and balance the excessive power of the executive and put an end to elite exploitation of the national resources, which unfairly favour ethnic interests.

The growing socio-economic inequalities are both horizontal (as in ethnic groups) and vertical (as individuals). Horizontal inequalities based on ethnic identity in Kenya have been associated with exclusion from national resources, decision making at the governmental level, skewed employment opportunities, poor service delivery, and increased poverty. Horizontal inequalities have resulted in deterioration of living standards and impoverished lives of the marginalised.

According to Yoichi (2013: 10), horizontal exclusion from national resources triggers collective feelings of alienation, thereby leading to violent confrontations. In his view, these occur when people perceive exclusion as the cause of their deteriorating living conditions and increased poverty. Additionally, he argues that horizontal exclusion goes against proportional representation of democratic principles where all are to be represented in government, regardless of ethnic, religious, cultural, geographic or racial divides (Yoichi 2013: 10).

This study, therefore, argues that Kenya's state of inequality suggests uneven geographical marginalisation of ethnic groups. Large differences persist in terms of access to education, healthcare, employment, remuneration, land and service delivery. On the other hand, there is preferential treatment and considerable economic empowerment accorded to the ethnic group of the president in power at any time. Elections in Kenya have therefore become hotly contested between the ethnic groups (Dabalan, Narayan and Suarez 2014: 57). The political elites and their ethnic group strategise how to win presidential elections using any mechanism, including rigging and other malpractices such as corrupting the EMB (Ibid.). The preferential treatment then follows a win (Dabalan, Narayan and Suarez 2014: 57).

What is clear is that the findings show that relationships between social inequality, poverty and electoral violence are not linear but rather, multilinear. The social inequality that was reportedly underlying the violence had other variables within it where the poor also viewed

each other as either affiliated to the regime or to the marginalised ethnic identities. Thus, it can be said that, apart from poverty, there was animosity - whether from poor or rich - against the ethnic group perceived to be the initiator of the violence through flawed elections. Evidence from the literature shows that economic inequality as a source of violence is firmly grounded in conflict management literature.

Moreover, as supported by the findings above, the concept of relative deprivation (Dollard et al., 1937 and later Gurr 1970) continues to be of significance in what Kaldor has termed the 'new wars' of Africa. From these same responses, in the context of Kenya, it is apparent that people from some ethnic identity backgrounds felt that there was a substantial gap between specific ethnic groups' perceived expectations of their basic human needs and what they viewed as the reality of living in deprived environments. This feeling of deprivation, as stated by Citizen N10, has developed over the years through economic marginalisation of certain ethnic groups who are perceived by the ruling powers in government to belong in the opposition stronghold.

Relative deprivation feelings has fuelled animosity and, increasingly, conflict. The underprivileged have compared themselves to the wealthier groups. Seeing no solution in the near future to their basic human needs' problems they became frustrated, leading some of them to violent and aggressive behaviour, as was witnessed in 2007-2008 in Kenya. For the poor, it was the only means of voicing their discontent over their seemingly perpetual poor economic conditions.

5.2.6 Unethical and undemocratic politicians and officers

The analysis illustrated that illiberal undemocratic politicians and officers cause violence and violate human rights of their citizens. A number of those interviewed wondered whether in Kenya political leaders are democrats or actually understand what democracy is. They felt that the cause of electoral violence was because those who run government offices and institutions do not adequately understand democracy. For example, Citizen N3 stated:

Our politicians and those who run our institutions do not understand democracy. This has caused a lot of violence in the country and was also a contributing factor in the 2008 violence. That is why we had flawed elections that brought so much suffering and death. For them, winning elections is one thing that is out of their vocabulary. Taking power is what the political elites know. It is a solid reality in our semi-democratic system.

In a similar vein, Citizen N11 reported that:

Electoral violence was caused by the undemocratic EMB manipulating our presidential choice through undemocratic means. They did not even know who won the presidential election, as stated by the EMB chairman on television. How did he then announce the incumbent if he did not know who won the presidential elections? Was it through democratic votes? We doubted the democratic legitimacy of the announced presidential result. You see how we lack democrats? ...right from the top to the institutions of government. We were angry. We demonstrated. Democracy means we have a choice on who sits at the helm. Those choices, through our votes by the people, must be respected. Democratic elections in this country are abused each election year, which is why we wanted to end the habit through peaceful demonstrations that turned violent.

The reports show that violence was used to vent and air grievances about a perceived authoritarian, undemocratic and illegitimate regime in Kenya at that time. Kenya has not been able to create a democratic political culture during elections. A democratic culture includes legitimising the elected leadership accorded through a free and fair democratic ideal (Rene 2013: 58). Rene contends that the most important element for state survival is legitimacy as accorded by the citizens through fair elections. Therefore, when the leadership is illegitimate, citizens use violence as a means of purging and venting of grievances (Ibid.). The violence, as can be inferred, operates as a catharsis when there is abuse of citizen voting rights through election manipulation. The abuses cause tensions to build up and, when these rising tensions cannot be held in check any longer, violence erupts (Ibid.). In this respect, Rene (2013: 58) claims that violence becomes a cleansing force that frees the citizens from feelings of despair, inferiority and inaction.

In a democracy, discontent is expressed through elected representatives (Rene 2013: 60). However, in autocratic leadership, representatives are less available, and citizens

will seek alternative channels to communicate either violently or peacefully (Ibid.). Similarly, Kalisa (2009: 10) claims that the choice of violence in authoritarian regimes makes citizens fearless, restoring self-respect in an otherwise autocratic environment. Moreover, Kalisa asserts that, to rid themselves of powerlessness, the citizens in unjust violent structures must resort to violence as a direct consequence of the violent nature of autocratic domination. He argues that violence in such situations becomes a means to dismantle the autocracies and replace them with self-determinism (Ibid.).

The use of violence as advocated by Kalisa contrasts Gandhi's non-violent strategies in similar contexts (Parel 2006: 132). According to Parel, Gandhi argues that unjust economic, political or ethnic structures must be dismantled by ordinary citizens' actions - but non-violently. Fanon, in a related concept, envisioned a continuation of violence in autocratic states until a national consciousness of peace structures would be fostered. To this end, electoral violence will continue until structures that generate peace are in place. Fanon blamed intra-state violence on autocratic and unjust structures under undemocratic leadership (Fanon 1961: 18).

5.2.7 Human rights issues

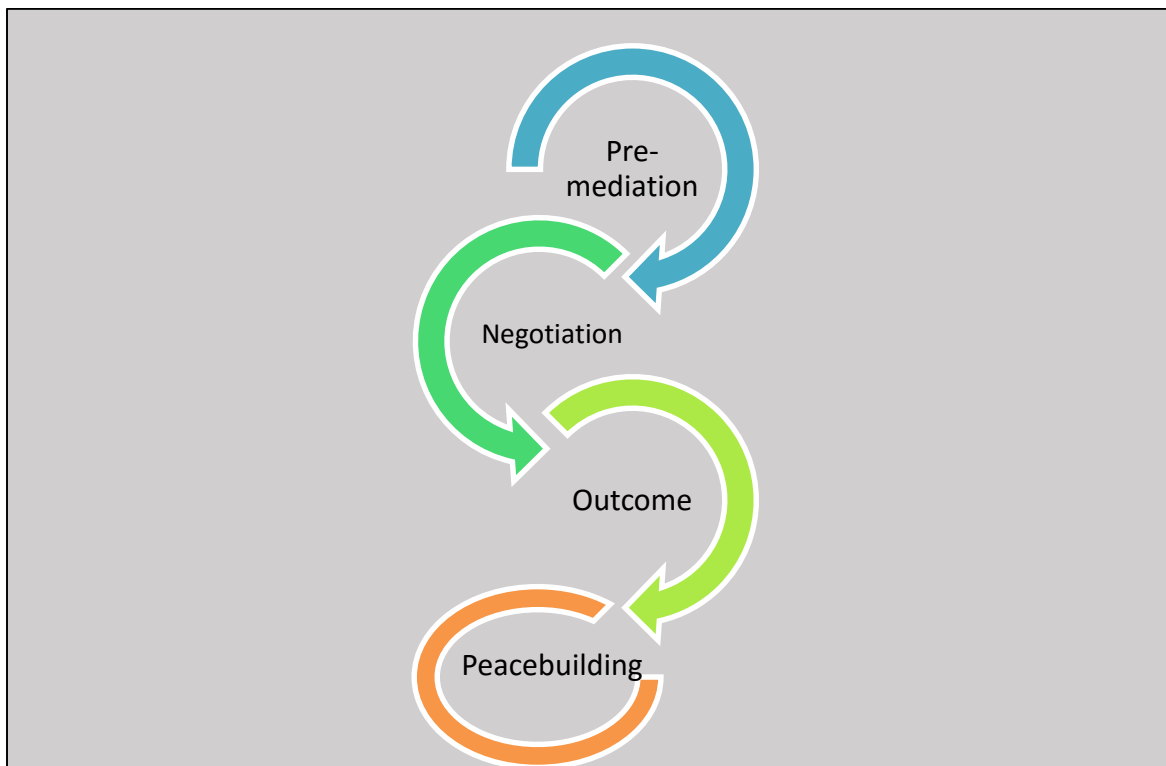
From the information gleaned from documents consulted for this study there were several incidences mentioned of human rights violations in Kenya during the PEV 2007-2008. According to the UN report on human rights abuse during the electoral violence (UNHRTs 2008), rights to freedom of assembly and open association were found to have been curtailed by the regime. The media were banned from airing any election results from the 27th of December 2007 and were kept off-air. Freedom of movement was also truncated and curfews were placed in opposition strongholds. Peaceful demonstrations were banned and youths were arbitrarily arrested and detained without trial and many lost their lives as a result of police extra-judicial killings. There was also lack of equal protection of all by the law, and cases of rape, torture, violation of human right to life, and cases of forced displacements were also reported.

According to the same UN report (2008: 10), extra judicial killings by the police were found to be true as investigated by Alston. Alston in his report indicated that hundreds of

brutal summary executions had been carried out with impunity by the Kenyan police (Alston 2010: 7). Alston called on the President to sack the Attorney General and the police chief (Rice 2009: 1). The analysis is consistent with the Human Rights Africa report on Kenya, which decried the use of police force in extrajudicial killings, wherein unarmed Kenyans, including children and women were among the victims. The report outlines the human rights abuses that included rape, rights of freedom of movement, assembly, peaceful demonstration and freedom of media during the PEV 2008 as extreme and excessive (Africa Human Rights Watch 2008: 21-34).

5.3 MEDIATING ELECTORAL VIOLENCE

The topic is divided into two sections, first, the pre-mediation analysis from data collected and secondly, the mediation. The mediation process is further subdivided into five subsections, namely the opening statement, the initial contact, the narration process and the dialogue - and lastly the agreement and outcomes of the mediated negotiation.



Source: Researchers' own analysis 2015

Figure 5.5: Mediation process.

The mediation process had three major parts as seen in Figure 5.5. The arrows are interconnected, indicating that mediation, as used in Kenya, is a process that has three main parts—the pre-mediation that feeds into the negotiation; then negotiations are expected to arrive at an outcome so that a peacebuilding process can begin. Though the mediation process does not always strictly follow this path, the Kenyan mediation followed this approach to its conclusion. The details of this mediation process and its parts are discussed in the section below.

5.3.1 Pre-mediation

The study question on the pre-mediation phase mainly obtained consistently valid responses from the mediators and negotiators. Most of the citizens interviewed stated that they were not very conversant with what took place within the mediation rooms and so were not in a position to respond. One such response was that of Citizen N10, as follows:

Regarding that mediation or process, we only got what was communicated to us by Kofi Annan through the press. He made frequent briefings on the progress. So I am not confident to speak on the mediation process.

That meant that though the citizens were not at the negotiating table, they were somehow engaged in the peace process to a certain extent, through the frequent briefings of information on the progress of the mediation by Kofi Annan himself.

Among the participants there was general consensus from the mediator and negotiating teams that soon after John Kufuor, the AU chairman of 2008, announced and set up a mediating team, the mediation had started in earnest.⁵² M1 reported:

The pre-mediation stages were fast because the violence was intense. The mediation secretariat was immediately set up in Nairobi within a week after the John Kufuor's announcement of the mediating team.⁵³ Within that week Kofi was

⁵² The mediating team consisted of Kofi Annan (former UN Secretary General) as the chairperson, Graça Machel (prominent advocate for women and children's rights) and Benjamin Mkapa (former President of Tanzania) as members (Annan, Machel and Mkapa 2014: 21).

⁵³ The secretariat that was set up in Nairobi was to assist the AUPEAP panel by giving logistical and technical support and the resources for the mediations' success (Annan, Machel and Mkapa 2014: 22).

unwell and admitted in a hospital, but he was able to consult extensively and got support from the stakeholders, the international community, from the donors and from the UN through Ban Ki-moon who directed the UN office in Nairobi to set up the secretariat. He also explored the nature of politics in Kenya. These activities took place during the pre-mediation preparation.

The study response points out that prior to meeting the principal disputing parties, Kofi Annan and his team met several Kenyans, stakeholders and internally displaced persons (IDPs) to get a sense of the depth of the conflict, as recalled by M5:

During the pre-mediation stage, the mediation team consulted at length with a variety of Kenyans of diverse walks of life to get information and build trust among the citizens and the political divide. The team visited some of the internally displaced persons to get the nature of the conflict from their perspective on 25th January 2008. From these initial meetings the team got the background of information and the dynamics of the conflict.

This response is confirmed by the British Broadcasting Corporation (BBC) news of 26th January 2008 which states that:

“Kofi Annan meets Kenyan stakeholders and visits the Nakuru and Nairobi IDP camps. He condemns the systematic abuses of human rights, calling for speedy humanitarian assistance and an end to the violence.”

M5 recalls that:

Kofi Annans’ visit to the IDPs was to get first-hand information during this phase of pre-mediation. The IDPs supported the mediation led by the AUPEAP panel.

On the same note, M10 noted that the mediating team visited the internally displaced persons who had not been visited by any of the political elites at the time. The visit to the IDPs’ camps indicates that the panel wanted to get first-hand information of the internally displaced persons. The panel also wanted support of all Kenyans during the mediation,

thereby creating a solid foundation for a mediated negotiation to take place. M1 narrated as follows:

Kofi Annan and his team established initial contacts with the disputing personalities, Kibaki and Raila, separately. He met them in a pre-mediation caucus where they were able to vent all their issues separately concerning the conflict. He emphasized the importance of trust between the protagonists—an often difficult, but essential means to peace. Mr. Annan also stressed the importance of an all-inclusive undertaking where all stakeholders were free to contact the team.

The initial meeting of Kofi Annan with the antagonists was informative. The value of this stage of mediation is disputed by Blankenship (2015: 1) who argues that pre-mediation and the opening statements are a waste of time. He believes that mediators should go straight to mediation. However, according to Brand et al. (2012) and Pitswane (2014), mediators who choose to by-pass this pre-mediation phase may end up being oblivious to the real issues the disputants face and to their underlying concerns. In Kumar and Haye's (2011: 2) view, the political parties disputing the election also get time to organise themselves and articulate their issues during the pre-mediation phase, before actual mediation commences.

5.3.2 The mediation process

The mediation process prompted responses that were thematically analysed and categorised as follows: first, the opening statements; afterwards the initial contacts; next the narration and dialogue, and last but not least the agreement stage. The interviewees' responses included those of mediators and negotiators. The response from the mediation process question yielded both diverse and common responses from the all mediators interviewed. M2 advised that:

The mediation process began with an opening statement made by Kofi Annan through a press briefing on 24th January 2008. ... The statement gave hope to Kenyans that the conflict would be resolved.

5.3.2.1 Opening statement

From the opening statement of the document, '*Back from the brink*' Kofi Annan is reported to have stressed the following on live media broadcast:

That he expected the countrys' short-term (ceasefire, and restoration of liberties and human rights) and medium-term issues of the political crisis and humanitarian issues to be resolved in about four weeks' time and the long-term would take a year. All would be accomplished through a negotiated mediation. He emphasised that there was only one Kenya, acknowledging that the crisis had a genuine negative impact on the country's economy and its social fabric (Annan, Machel and Mkapa 2014: 26).

The record reveals that the opening speech by Kofi Annan set a tone of hope that the crisis would be resolved amicably. The above extract also shows that Kofi Annan and his team had specific objectives and set a timeline to resolve the PEV crisis. He also officially detailed his role in the mediation—which was to help find a resolution to the crisis.

5.3.2.2 Initial contact

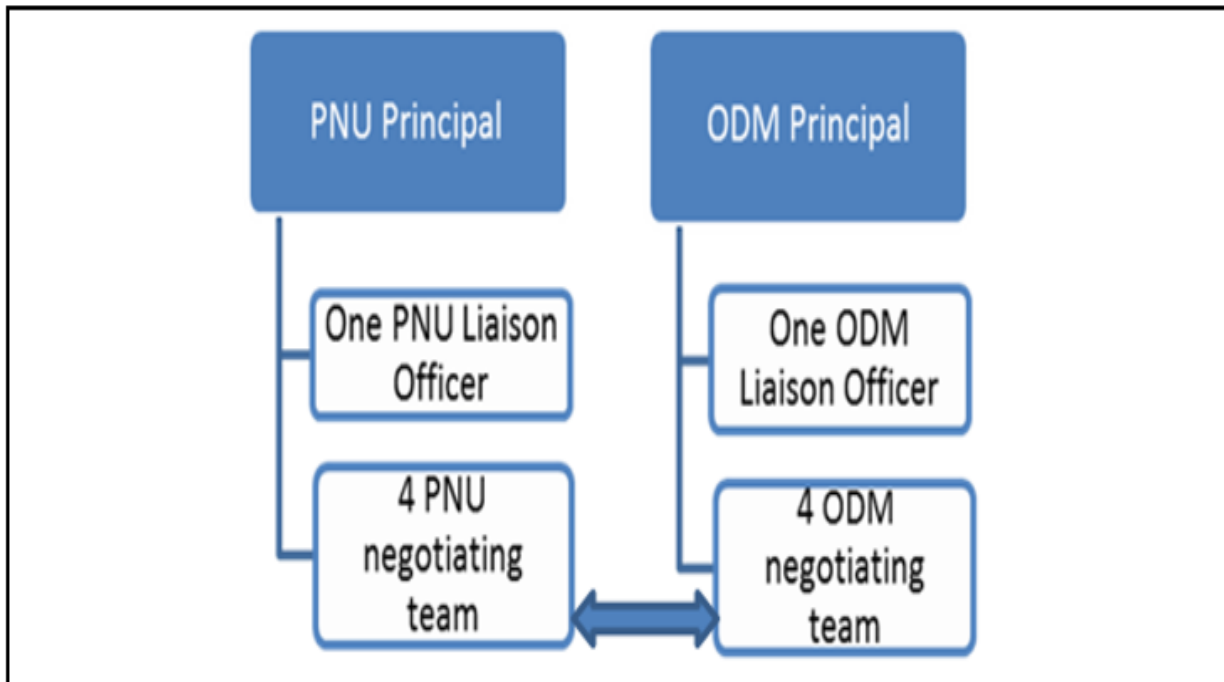
The study reveals that Annan managed to bring the conflicting parties, together using his mediator tact and influence. The main disputant principals, Raila Odinga (ODM), an opposition leader and Mwai Kibaki (PNU) the incumbent, met face-to-face and engaged in discussions with each other in Kofi Annan's' presence. The study also learnt that there was mounting pressure on the two principals from the international community and other stakeholders that the crisis be amicably resolved through the mediated negotiation. This is confirmed by M9 who explained that:

During the pre-mediation time, Annan, using the mediator diplomacy and strategy, brought the disputants together where he was the only third party. He listed the issues as the disputants spoke about their problems. At this stage, there was incredible pressure on the political principals from the international community to end the violence amicably. After this talk, Annan announced the agendas to be discussed at the negotiation process from the listed issues. These agendas were four and were to be discussed during the negotiation period.

The reports convey that Kofi Annan was able to list the issues of the conflict, as articulated by the main principals of the disputing parties. The listing of issues also ensured that both principals heard each other’s view of the conflict as they met face-to-face. In a pre-mediation process the parties at this time determine what their goals are, what they anticipate to achieve and they also prepare themselves for a negotiation process (Bercovitch 2011: 100). It is important that they discuss and analyse the conflict situation recording their problems in a comprehensive list (Kumar & Haye 2011: 2). The issues from both parties should form the basis of the agenda in the mediation process.

5.3.3 Negotiation process

Participant M11 confirmed that formal negotiations began on 29th January 2008. This date is recorded on the document by Annan, Machel and Mkapa, *‘Back from the brink’* (2014). According to the minutes of this meeting, the mediation was dubbed, “Kenya National Dialogue and Reconciliation (KNDR)” by the negotiating team.



Source: Researchers’ own analysis 2015.

Figure 5.6: The triad-layered nature of the negotiated mediation.

The mediation was a triad-layered negotiation that allowed for a lot of consultation by the principals, as indicated in Figure 5.6. M11 explained that both sides of the political divide had a team of four members, each of whom was to negotiate on behalf of the co-principals. The arrow connecting the two negotiating teams indicates the negotiation that was taking place between the two parties. The lines connecting the principals to the negotiating teams indicate the connections the principals had with their negotiating teams. Between the principals and the negotiating teams was a liaison officer. The liaison officer was allowed to be at the negotiating table at will and had direct contacts with principals, briefing them on the procedures. He revealed that:

The mediation process had two teams of four and a liaison officer from both the political dissents. The principals were informed of the developments by their liaison officers. Annan also consulted with the key principals regularly, especially during stalemates.

Immediately after the general introduction on 27th January 2008, the suggested modalities of the negotiation were submitted to the parties for ownership or feedback. These included the structure of the negotiation, the rules of the procedure and the terms of reference given by the panel (Annan, Machel & Mkapa 2014: 34).

M11's response ascertains that the mediation was threefold in nature, given that at the immediate level of negotiation there were four politicians from each of the two disputing political parties. The other peripheral and consultative members were the principals of the political parties and in the middle the liaison officers. The threefold nature of mediation ensured that all were committed to the mediation process. When the talks reached a deadlock, the liaison officers consulted the principals.

However, M12 indicated that the mediating team consulted all the triad layers at different times and when necessary.

The mediating team had consultations with all the members of the mediating team, the negotiating members, the liaison officers and the principals when they considered it vital to do so.

There was a general consensus from the study evidence that standoffs existed. The Kofi Annan mediation team (AUPEAP) strategically and logically handled the standoffs. The standoffs were officially made public through press briefings of Kofi Annan. Standoffs or stalemates were tactically dealt with in three ways, as reported by the participants. First, mediating teams would have timeouts to refocus. The breaks were meant to cool off temperatures and give time for further consultations among party members. Next, the mediator tactic for handling deadlocks was the use of a peripheral consultative members' meeting where the mediator would personally meet the two key principals without their hardliners. The last mediator tactic used was a change of venue.

The documents consulted for this study confirm that tension was noticeable, making emotions escalate (Annan et al., 2014: 28). At times the tensions and emotions brought about communication deadlocks where negotiating contentious issues would not be making any noticeable progress (Ibid.). In such cases, the panel of mediators would employ mediation strategies as each problem emerged. The mediator tactics included forging bonds, and re-building trust and confidence in the mediation for a mutually acceptable outcome (Annan et al., 2014: 28). The panel also began their assembly with a prayer, which was led by the negotiating members in turn (Annan et al., 2014: 28). M3, who reported, also echoed this:

There were deadlocks that Kofi Annan had to use his experience and tactics to overcome. Some of the tactics included breaks from the talks, change of venues and direct consultation with the principals.

Deadlock accounts are supported by the Annan et al., (2014: 28) documents which states that some of the meetings were cut short, especially when newly elected politicians from the opposition were politically assassinated. Political assassinations raised tensions as finger pointing and counter accusations were evident within the negotiating teams, thereby escalating strains. Annan et al., state that the panel then appealed for calm. The time-out moments were important as they enabled breathing space from the tedious

negotiations and allowed the political negotiators to get feedback from one another and from their constituents.

According to KNDR (2008: 4), the standoffs elicited mounting pressure from the international community who voiced their concern about finding an amicable solution fast. Documents from KNDR (2008: 12) show that negotiations resumed amidst calls, threats and pressure from the international community, especially the (United States of America (US)) and the United Nations (UN), who threatened to move their regional offices from Nairobi.

Participants reported that sustained pressure and threats provided the force behind the continued negotiations and ensured the progression of the mediation process. M5 remarked that:

The negotiations, then resumed with members discussing the root causes of electoral violence. They then moved to discuss the reform agendas to resolve the issues raised as causes of the violence. The issues on causes of violence were easily listed after the discussions; the issues on addressing the humanitarian crisis were also earnestly discussed. Other issues of the agendas one and two were all discussed and agreed upon. But the issue on political solution to the crisis on Agenda Three was highly contentious. Agenda Four issues were discussed later after the signing of the agreement of the power-sharing in Nairobi. Actually Agenda Four continued on 3rd March and completed its work under Adeniji Oluyemi who took over from Kofi Annan who had left the country on 2nd March.

The analysis shows that the mediation was earnest and serious about moving on with resolving the issues that were the root causes of the violence. The discussions and progression of finding durable solutions to the conflict was sustained by mounting pressure from the international community. Hence, this pressure contributed to a faster facilitation and development towards a mutually accepted outcome. However, as reported by PNU2 below, Agenda Three stirred emotive reactions that slowed the progress of the negotiation at certain points.

According to PNU2:

There was a time out after the first deadlock. The second deadlock was dealt with by a change of venue. We were taken to a secret venue away from the press. Here we had experts who gave various options that enhanced the discussions. We examined several options to the political solution such as a repeat of the voting. This could not take place as many people were displaced and some were refugees in neighbouring countries, furthermore the country was quite polarised to withstand a re-election. Another option that we discussed was the re-tallying and re-counting of the votes to find out the actual presidential winner of the election of 2007. This too was mutually understood as not viable as the EMB could not be trusted with re-counting especially from our friends the ODM party. The option for judicial settlement yielded the lack of confidence in the judicial team from the members particularly from the ODM opposition. Agenda Three yielded emotions and discussions became incompatible.

M3 reported that:

The two sides had now to focus on a political settlement. The power-sharing issue was brought up, with the ODM demanding for either the post of the presidency or that of a powerful prime minister and a ceremonial president power given to the incumbent; however, the PNU negotiating team argued that there could not be two power centres in a government. They also argued that creating the post of the prime minister to share power was not enshrined in the constitution and to do so would go against the constitution of the country. A deadlock was reached and the mediator called for a timeout- a break.

The study shows that after all the agendas were discussed by the negotiating teams, and a solution could not be immediately arrived at on the contentious issue of Agenda-Three-power-sharing so Annan called for a break. During the break, Makumi (2008: 135) indicates that the US Secretary of State, Condoleezza Rice, arrived in Kenya and immediately made an announcement of a solution in terms of a power-sharing coalition government. She met the two main political party principals and the Kofi Annan team to reinforce the power-sharing deal (Annan 2008: 1). The local newspapers and live news reported that the US demanded that the outcome be a power-sharing arrangement, a new terminology for Kenya (Mutai 2008: 3). The power-sharing deal was therefore not negotiated but coerced.

5.3.4 Agreement and outcomes

Annan then organised to meet only the principals together with the then Chairman of the AU, Jakaya Kikwete, to be present. This move by Annan to meet only the two principals and the AU chairman has been construed by Makumi (2008: 126) as part of the mediators' strategy to move the negotiations beyond the negotiating table and include the wider constituency. In the KNDR documents it was recorded that:

“It was at this meeting that a power-sharing deal was brokered on 28th February 2008, signed by AUPEAP chairman, Mr Kofi Annan, the two principals of PNU and the Opposition ODM that was called ‘Agreement on the Principals of Partnership of the Coalition Government.’ They agreed with the post of a prime minister with powers to supervise the government and the ministries but not interfering with the state powers of the president. The terms of agreement and power-sharing were entrenched in the National Accord and Reconciliation Act 2008 that ended the crisis.”

With regard to this agreement, M3 maintained that:

The mediation process ended with a mutually acceptable outcome from both principals involved in the conflict. Immediately a press briefing was called and all media houses were invited where Kofi Annan announced that they had a deal. The principals then greeted each other in public and openly signed the agreement. This phase ended the face-to-face mediation and opened the doors for reform and its implementation.

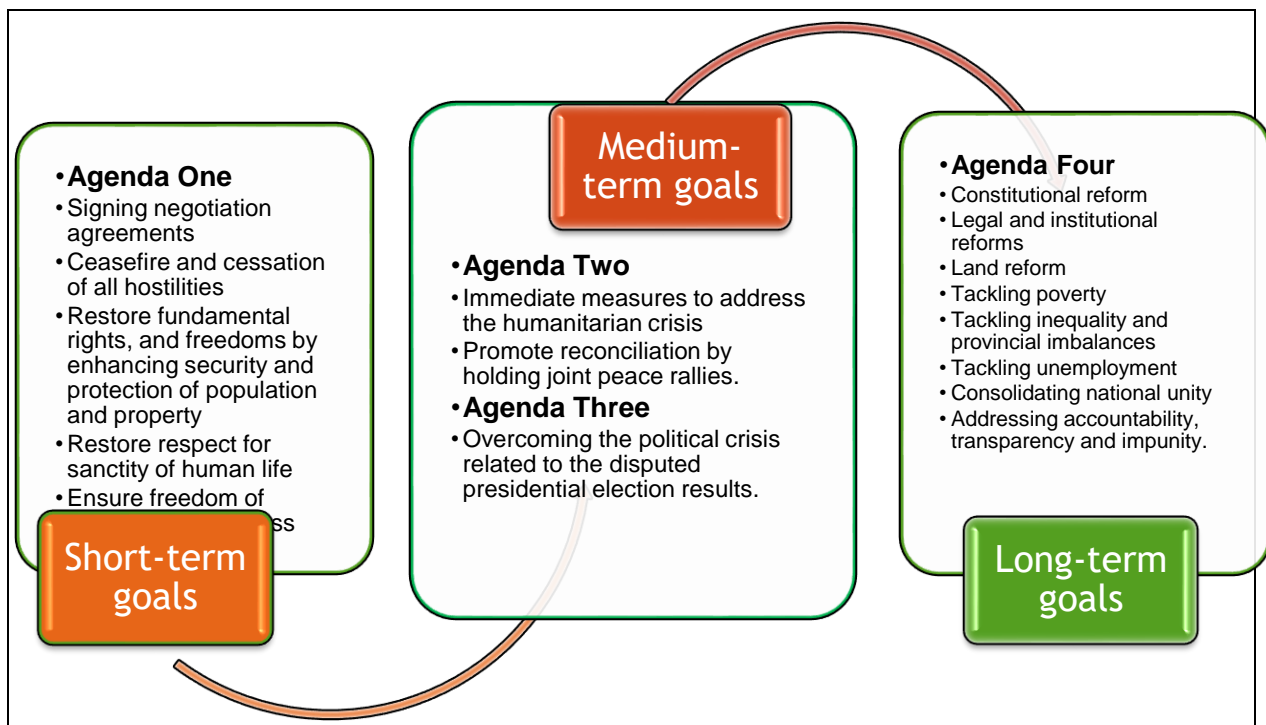
The greeting was a gesture that Kofi Annan used to show that reconciliation was already taking place. Although it is routine to greet in Kenya, capturing the gesture between disputants when it occurs denotes a deeper meaning. In Kenyan culture, greetings signify a peace ritual between adversaries as noted by Ford (2010: 191). The handshake is a mechanism to seal a peace deal. It signals acceptance of a new era of reconciliation and cooperation - and brings with it all the constituents of the disputants to the peace deal (Miller 2011: 22). Kofi Annan and Jakaya Kikwete, to begin a countrywide process of reconciliation among the citizens, insisted on a deliberate performed handshake between the disputants that was aired live. The signing brought great relief to most Kenyans, signalling a return to normalcy. The neighbouring states also shared in the joy signalling

the end of the conflict, as did the large number of refugees that Kenya hosts, the rest of Africa and the world. Hence, peace was restored through a rigorous and difficult journey towards a politically mediated negotiation.

5.3.5 Reform Agendas

The reform agendas were the plans by the negotiating teams that would be implemented to mitigate the electoral violence and serve as a future preventive measure.

The reform agendas were numbered Agenda One to Agenda Four according to the timeline of events illustrated in Figure 5.7. The reform agendas were then prioritised into short-term, medium-term and long-term goals as illustrated in Figure 5.7 to enable a smooth transition during implementation phases. The arrows connecting short-term to medium and long-term goals indicate that the implementation is a process that moves from one goal to the next, according to the prioritisations agreed upon. These reforms are discussed in the next section.



Source: Researchers' own analysis 2015.

Figure 5.7: Prioritised reform agendas.

On the question of the reform agendas interesting evidence emerged in the research, beginning with M3 who advised that:

Reform agendas were identified as the main mechanisms and strategies to address the fundamental underlying causes of recurrent electoral violence in Kenya. Reform agendas were also to create ultimate transformations by altering policies that generate unjust structures to those that work for all citizens. The reform agenda issues were discussed by the negotiation teams from both political divides during their negotiation sessions.

PNUn1 also recounted that:

The agendas were four. They were multi-layered and included those to be accomplished in the short, medium and long-term periods. The narration on the agendas was done by the negotiating teams with several consultations with the principals on the way forward. The reform agendas were meant to address the unjust structures in our society that prompted the election violence. These root causes of the electoral violence were addressed to create structures for sustainable peace. These meant addressing historical and socio-economic injustices.

This account can be confirmed via consultation of the KNDR (2008: 1-3) minutes which state that the negotiating team or the KNDR team worked on four main agenda items for the purposes of ending the crisis and restoring peace. The four areas were critical for addressing the causes of the crisis, reconciling communities, and preventing future conflicts in the country. These four agenda items were outlined in the KNDR document as short-term, medium-term and long-term. The short-term goals had Agenda One, the medium-term goals had Agenda Two and three respectively, while the long-term goals had Agenda Four. The Agenda One had a central focus to immediately and with urgency establish a ceasefire, end the overt behavioural violence, stop the continuous violations of human rights and liberties, prevent the destruction of property, cancel the ban on media and allow normalcy to return. It was meant to be achieved within four weeks (Ibid.).

The medium-term goals for Agenda Two and Three as stipulated in the KNDR documents were meant to resolve the humanitarian situation in the country and address the issue of

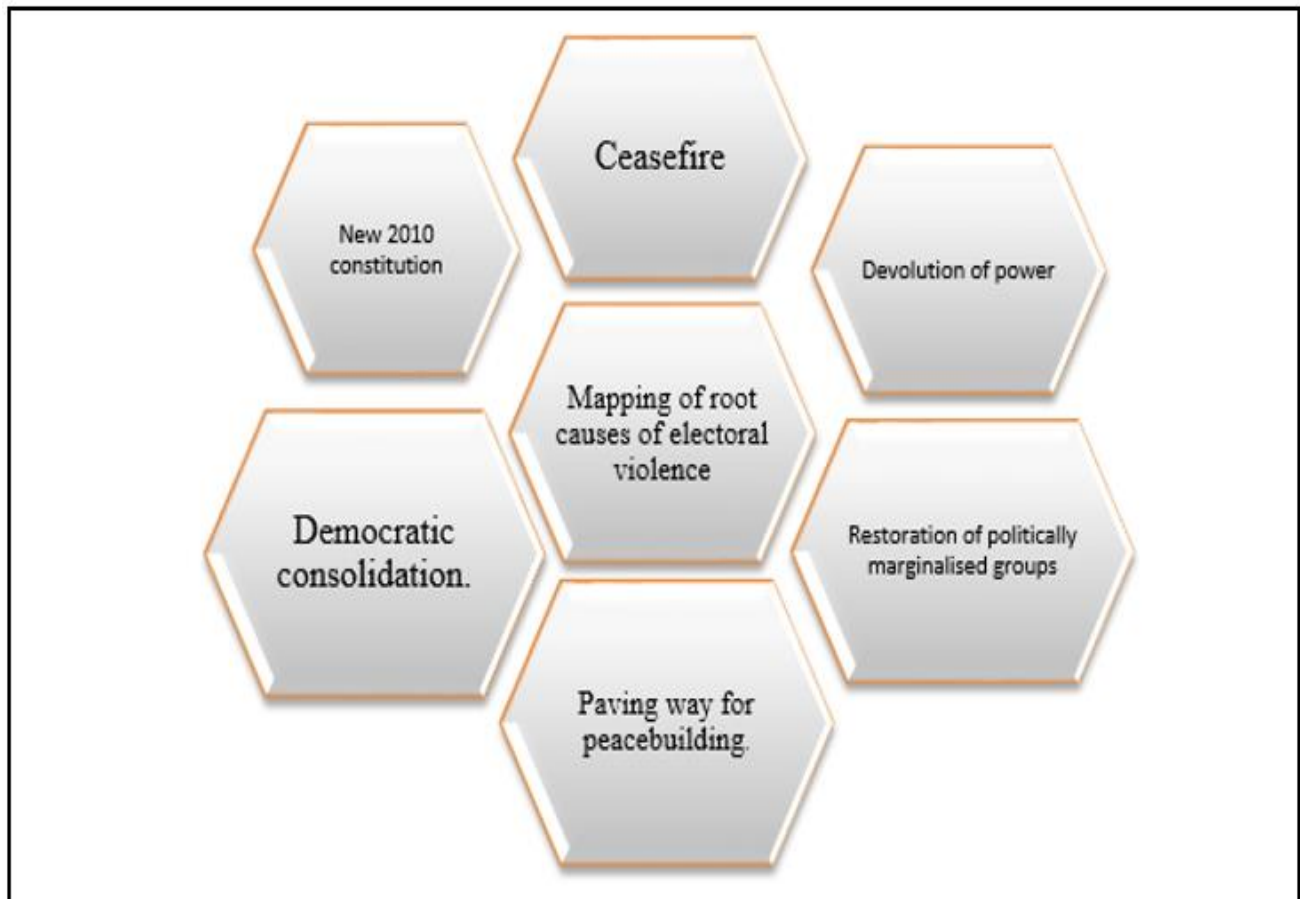
Internally Displaced Persons (IDPs) as well as that of citizens still locked in their houses for fear of being attacked. The political elites were tasked to begin promoting reconciliation and healing among the people of Kenya (KNDR 2008: 1-3). Agenda Three focused on the issue of democratic and legitimate power as well as the functioning of state institutions (Ibid.).

Agenda Four had long-term goals, focusing for example, on issues regarding constitutional change. The legal institutions, the security sector and the question of institutional reforms were also critically explored. Other issues on this agenda included mechanisms on how to tackle poverty and inequality, and how to create employment and tackle land reform policies. Moreover, they focused on accountability, transparency and impunity. Finally, there was the issue of nation building through national cohesion programmes to unite the nation. Agenda Four in Annans' perspective could be resolved within a year.

The reform agendas seem to have been structured to progress from the less contentious issues to the deeply contentious ones. The reason behind such an arrangement of agendas was to re-build the trust lost during the violence. Furthermore, it improved working relationships and enhanced communication at the initial stages. Additionally, it created an amiable atmosphere that was functional before the contentious issues of power-sharing could arise. The arrangement to start with less contentious issues to difficult ones formed part of the mediator strategy and tactic that are familiar to experienced mediators like Kofi Annan. According to Bercovitch (2004: 3), the role of mediator tactics in enhancing communication is very important in intractable conflicts. Communication is central in a dialogue dealing with something as intractable as Kenya's election violence and has to be enhanced in a volatile situation. This was the case in Kenya at that time or else each party would have lost direct communication with each other. This type of facilitative mediation by enhancing communication, as was used by Annan, is known to produce higher chances of parties' anticipation of a satisfactory win-win outcome (McDermott and Obar 2012: 29).

5.4 THE BENEFITS OF THE MEDIATION PROCESS

The role of mediation as a conflict management and resolution mechanism in electoral violence was a crucial question because it is one of the novel areas of the research



undertaken. There is hardly any literature on the actual role of mediation in electoral violence. Therefore, the responses from the interviewees form a new body of knowledge in this area.

Source: Researchers' own analysis 2015.

Figure: 5.8: The Role of the mediation process.

This section discusses the benefits and role of mediation in electoral violence, as illustrated in Figure 5.8. The section is divided into six parts focusing on the connection between the role of mediation and electoral violence. To begin with, mediation is analysed as promoting democratic consolidation. Thereafter, mediation is seen as mitigating

violence as it called for a ceasefire. Additionally, mediation is reported as an enhancer of conflict mapping, including its root causes. Mediation is perceived also as restoring marginalised rights; then its capacity to pave the way for peacebuilding is also discussed. The last section discusses the role of mediation perceived as a lost opportunity.

The role of mediation thus involved three pivotal themes that emerged from the responses. Mediation role included, firstly, the fact that mediation created a ceasefire that ended the violence. Next, that mediation of the electoral violence was able to map the conflict by exploring the root causes of violence and discussing the reform agendas that would transform the undercurrents of the violence. In this manner, they were able to consolidate democracy by focusing on transforming the institutional structures that had generated violence in Kenya.

After that the mediation process restored respect of human rights and liberties, thereby reinforcing the rule of law. Subsequently, mediation catered for the marginalised groups like the women and the disabled. Lastly, mediation paved the way for post-conflict reconstruction and created systems for peacebuilding. According to M7, the outcomes of mediation were made possible through mapping of the root causes of protracted conflict and finding solutions that could reform the causes of violence.

M7 claimed that:

The mediation through its round table negotiation was able to map the root causes of the conflict that the government and opposition over the years were unable to mutually negotiate. Electoral violence in Kenya may erupt if there was some carelessness and ad hoc or trivial mapping of causes of electoral violence, because any untreated root cause may continue to generate conflicts, making them intractable.

What the statement from M7 means is that the mapping of the undercurrents of the Kenyan electoral violence was crucial in attempting to reconstruct the conflict and its causes. Conflicts that are as intractable as the Kenyan electoral violence could be effectively resolved only via deep introspection and reflection on its causes.

5.4.1 Mapping of the root causes of electoral violence

Mediation gave an opportunity for Kenyans to map their intractable electoral violence to its root causes. According to the participants, this special and unique ‘window’ had been closed by the various authoritarian regimes in the past. The negotiating teams had a chance to transform the unjust socio-economic and political structures that generate conflicts. Citizen N25 commented that:

It is during mediation that we were able to speak openly and send our grievances regarding the diverse created systems that produce a violation of human rights, marginalisation, unemployment, the cyclical situation that leads to poverty and power inequity, inability to meet basic human needs, corruption and our historical past struggles with ethnic divisions and land issues to the Kofi Annan-led team.

Mediation assists the political parties to map electoral violence in terms of historical issues related to distributive injustice, human needs, identity and value-based disputes that are common and consensual as part of the basis of the struggle. The analysis is analogous with Hoeffler’s (2012) assertion that there is no one cause of electoral violence but that rather, electoral violence is context specific, and has multi-dimensional and multi-causal factors that include weak political institutions, socio-economic problems, power struggles between different ethnic groups, corruption, failure of the social contract, political marginalisation and exclusion as its deep underlying causes.

Hoeffler (2012) identifies socio-economic issues such as inequality, segregated employment, weak social cohesion and factors involving greed, gender bias and unjust resource exploitation as causes of electoral violence. In mediation, issues are identified and understood in terms of their correlates, dimensions and the dynamics of electoral struggles. The issues are thereafter used to design appropriate methods and approaches for electoral violence mitigation, management, prevention, resolution and transformation (Smith, 2004; Ohlson, 2008; Hoeffler, 2012).

The causes of electoral violence are narrated and outlined at the negotiation table or what Taminnen (2012: 15) describes as ‘the table of narratives’. Electoral violence conflicts require mapping because they are a symptom of deeper structural injustices faced by the

populace in trying to fight for their rights and they need to be well mapped during the negotiation sessions (Selim 2012: 2).

5.4.2 Ceasefire and cessation of hostilities

Citizen N4 stated that:

The mediating team arrived when Kenya was 'burning.' Mediation had a significant role in calling for ceasefire, mitigating the violence and cessation of all hostilities. The chief mediator's call for a ceasefire and cessation of all hostilities gradually ended the manifest violence in Kenya.

Under the mediation agreements, the disputing parties to the 2007-2008 post-election violence committed themselves to immediately stop violence and hold a ceasefire (KNDR 2012: 6). The violence did not stop all at once, but there was a gradual cessation. As the trust between the two parties grew and mediation intensified into a search for a mutual outcome so did the violence eventually end (Opiyo 2008: 13).

Other mediated negotiations have successfully achieved ceasefire and cessation of hostilities, as was seen in Chad in 2007, Burundi in 2000, DRC in 2008, Ivory Coast in 2007, Zimbabwe in 2008, Mali in 2007 and Uganda in 2008 (CSS 2009: 8). However, in certain regions mediator's calls for ceasefires have not been successful, as, for example, in South Sudan in 2014-2015 and, is still on-going, in Somalia in 2006 and in the Central African Republic in 2014 (Ibid.). Mediation in electoral violence, just as in other civil wars, mitigates violence, stopping it before it spirals and engulfs all (Gilles 2011: 4). Leveraged or forced mediation and other conflict management tools influence dialogue in cases of a deadlock and standoff through pressure from the international community that may eventually bring about a ceasefire, thereby saving lives.

M8 noted that:

The achievement of a ceasefire takes place in a challenging violent environment, such as was in Kenya 2008, and requires concerted efforts and pressure like the one the international community showed in Kenya to achieve a ceasefire.

M8's suggestion of sustained pressure from the international community during negotiation supports Lindenmayer and Kaye's (2009: 21) argument that once mediation is in progress, a combination of leverage, diplomatic pressure, support and efforts to move the mediation forward smoothly, responsibly and with commitment is embarked upon. Continued pressure and leverage may ensure a continuous ceasefire and keeps the politicians in electoral dispute under pressure to come up with solutions, thereby ending the violence and promoting strategies for the reformation of the unjust structures.

5.4.3 Devolution of power

Based on the evidence from Citizen N4, another institution that was created is the institution that brought governance closer to the people, that is, the devolution of governance. Devolution was one of the agenda strategies aimed at remedying and reforming central government structures that had frequent failures (Okoth-Okombo 2011: 78). Okoth-Okombo contends that the structural failures were manifested foremost by increased abuse of power centralised around an ethnicised presidency. After that the structural failures were also manifest through increased ethnic marginalisation of perceived opposition strongholds and minority groups – and lastly, the failures were observed through inequitable distribution and management of national resources. Devolution was hailed by scholars (Orieko & Mutiso 2015; Prah 2013) as one of the main strengths of the mediation outcomes eventually enacted in the new 2010 constitution.

Devolution as stipulated in the constitution of Kenya is the transfer of some power and authority, both administrative and decision-making, from the central government to sub-regional units (Orieko & Mutiso 2015: 61). It also included the transfer of resources comprising funds to the sub-regional units or Counties. There are forty-seven (47) Counties in total (Kenya Constitution, Article 255 (1) (I)). To this extent, the county governments are empowered to serve the people from the grassroots. The people too can participate in the creation of their present and future governance through the counties (Orieko & Mutiso 2015: 60). For the people to participate in their governance, counties have provisions for legislators who make the county laws, and by-laws and the counties

also have executive authorities, from the local counties, to implement those laws and programmes (Orieko & Mutiso 2015: 61).

However, the allocation of funds from the central government to the counties has been difficult as indicated by citizen N12:

The devolution was allocated only 15% of the total revenue collected in Kenya to be divided among the 47 Counties. This small amount has hindered any meaningful development from taking place at the county levels.

According to the participant ODMn 2:

The devolution may fail if the central government refuses to fund the devolved counties because the 15% minimal allocation caters only for the wages and salaries of the county officers.

However, PNUn 1 argues that:

County governments have transferred corruption to the county and are demanding more money not for projects but for abuse.

Provision for devolution in the Kenyan constitution is outlined in chapter 2, article 6 (2), which states that the central government and the county governments are distinct and inter-dependent working on mutual relations via consultation and cooperation (Kenya Constitution 2010: 14).

The research analysis also suggests that mediation created a common understanding for institutionalising democracy due to the fact that experts on how democratic institutions work were sourced for further assistance during the negotiation period. This is confirmed by the documents consulted for this study in that they explain that, during the negotiations in Kenya in 2008, the European Union election expert division gave technical briefings to the political parties that informed part of the mutually accepted outcome on institutionalising democracy (EU 2008: 4).

There was general consensus from the citizen participants in the study who also felt that they had observed some democratic changes. The changes were aimed at consolidating the fragile democratic institutions of Kenya. The observation that mediation consolidates democracy contrasts with Tlalajoe's (2012) finding that mediation failed to consolidate democratic institutions in Lesotho. Similarly, mediation of the Ivory Coast electoral violence failed to yield any fruitful institutionalised democracy. In fact, the electoral violence was ended through military action by the French and Economic West African States (ECOWAS) armies. These armies captured and forcibly removed Laurent Gbagbo from power after he lost to Alassane Ouattara in the 2010 elections (Strauss 2011: 482).

Only one citizen amongst those interviewed was of the opinion that even though the reform agendas were in place to consolidate the democratic institutions, little has been achieved and that mediation was not successful in this regard. According to him, mediation should ensure full implementation of reforms with a fixed timeline. This Citizen N19 criticised institutional implementation, stating:

There were many institutional reforms that included land, police, and others. However, this has not had the political will for its implementation. Many police officials that were deemed corrupt were sacked. New ones were appointed, but the newly appointed police are still corrupt and still practice police brutality on citizens and perform extra-judicial killings whenever citizens demonstrate peacefully. Other reforms that were targeting poverty and inequity have not been implemented. Inequity still continues to rise as the gap between the rich and the poor soars.

Regional imbalance was another reform that was to be undertaken. At least there was devolution of power. This brought down certain services to the regions that were initially marginalised. It also brought with it the creation of jobs within the counties. However, there are teething problems with the county funding. The government seems to be holding on to so much at the expense of the county governments. The youth unemployment reform agenda was part of the long-term agenda that was to be sorted out within a year or two. Very little has been achieved in creating jobs for the youths. This is the eighth year after those reforms.

The building of the notion of nationhood was the task of the consolidation of national cohesion and unity. The Commission was set up to encourage cohesion and foster unity among Kenyans. The nationhood building is a process, especially when the society is hailing from a violent environment like Kenya. The consolidated Kenya is yet to be seen. The institution that was to ensure transparency and

accountability has so far not yet prosecuted any single corrupt Kenyan despite claims of alleged high-ranking officials involved in corruption.

In fact, the only institution with tangible positive results is the judiciary. The judicial reform took place and is one of the sectors that has progressed positively. It has had huge changes that can be attributed to the new chief justice of Kenya appointed in 2011. However, some judges are still allegedly corrupt with cases still on-going. Mediation should have timelines to ensure that all reforms have been achieved.

These remarks are highly telling in terms of implementation of the reform agendas. They raise questions as to whether there is genuine political will to reform the unjust structures. They also raise the possibility that the reform changed the faces of the people in public offices, but not their attitudes, beliefs and values. The former public officers were sacked and new ones appointed, but they are accused of enacting the same old corrupt and unethical practices. A further concern is whether Kenya is deteriorating again after the gains that have been achieved so far. Ultimately, it raises the question of whether democracy is viable in Kenya.

5.4.4 The new 2010 constitution

Mediation enhanced the achievement of a new 2010 constitution as asserted by Citizen N4 above. The constitution is one of those institutions that can guide the country, strengthen the rule of law and enhance democratic gains (Cohen 2012: 34). According to Diamond, regimes should not infringe on individual, minority or constitutional rights; moreover, they should not impinge on the legitimate functions of the legislature (Diamond 1997: 15). He encourages the strengthening of institutions through new constitutions to avoid state failure and pseudo democracies. Hence, in Diamond's view, new constitutions that focus on empowering its citizens to meet their basic human needs lessen the likelihood of violence.

Correspondingly, the role of mediation in building new institutions under new constitutions lessen violence. The strengthening of institutions that consolidate democracy includes institutions of democratic transition, such as EMBs in the electoral processes that are acceptable to all (Fomunyoh 2009: 16). Similarly, Sharpe (2004: 92) points out that

consolidation of democracy rests on institutions' capabilities and determinations to establish public civic virtues, qualities and an ethos entrenched in constitutional rules that work for all its citizens.

5.4.5 Restoration of marginalised rights in politics

A group of participants in this research noted during interviews that mediation politically empowered marginalised groups in Kenya. The main marginalised groups that were mentioned as beneficiaries were the women and the disabled. As seen from the Kenya National Human Development Report 2009, Kenyan women have been marginalised from political representation for decades (KNHD 2009: 15). The female marginalisation variance is indicated in Table 5.10.

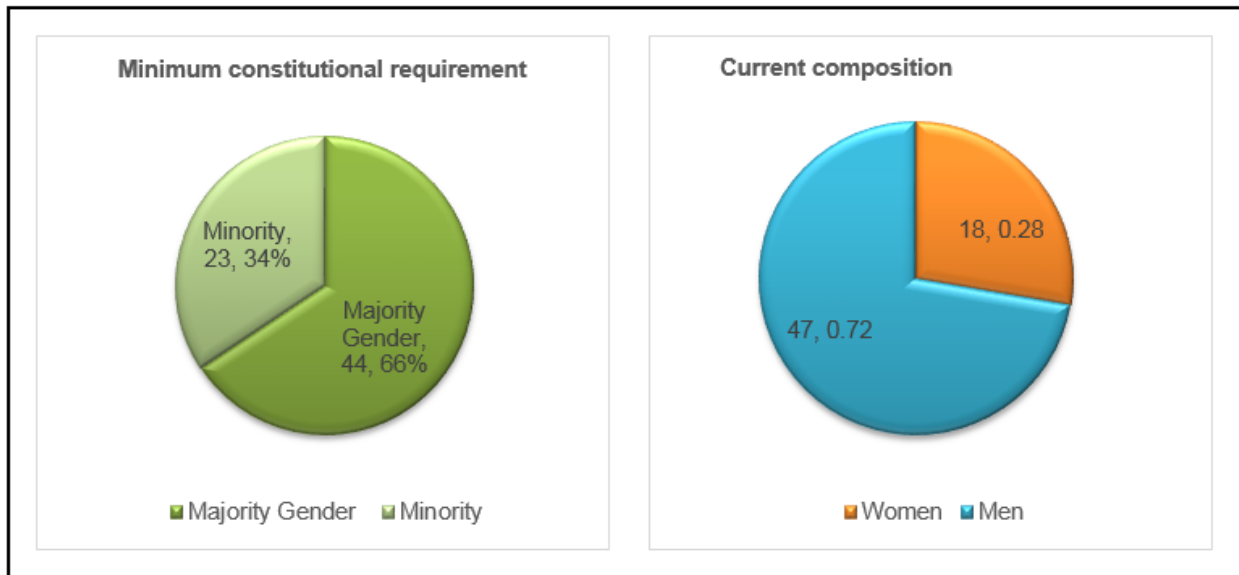
Table 5.10: Women representation in Kenyan parliament

Women representation in Kenyan parliament				
Year	Women	Men	Total	Percentage of women
1974	2	162	167	1.4
1976	7	166	170	2.4
1983	4	167	170	1.8
1988	3	197	200	1.5
1992	7	193	200	3.5
1997	8	214	222	3.6
1998	9	213	222	4.1
2002	12	204	222	5.1
2008	15	201	222	7.5

Source: The seventh periodic report of the government of Kenya on CEDAW 2009 in the Kenya National Human Development Report (2009: 15).

Table 5.10 shows that since independence over a period of fifty years, female representation in the political sphere has never reached ten percent. This deplorable reality has been attributed to the policies that favoured the male counterpart in politics and to the patriarchal tradition of Kenyan society (Cohen 2012: 35). The traditional society

perceived women as non-leaders in many societies apart from the Agikuyu ethnic group (Ibid.). The marginalisation of women from politics is, however, changing with the new 2010 constitution (Ibid.). The chart below depicts the political seats Kenyan women have achieved after the implementation of the new 2010 constitution.



Source: Owino, Owiro, and Marchant (2015: 8-9). The National Women’s Steering Committee in Partnership with Institute of Economic Affairs.

Figure 5.9: Current women representation in parliament (2015).

Based on Figure 5.9, the politically marginalised groups, particularly women, now have a higher representation. Though the minimum constitutional requirement is 24.34% as seen in Figure 5.9, the number in parliament, after the 2013 elections, indicates a significant increase of up to 18.28% from the previous condition of 7% in 2008 (see Table 5.10).

According to Owino, Owiro and Marchant (2015: 8-9) the structure of Kenya’s senate is designated in Article 98 of the 2010 constitution. This article provides for women’s representation. There are 67 seats in total. Of these 67 seats, 18 are reserved for women. Women get reserved seats through nomination by their various political parties. Each of the political parties has a slot according to their current party strength, that is, the number of elected members of parliament. Additionally, for every post in a government office to be legitimate and legal, a minimum constitutional requirement is that there shall be a two-

third gender balance. It is surprising that in the 2013 elections, no women were elected to the 47 senate elective seats (Owino et al., 2015: 8-9). This means that if the women had not been nominated, there would have been no woman sitting in the Kenyan senate today.

Other seats in parliament include two seats reserved for the youth (one male and one female). Lastly, there are two seats particularly for persons with disability who represent this category of citizens of which one is male and the other female.

According to Citizen N17:

One of the major roles of mediation was that it was able to open doors for politically marginalised groups as they were awarded political seats specifically negotiated for them. The special political portfolio seats were specifically for women, youth and disabled groups. The women seats were called county women representatives and gave 47 women a chance to represent women from the very grassroots to the national assembly. Similarly, the disabled also got 12 direct political seats that each political party must now give to certain disabled persons to represent disabled Kenyans and their grievances in parliament. These assist the parliament in making policies regarding these marginalised groups from their own perspective using their representative. These groups of women, youth and disabled are able to find ventilation to air their grievances in parliament for policy development. This was as a result of the constructive way in which the Panel of Mediators, which included Graça Machel one of the PEAP members, was able to mobilise women to present their cases to the mediation team and the negotiators for consideration during the KNDR dialogue. These are now enshrined in the 2010 Constitution of Kenya.

In the view of this report, it is clear that parliamentary political seats that were mainly male dominated can now have a certain percentage of women as Kenya struggles to address gender inequality in the political domain. This study endorses Bubenzer and Lacey's (2013: 1) claim that women who had limited access to rights and political representation in government and other decision-making bodies may now begin to exercise those powers through the rule of one third female representation in Kenya.

A small number of participants were dissatisfied with the role of mediation in regard to women's liberties. They complained that women have not achieved much from the mediation as they still remain a marginalised group in Kenyan society. They based their

argument on untransformed cultures that still oppress women and give preferences to males with regards to access to education, employment and wages.

5.4.6 Paving the way for peacebuilding

Mediation paved the way for peacebuilding which constitutes an important phase in implementation of strategies to prevent violence. As M6 explained:

Mediation had the role of paving the way for post-conflict reconstruction and peacebuilding. This was only possible after the success of the mediation that had a mutually negotiated outcome. The Kenyan disputing principals, after having signed the agreement, set in motion the beginning of the restoration. Restoration of trusted relationships, reconciliation among its people, reconstruction of destroyed property, reuniting Kenyans as a nation (nationhood building), returning refugees and IDPs to their homes, demobilisation of youth and militia back to society and rebuilding just socio-economic and political structures.

The explanation from M6 is not only validated by both Kriesberg and Dayton (2009: 5) and Taminnen (2012: 4) who assert that mediation does not end with the signatures or the signing of the agreement at the negotiation (narration) table but that, rather, it ends with a pact to commence with full short, medium and long-term implementations. Taminnen avows that signing begins the implementation and peacebuilding. Kriesberg and Dayton (2009: 5) draw attention to the fact that ending mediated intra-state electoral violence commences the process of reforms, modifications, amendments, and stabilisation. This process includes aiming at achieving a peace characterized by welcoming 'the other' through reconciliation (Achieng-Oyier-Ondigo 2013: 1). This in Taminnens' view, entails setting up the process of follow-up for long-term decisions on reforms and creating local mediatory teams to oversee the implementation.

With regard to implementation, M8 reported that:

Assisted negotiation supported the Kenyan political parties to have outcomes that were feasible, reasonable and a reality for implementation. These have been incorporated as policies within the country in the 2010 constitution.

The 2010 Constitution was necessitated to accommodate the feasible negotiated outcomes into policies and laws. The process is consistent with the views of scholars who have emphasised that the outcome of mediation requires adoption of policies by the state and that negotiated mediation should facilitate policy dialogues (Erman & Lesnick 1988; Adler & Celico 2003; Moore 2014). The consensus created in Kenya during the mediation was therefore incorporated into a process of formulating policies and legislation that saw the promulgation of the new Constitution of 2010 in Kenya.

5.4.7 Democratic consolidation

Participants consulted for this study recognised that mediation played a great role in revolutionising some of the weak Kenyan institutions. M6 held that:

Mediation strengthened certain government institutions that were partial. The strengthening of these partial bodies was realised through reform agendas that focused on democratic reforms aimed at making the institutions independent. This was done through a rigorous exercise by Kenyan negotiators consulting with experts and other stakeholders who came up with realistic solutions.

Apropos further exploration of which institutions were actually targeted for reforms, the participant M6 advised that:

The institutions that benefitted from the mediated reforms were the EMB, the legislature, the police and security sector, a 2010 constitution, the land reform, and the National Cohesion Commission. There was also devolution of centralised power to the grassroots in the name of County governments.

The intractable nature of electoral violence in Kenya is attributed to the fact that the weakness of democratic transition institutions generated violence each election year and, subsequently, the PEV 2007-2008. The immature democratic institutions constituted one of the causes of Kenyans having to suffer formalised but unstable violence-prone elections and clientelism. From the literature, strengthening of democratic institutions, which is a process in which democracies consolidate, results in independent institutions and respect for human rights (2014: 8). Independent institutions were one of the

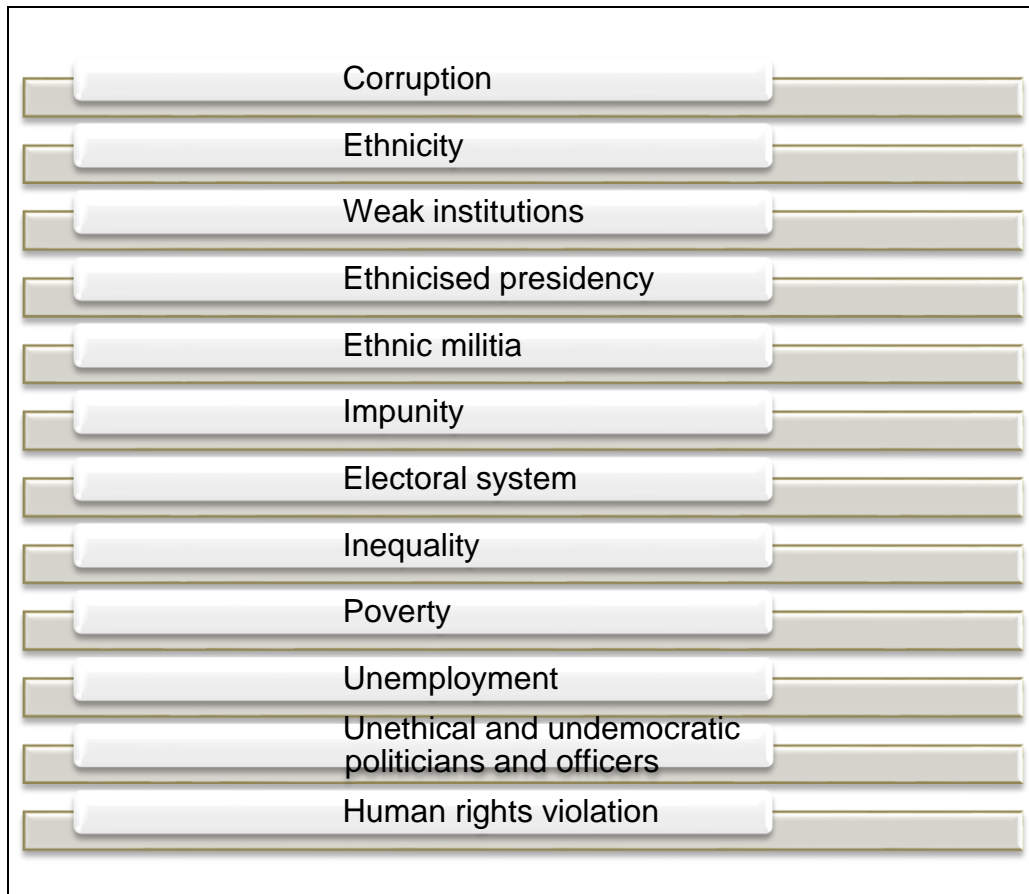
realisations of the negotiated mediation in Kenya (Njogu 2014: 8). A consolidated democracy, according to Diamond (1997: 15), is a political regime where rule of law is adhered to and in which democracy's complex system of institutions are disciplined, effective and ethical.

Diamond (1997: 15) stresses that genuine democratic consolidation occurs when democracy becomes routinised and deeply internalised in social, political and economic institutions and in the psychological life of the people. He additionally argues that no regime should be called a democracy unless its rulers govern democratically.

5.5 Mediation role perceived as a lost opportunity

Several participants interviewed for this study felt that Kenya lost an opportunity to achieve certain necessary reforms after the mediation. They felt that despite the fact that there were advances and progressive steps in terms of institutional and legislative accountability, fundamental flaws have remained and persisted. These flaws weaken the progress of democratic developments and effective functioning thereof.

Table 5.11: Negotiated shortcomings



Corruption
Ethnicity
Weak institutions
Ethnicised presidency
Ethnic militia
Impunity
Electoral system
Inequality
Poverty
Unemployment
Unethical and undemocratic politicians and officers
Human rights violation

Source: Researchers' own analysis 2015.

There are issues that mediation was unable to accomplish as indicated in Table 5.11. Some of the respondents noted that there are no enforcement mechanisms. Most of the participants observed that educational and ethical requirements that can enforce the rule of law are lacking. There is also no extant legislation that addresses ethnic abuses and impunity is strengthened by the lack of accountability of those holding public office.

Citizen N9 noted:

Mediation gave us hope and we saw different people brought into the offices. We also saw different laws, but they adopted the same old methods of doing things, same immunity styles, and same corrupt practices with a leeway to impunity.

There was a dilemma as new people were sourced to run the new independent institutions, but, according to the Citizen N9, the old structural issues still prevail. Similarly, M7 argued that the negotiations were focused, but that the implementation of reforms have borne little in the way of tangible results:

The role of mediation has been observed in many ways, such as the devolution of power to county governments. However, breach of laws is common. Constitution puts emphasis on national values and integrity, but no political will to reinforce these values. There is value and ethical disconnect between institutions and the persons running the institutions. Appointing wrong people without integrity is like shooting ourselves in the foot. Integrity matters when we talk, but little is practically in place.

Appointment of officers without integrity in public offices is perceived as an underlying fault- delaying the full achievement of the mediation efforts.

The majority of the participants acknowledged that the reforms were devised in good faith, as they included the restructuring of independent institutions. But breaking away from systematised politics to a focus on the roles of independent institutions needed serious changes and new approaches, not only on the part of the people in office - but also of citizens and of their understanding of what real democracy is. It needed a change from structures that generated conflict to structures that generate peace. The change was not integrated into the reforms. The strategies adopted, according to those interviewed, lacked a framework for true change for the people and of the people. For example, Citizen N10 declared:

Mediation played a crucial role in identifying the root causes of the conflict and came up with separation of institutions from the politics. There were reforms instituted, commissions created, a new 2010 constitution amendment, institutions were made independent, new counties created, electoral commissioners were all changed and new biometric machines bought for elections to avoid rigging and subsequently violence related to elections. But true change and the fruits of the highly successful mediation has not given Kenyans the peace they need seven years down the line. The political will to fully implement the agreement is largely lacking among our political elites and government.

Citizen N17 voiced a similar view:

Mediation had opportunities that could have changed this country forever. But the negotiators were not keen to understand that corruption had deeper roots than just making institutions independent. It was a lifestyle in Kenya and uprooting it needed training to change the mind-set that had existed for decades.

Change of attitude, as proposed by the participants in this study, is an indispensable and crucial requirement in dealing with corruption if change is to be achieved. M9 explained that:

Mediation had a unique role. It saved lives after the ceasefire. But something must have been missed out because elections of 2013 and subsequent ones were still poorly conducted with gross process irregularities. The process was still unfair, not free, disputed, brought tensions, alleged rigging as votes from the centres could not tally with the ones written on the returning officers form 16 A papers. Violence perceived as directed by government on opposition still took place in 2012 to 2013.⁵⁴ The youths were still used during the 2013 elections to cause chaos and even kill. Many people still lost their lives during elections. The voting registers could not be independently verified as voting biometric machines allegedly broke down. Double voting still took place. Those who voted more than once have not been apprehended. It is still the same quagmire and chaos from the EMB election process as was before the 2010 Constitution.

Following a probing question on suggestions of what should be done to remedy the situation that was not negotiated M9 continued as follows:

The negotiators must have left out a gap. This gap was how to hold the public and private sector accountable. Accountable institutions are responsible to its citizens. For politics to stabilise in Kenya, there must be renewed efforts to edify on appreciation of positive morals that will develop a distaste among Kenyans for corruption and corrupt practices. Kenyans need more ethical standards of service so that the old political system of lack of accountability can begin to fade away and disappear altogether. The officers in government should be enlightened at a wholesale re-making of economics, political structures and human rights respect.

⁵⁴ Form 16 A is filled out by an election presiding officer. He uses this form to fill in the details of the results of election in his constituency (Okoko 2013: 2).

M11 stated that:

I think mediations' role was clear, but I know little has been implemented. I think there should be programmes aimed at empowering citizens to demand accountability from their governments. Though in the new 2010 Constitution, the citizens are supposed to hold their governments accountable. However, citizens have not been given civil education or not empowered on how to use that power pragmatically.

Analogously, other participants view citizen empowerment as crucial so that the public can be able to hold officers in the public and private sector institutions liable. Citizen N23 claimed that:

The role of mediation may have been greater, but we missed opportunities. Mediation would have been a way to re-educate the people on attitudinal change so that Kenyans would reap the full fruits of mediation. We need to do politics differently; we need to have informed frameworks providing the mechanisms for a more effective and accountable politics and rule of law. To do so, principles of accountability and transparency should take a greater surge in citizens' demand for just structures.

Some of the participants advocated the introduction of training programmes, as did Citizen N5, who pointed out that:

Look here, Kofi Annan and his team gave us the best. It is upon us to change or continue breaking our country. We expected serious changes as stipulated in the Constitution, but the old ways still persist. The political elites still exercise authority in our so-called 'independent institutions.' Decisions still trickle down 'from above.' There should have been a way forward, a conventional programme for the education of Kenyans on the changes. People take it for granted that everybody knows what democracy is all about. Some government officials commit offences because they have no idea of what human rights are, particularly the police. They need to be taught before they can serve Kenyans. All these people need education before being engaged or work in government offices.

A number of participants decried the fact that some independent institutions were instituted, but that they are still generating violence. Citizen N12 advanced the following views:

The role of mediation was clearly that of advancing Kenyans and their common good. But the people in the new independent institutions should have been rehabilitated. Kenyans need rehabilitation from the mentality of the corrupt ways of doing things to being an accountable society. To move from a state where the political elites controlled every sector to a state of democracy and of independent institutions. On-going training and re-training is required. Otherwise, the country plummets back to the same old ways of conducting business. The only changes will be the newly appointed faces in new offices with new names such as 'independent' electoral commission but with similar corrupt practices and malleable to political elites' influence. Kenya needs a group of lawyers to ensure the political will in implementing fully the reforms as were stipulated in the agreement and enshrined in the Constitution is strictly observed.

5.5 CONCLUSION

This chapter presented the data, analysed it and interpreted the data in terms of the main objectives of the research study. The causes of electoral violence included weak institutions, corruption, an ethnicised presidency, the presence of ethnic militia, sensational and bias media reporting, socio-economic issues such as poverty and unemployment as well as unmet human needs were additional factors.

The mediation was mainly facilitative and involved initial contacts where the mediator met the disputing parties. The negotiation team had a triad-layered arrangement with the principals at the top of the hierarchy, liaison officers as intermediaries between the principals and the negotiation team and lastly, the negotiating teams at the foundation. They were all liaising with each other during the mediation. The root causes of the violence were delved into and their resolution strategised via reform agendas. These reforms were then prioritised as short, medium and long-term agendas.

Mediation created several shifts in Kenyan politics and in how the country was to be run going forward. Firstly, it enabled the cessation of all hostilities. Then there was a mapping of the conflict to its root historical causes, and politically marginalised groups were able

to find some representation in parliament. There were changes leading towards democratic consolidation such as the new 2010 constitution; there was devolution of power and lastly, mediation played a vital role in paving the way for peacebuilding after the cessation of hostilities. However, there is a lot that still needs to be done if Kenya is to have structures that generate sustainable, lasting and genuine peace.

CHAPTER SIX

MODEL FOR MEDIATION IN ELECTORAL VIOLENCE

6.1 INTRODUCTION

A model for mediation in electoral violence is presented in this chapter. In order to develop the model for mediation, it is important to review the findings in terms of what aspects of the mediation were successful and what were not. This chapter is divided into five main sections. First, the factors that contributed to the mediation success are reviewed. This is followed by discussion on the mediation process and thirdly, there is an outline of the drawbacks of the mediation process. The fourth section describes the model for mediation that was developed. The last part of the chapter explains the theoretical and practical implications of this mediation model. The terms 'model for mediation' in electoral violence and 'mediation model' for electoral violence are used interchangeably to mean the same thing.

6.2 MEDIATION TIMELINE

The study refers back to the timeline of mediation events that took place in 2008 (Table 6.1).

Table 6.1: Timeline of the mediated negotiation Kenya 2008

Date	Venue	Event
27th December 2007	In Kenya	Election Day
28th -30th December 2007	Nairobi Vote tallying centre	Opposition party Raila Odinga leading the incumbent in presidential results with over one million votes, afternoon tables are turned and Kibaki is announced presidential winner by the Electoral Commission of Kenya (EMB) body.

Date	Venue	Event
30th December 2007	Nairobi	Mwai Kibaki sworn in at Night as president barely thirty minutes after announcement. ⁵⁵
30th December 2007-23rd March 2008	All over Kenya	Kenyans spontaneously protested, demonstrated and turned violent killing one another.
10th January 2008	Nairobi	John Kufuor announces the selected team of the African Union Panel of Eminent African Personalities (AUPEAP) as the mediating team.
22nd January 2008	Nairobi	Kofi Annan arrives in the country and makes initial contacts with Raila Odinga ODM party leader. Agreed and pledged to negotiate.
23rd January 2008	Nairobi	Initial contacts with Mwai Kibaki party leader for PNU and newly sworn president. Agreed and pledged to negotiate.
24th January 2008	Harambee House Nairobi	A public meeting between the two principals, urged parties to set up negotiating teams and a handshake to symbolise the beginning of negotiations.

⁵⁵ Annan Kofi, Machel and Mkapa (2014: 9). To read further see Annan, K., Machel, G., Mkapa, B., 2014. *Back from the Brink: The 2008 mediation process and reforms in Kenya*. Nairobi: African Union Commission.

Date	Venue	Event
24th January 2008	Nairobi	Kofi Annan made a public opening speech to set in the tone and mood of negotiation in the country, announced timeline to stop violence within 7 days, and sort out short-term issues within 4 weeks and long-term issues within one year.
29th January 2008	Nairobi Serena Hotel chosen as venue of negotiations	The formal launch of mediated negotiation dubbed Kenya National Dialogue and Reconciliation (KNDR). Opening speech during the negotiation.
1st February 2008	Nairobi	Agenda One was deliberated and agreed upon by both political parties.
1st February 2008	Nairobi	Ban-Ki-Moon, UN Secretary General visits Kenya to pledge support for the mediation team.
4th February 2008	Nairobi Serena Hotel	Agenda Two was discussed and agreed upon by both political parties. They were to promote joint meetings and accelerate reconciliation through peace rallies.
5th February 2008	Nairobi	The teams agreed on KNDR procedures, mediation, structure and terms of reference for AUPEAP.

Date	Venue	Event
7th February 2008	Nairobi Serena Hotel	PNU changes position and rejects the option of political solution of power-sharing deal and instead wants the option of a recount or a re-run. ⁵⁶
7th February 2008	Nairobi- through press media and Kenyan televisions	Pressure from the international community to find a solution. The US, UN, EU together voice their concerns regarding a solution. EU commissioner Louis Michel arrived in Nairobi to pledge support for Kofi Annan led mediation and a negotiated outcome.
12th February 2008	Nairobi Serena Hotel	Stalemate, no progress made. Parties disagreeing over the solution to political crisis.
12th February 2008	Kilanguni Safari Lodge (Coast Province)	Annan decided on a deductive process and changed the venue to wade off stalemate and move away from the press distraction. Here the negotiating team weighed options for an outcome. The options included a re-tally of votes, a re-run of the elections, a complete recount of votes, a forensic audit of election results and lastly a coalition power-sharing government flouted by the West.

⁵⁶ Annan et. al., (2014: 32. *Back from the Brink: The 2008 mediation process and reforms in Kenya*. Nairobi: African Union Commission.

Date	Venue	Event
14th February 2008	Kilanguni Safari Lodge (Coast Province)	Negotiating team agreed and signed a statement that a political settlement was necessary, discussed way of prosecuting perpetrators of violence and how a Truth, Justice and Reconciliation Commission (TJRC) and other commissions for reforms would be set up.
15th -18th February 2008	Kilanguni Safari Lodge (Coast Province)	Stalemate on negotiation. Talks suspended.
15th February 2008	Nairobi Television stations	Sustained pressure from the international community for a mutual outcome.
27th February 2008	Nairobi	The new AU chairperson, president of Tanzania Jakaya Kikwete was invited by Kofi Annan to Nairobi. He met Mwai Kibaki and Raila Odinga separately.

Date	Venue	Event
28th February 2008	Nairobi	Five-hour meeting of Kofi Annan, Jakaya Kikwete president of Tanzania and AU president, ODM and PNU principals to convince them that it was time to make a deal/solution. The meeting ended in assigning of an agreement between Mwai Kibaki and Raila Odinga to form a power-sharing coalition government according to the prepared accord during the negotiations. This ended the 37 days of mediated negotiation on agendas one to three.

Source: Annan, K., Machel, G., Mkapa, B., (2014: 32). *Back from the Brink: The 2008 mediation process and reforms in Kenya*. Nairobi: African Union Commission.

The mediation timeline provides a brief background information on the key events in the mediation process. This mediation timeline is essential to an understanding of the main factors that determined the mediation process, such as important events, the setting, and actors. The timeline begins on election voting day on the 27th December 2007 and then ends on the 28th February 2008 when the deal was brokered and the signing of the agreement took place. The mediation timeline ends with the beginning of the implementation process. The study reviews what did, and what did not succeed in terms of these processes.

6.3 WHAT MEDIATION ACCOMPLISHED

The mediation process in Kenya was undertaken to transform the violence-generating structures that mar elections by creating institutions that generate peace. A resolution was therefore arrived at on 28th February 2008 with the signing of an agreement between

incumbent party leader Mwai Kibaki's Party of National Unity (PNU) and opposition party leader Raila Odinga's Orange Democratic Movement (ODM) respectively. The mediation process accomplished an acceptance of certain important reforms-and what had been conflict-generating was partly transformed. The tangible effects are discussed in the next section.

6.3.1 Mapping of the root causes of electoral violence

Mediation helped the negotiating teams map the root causes of the on-going electoral violence. The mediators decided to first map the conflict instead of merely attempting to immediately settle the problem at hand. Many of the stakeholders in Kenyan politics realised that for many years there had been failures to change the structures, either by demonstrations and protests or through institutions or parliament which were always being manipulated by the political elites. As a result, they found that mediation provided a window of opportunity for changing these structures, thereby affording a chance to make up for past and present injustices. The stakeholders in Kenya, through the negotiators, took positive actions to understand and deal with the root causes of the violence and were, therefore, able to understand the issues at hand, including the historical injustices at the root of the violence.

The opposition and the government were unable to sit and discuss the country's problems or find ways to reform the structures that were unfair to the people. Beaulieu (2014: 3), in her study of electoral protests found that one of the reasons for electoral demonstrations was the fact that the opposition and the government were unable to sit down and negotiate policies within the structures that actually hinder peace. Beaulieu points out that the protests and violence result from a failure on the part of government and opposition political elites - often in the developing countries - to effectively resolve disputes involving election procedures and conduct. Opposition groups and government were seemingly unable to negotiate mutually acceptable terms of conduct for elections until mediation enabled them to identify and tackle issues of concern.

6.3.2 Ceasefire

The first outcome and achievement of the mediation process was a ceasefire ensuring cessation of hostilities. The mediation team arrived in Kenya when the violence had reached its peak. The violence escalated as each political party accused the other of rigging, stealing and manipulating the elections. The cessation of hostilities started after the mediating team and the two political parties agreed to a negotiation process. The ending of hostilities was eventually encompassed in the mediation agreement. In this agreement, the rival political parties that had been immured in the 2007-2008 post-election violence, committed themselves to a cessation of all hostilities (KNDR 2012: 6). This was necessary for several reasons. First, the two parties realised no one was winning the war and there was a stalemate. On the one hand, the ODM had people who were willing to continue demonstrating and even die. On the other hand, the government had the security forces who showed they were prepared to tackle the demonstrators head on.

Secondly, a ceasefire was necessary in terms of the strategic geographical position Kenya possesses in the Horn of Africa region. The prolongation of hostilities meant that the neighbouring land-locked countries like Uganda, Rwanda, Burundi and South Sudan were deeply affected and could not access necessities such as oil, industrial goods, food and other supplies by sea. Their economies had suffered negative impacts and inflation as the prices of oil and other household commodities doubled, putting the lives of over 100 million people in danger (Lafargue 2009: 244). Flights between these neighbours - and within Kenya - were also being postponed and cancelled. Lafargue (2009: 246) reports that internal flights were suspended in Kenya as well as external flights due to the violence. Furthermore, he claims that employees of certain oil companies like Shell and Total were retrenched because the oil could not pass through Kenya to the neighbouring states. The demonstrators had also vandalised the railway line linking Kenya to Uganda and barricaded roads.

Thirdly, Kenya is a host country to thousands of refugees from intractable conflicts in Somalia, Sudan, South Sudan and Eritrea - all from the 'Horn of Africa' area. The violence had also displaced 650,000 Kenyans from their homes (Lafargue 2009: 52). Roadblocks and continued violence prevented humanitarian assistance from reaching the internally

displaced victims and the refugees. The plights of refugees and internally displaced citizens required urgent action in order to save lives.

Fourthly, the international community's presence in Kenya was at stake. The United Nations Africa regional office based in Nairobi could not function. The US office that monitors Al Shabaab terrorists could not function either (Davis 2012: 164). With all these in jeopardy, the international and regional communities pressured the disputing parties to quickly resolve their conflict and end the violence. However, the violence did not stop all at once - it was a gradual cessation. As the trust between the two parties grew and mediation intensified into a search for mutual outcomes, so did the violence gradually end (Opiyo 2008: 13).

6.3.3 The 2010 constitution

In the second outcome, the mediation process realised the reforming and making of the new 2010 constitution. The study indicates that one of the causes of electoral violence in Kenya was attributed to the weakness of democratic institutions - and in some cases their failure - to function effectively and independently. Hence, through mediation the country was able to jumpstart the process of constitutional review in order to reduce presidential power and empower democratic institutions. Thus, the new 2010 constitution could eventually be promulgated.

The achievement of the 2010 constitution indicates that several institutions targeted for reforms, including the constitution itself, could continue under certain protected policies embedded in the constitution. Institutions targeted for reforms included the Electoral Management Body (EMB), the legislature, the police and security sector. In addition, provision was made for devolution of centralised government institutions into counties.

To show how long it took for the constitution to be reformed, a brief review of the process is required. The first Commission for Kenya's constitutional reform was set up by President Moi in 2000, after pressure for change from the citizens and the international community (Maxon & Ofcansky 2014: 8). Maxon and Ofcansky (Ibid.) describe how Moi then appointed Professor Yash-Pal Ghai as Commission chairperson in 2001. However,

due to lack of political will, the process stalled in the same year. In 2005, following much pressure for a new constitution from both the public and the international community, President Mwai Kibaki prepared a draft for a new constitution and called for a referendum in 2005 (Maxon & Ofcansky 2014: 33). Kenyans voted overwhelmingly for a 'NO' because firstly, the draft continued to consolidate power around the presidency, and secondly, the consultation process in the drafting of this constitution was not comprehensive and continued to reflect the interests and power of the political elites, and particularly those of the executive (Maxon & Ofcansky 2014: 56).

The research findings indicate that the most recent stage of the constitutional process was mandated by the mediation process agreement pact, the ACCORD. A constitutional review act was then passed that reflected the ACCORD mediated by Kofi Annan in 2008. After comprehensive consultation and reduction of the powers of the presidency, especially the power around his person, the draft was overwhelmingly voted in favour of Kenyans in 2010 and signed into law (Opiyo 2008: 2).

6.3.4 Devolution of power (*Majimbo*).

The third outcome the mediation process achieved was the devolution of power from the highly centralised system to the county regions. Devolution, (popularly known in Swahili as *majimbo*), as stipulated in the constitution of Kenya, is the transfer of some power and authority - both administrative and decision-making - from the central government to sub-regional units (Orieko & Mutiso 2015: 61). In Kenya, the sub-regional units are called counties. There are forty-seven (47) counties in total (Kenya Constitution 2010 Article 6 (1) (i)).

Devolution, as one of the agenda strategies, was a measure to remedy and reform central government structures with a history of frequent failure (Okoth-Okombo 2011: 78). Okoth-Okombo contends that these failures were characterised by increased abuse of power which had been centralised around an ethnicised presidency, together with the increased marginalisation of ethnic opposition strongholds and minority groups, and inequitable distribution and management of national resources.

The Kenyan citizens' vote for devolution of power is attributed to their perceived need for a balance in terms of revenues and resources, improvement of socio-economic conditions and political empowerment at the local level rather than continuing reliance on centrality. To this extent, the county governments are empowered to serve the people at the local level. The devolved government has largely been seen as offering an opportunity for democratic participation by ordinary Kenyans in their future governance (Orieko & Mutiso 2015: 60). Devolution has been acclaimed by scholars (Orieko & Mutiso 2015; Prah 2013) as one of the main strengths of the mediation process that was eventually enacted via the new 2010 constitution.

6.3.5 Restoration of fundamental rights of marginalised groups

In the fifth outcome, the mediation process recognised and documented the rights of politically marginalised Kenyans. The marginalised groups, in this case, study are those who were side-lined and deprived of access to political seats and representation in government. The previously excluded included those minority groups, which had been politically and economically marginalised from political representation.

The politically marginalised groups also included women excluded from political posts, the youth and physically challenged persons from representation at parliament level. Graca Machel, as a female member of the AUPEAP team, was able to coordinate women, thus enabling them to effectively take part in the mediation process and the constitutional reforms. Hence, parliamentary political seats that were previously mainly male-dominated, now have 47 elected female political representatives out of 290 elected members of parliament, as Kenya struggles to address gender inequality in the political sphere (TI 2014: 23). This study endorses Bubenzer and Lacey's (2013: 1) claim, that women who had limited access to rights and political representation in government and other decision-making bodies have begun to exercise powers through the one-third mandated representation as enshrined in the new 2010 constitution. Similarly, young people had rarely enjoyed political representation under the old order. However, the youth group now have a political seat allocated that can be filled only by a youth

representative at every county level. Likewise, the physically challenged were given specifically reserved parliamentary posts.

Some Kenyans have been marginalised economically because of affiliations to certain political parties or ethnic groups. Government resources have been allocated to those elites within the government and to their perceived friends. Exclusive distribution was also true of infrastructure provision. High poverty levels and inequality are associated with the opposition ethnic regions. Employment, particularly for government posts, has also been ethnically skewed. However, the 2010 constitution has policies in place to ensure jobs created are now ethnically balanced in their allocation.

6.3.6 Democratic consolidation

The sixth outcome of the mediation process achieved is that mediation managed to strengthen and consolidate some democratic institutions, protecting them from undue political influence and instead ensuring dependence on independent decision-making bodies. However, constructing democracy in Kenya against the wishes of the political elites who insisted on retaining the status quo has not been an easy task. The presidency had enormous and excessive influence on institutions, particularly the legislature, the EMB, and the security sector. The change of heart could be attributed to the fact that the majority of the seats was won by the Orange Democratic Movement (ODM) party which wanted reforms and, therefore, enacted laws and policies that launched institutional reforms for democratic consolidation. Moreover, there was leverage from the international community. For example, aid from donors came with conditions for reforms (Peterson 2015: 276).

6.3.7 Opened doors for peacebuilding

The seventh outcome achieved by the mediation process was not only consensus with the signing of the agreement, but also a platform for peacebuilding and reconstruction was created. Peacebuilding entails the implementing of a peace agreement that will address the root causes of the violence and establish structures for sustainable peace. The violence ended and power-sharing was achieved, thus providing satisfaction for both

parties and stakeholders. The peacebuilding process could be sustained because mediated agreements, through reform agendas, shaped the tasks and activities for peacebuilding. The implementation process also had on-going monitoring by the mediators to ensure that peacebuilding was progressing. Mediation lays the groundwork for peacebuilding programmes and as the International Peace Academy (IPA) (2005: 4) notes, 'mediation and peacebuilding are partners'. Mediation paved the way for peacebuilding because it established the basis for full post-conflict transformation.

6.4 THE SHORTCOMINGS

The mediation timeline (see Table 6.1) shows the successes that occurred. However, as outlined below, certain issues were not resolved. These are discussed in the next section under the following sub-headings: weak institutions, ethnicised presidency, socio-economic inequality, poverty and unemployment, lack of democrats, ethnicity, ethnic militia and corruption.

6.4.1 Weak institutions

First, most of the weaker institutions were, and are still, fragile. Despite the fact that Kenya's new 2010 constitution stipulates that institutions be independent, most institutions in Kenya are still weak and susceptible to political influence. For example, the EMB remains in the spotlight as an institution that was unable to correctly tally the election results produced in 2013 (Oswago 2014: 1). According to Oswago, examination of the EMB voter register after the closing date of the voting revealed it had over 1.5 million extra votes that could not be explained. The excess votes are attributed to the questionable integrity of those managing some of the institutions like the EMB. The perception that merely making institutions independent guarantees their autonomy is challenged by this study as being misguided. The creation of independent institutions is commendable, but they must be staffed by independent individuals who are free from political manipulation. The democratic institutions remained weak because they lacked genuine 'democrats' to run them.

The finding that the weak institutions still exist comes even after the study established that in the 2013 elections, held under the new 2010 constitution, that made the EMB ostensibly independent, the election process was still marred by political manipulation. It appears that voting was manipulated and this influenced the results of the 2013 elections. Apparently the newly created EMB could not live up to its role as an independent non-partisan electoral institution (Schulz-Herzenberg, Aling'o & Gatimu 2015: 1).

6.4.2 Ethnicised presidency

Secondly, the perception of an ethnicised presidency still exists. The presidency manipulates its ethnic supporters for votes and, in turn, continue to operate within the politics of clientelism and patronage. The ethnicised seat is essentially seen as an opportunity for the president's group to access national resources and abuse new-found power. In this context, ethnic groups are therefore ready to assist in any way to ensure their ethnic candidate wins the presidential seat. This concentrates power around an ethnicised presidency, consequently, the practice has a disabling effect on democratic institutions' and control of checks and balances. It also encourages a negative role for ethnicity and derails national unity within the country.

An ethnicised presidency is persistent because certain groups such as the president's cronies and his supporters, stand to benefit due to corruption. They also still have access to government resources and employment opportunities. Hence, Okoth-Okombo (2011: 43) argues that government power becomes concentrated around the presidency, which leads to personalised, ethnicised rule characterised by clientelism, nepotism, corruption, oppression, cronyism and suppression of dissenting voices.

The friends and the political elites surrounding the presidency use all the means at their disposal to maintain the status quo, consolidate their gains and ensure that checks and balances do not function. The presidency becomes powerful and a corollary of strong presidential power is that democratic institutions become weak (Dolonec 2013: 43). The presidential seat, then becomes a super-presidency and fails to serve the citizens (Ibid. 2013: 43). This lust to become a president and "eat with your ethnic group" makes elections a highly contentious process in Kenya (Njogu 2014: 9). For the political elites

and their ethnic groups elections, therefore, constitute a “do or die” business because there is ethnic reward for those in government and ethnic marginalisation for opposition groups.

6.4.3 Socio-economic issues

Thirdly, socio-economic inequalities, poverty and unemployment persist in the country even after the mediation and the 2010 constitution which were accomplished under the long-term agendas or via Agenda Four in the reformation process. The structures put in place were supposed to take root within a year. However, after seven years, the citizens have yet to fully reap the gains promised by Agenda Four with regards to countering socio-economic inequality, poverty and unemployment. This could be attributed to lack of political will. Kenya still remains largely a significantly dysfunctional democracy. In an ideal democracy, voting should be geared towards supporting the election policies of a more competent party.

However, in Kenya, elections have been rigged over the years, with the exception of 2002, and so those voted into power by marginalised groups never get to represent their real interests. As such, there is no real representation of the interests of the lower income groups and ethnically marginalised societies. Basically, those who are economically endowed are likely to win elections through bribes and vote buying. Political elites who seize power through corruption rarely represent citizens adequately. The citizens too in this sense are unable to hold them accountable because some of the citizens have ‘sold out’ their votes for cash. The confidence of the voters in the likelihood of positive change is diminished through vote rigging. Kenyans have allowed themselves to be manipulated by the political elites, thus leading to an unequal distribution of resources along ethnic lines. Stringent measures are required to change the status quo.

6.4.4 Unethical and undemocratic politicians and officers

According to Machika (2009), a democrat is one who understands democracy as a form of government that is characterised by institutions, rights and practices designed to give people a say on how their government’s affairs are to be run. Secondly, a democrat

respects the underlying values of a truly democratic society, including fundamental freedoms and equality of opportunities for its people. Thirdly, a democrat is one who allows people to make informed decisions regarding their political choices during elections. The democrat ensures that people are given full opportunities to creatively participate in the building of their government ensure that basic human needs are met and that the rule of law is adhered to (Machika 2009: 35).

Fourthly amongst the shortcomings is that the modern political leadership in Kenya lacks democrats (Okafor 2008: 131). This alleged lack of democrats was attributed to reports of elections being pre-determined thanks to flawed processes during elections. Those “elected” via vote rigging lack legitimacy and are not accountable to anyone. The rigging has reinforced the illegitimacy of regimes with the exception of the 2002 election, as was discussed in Chapter One.

The practice of election rigging is a reality in Kenya’s supposed democratic system. Election rigging has produced a lack of democrats and led to political elites who win elections at any cost through fraudulent means. The lack of democrats is also ascribed to the political elites not knowing what democracy actually entails. People who vie for the presidency and other political seats, therefore, may lack democratic knowledge, values and genuine capacitation. Hence, as Machika (2009: 41) argues ‘some genuinely have no idea of democracy.’

6.4.5 Ethnicity and ethnic militia

Fifth, ethnicity, clearly a major cause of electoral violence, still persists. Politicians continue to manipulate ethnic groups to consolidate votes and their power bases by stereotyping other ethnic groups during campaigns. They also still continue to pay ethnic youth militia groups to foment violence, as happened in 2013. They use tactics of ‘divide and rule’ that were previously used by colonial regimes, to heighten divisions among groups of citizens who would otherwise continue to co-exist side by side (Gona, George, Wa-Mungai and Mbugua 2014: 115). It was disclosed that politicians employ their own ‘ethnic militia’ who cause chaos and violence during the election cycle. This trend of

private militias and the employment of stereotyping or scapegoating tactics were utilised in the 2013 election as well, according to Citizen N5.

A combination of inaction by the government and failure to fully implement some of the promised reforms in the agreement keeps Kenya at a perilously high risk of further potential of electoral violence and human rights violations (HRW 2013: 1). Ethnic militia groups have still not been disarmed, demobilised, or re-integrated into the security sector (HRW 2013: 2). Undemocratic political elites from both government and opposition ranks continue to mobilise and influence ethnic populations. Furthermore, they continue to rule without legitimacy because election outcomes can be pre-arranged or predetermined while outbreaks of popular discontent, demonstrations or violence do very little to shake their hold on power (Dolgopal & Gardam 2006: 225). Hence the phenomena of ethnicity and ethnic militia are still in need of reform. Hence, negative ethnicity remains a potentially fertile field for future election violence.

6.4.6 Corruption

Sixth, corruption remains a notoriously prominent issue in Kenya. Even though the new 2010 constitution demands a high level of transparency in all public and private sectors and enhanced employment of checks and balances, all this remains largely on paper (Chanie & Mihyo 2013: 43). Additionally, Chanie and Mihyo claim that the anti-corruption mechanisms put in place (such as the ethics and anti-corruption commission) have not been enforced and that their work continues to be highly selective. For example, frequently they are seen to target the lower subordinate officers and not the political elites.

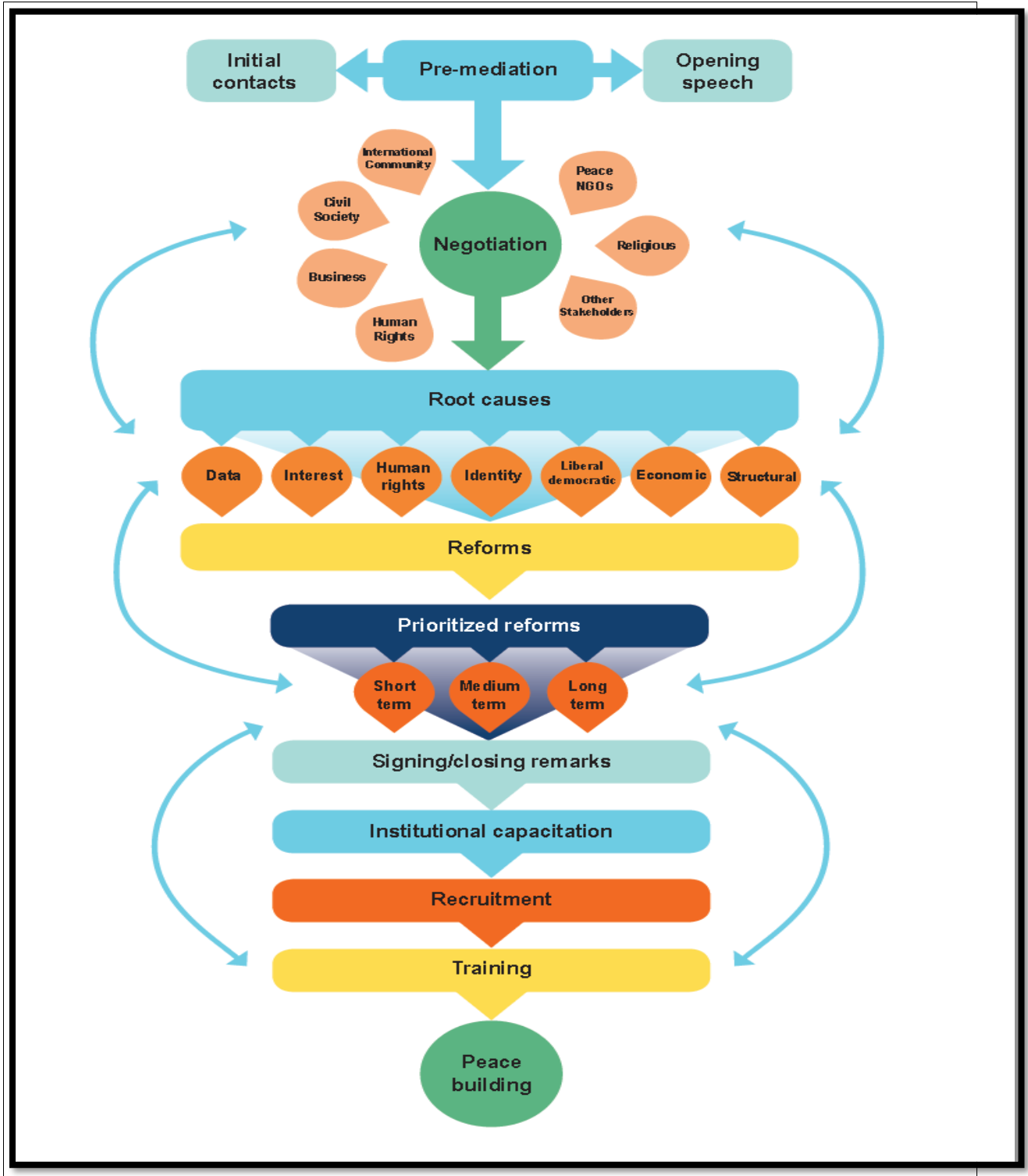
According to the research participants, little has been achieved because citizens are not sufficiently empowered through civil education to demand accountability and full implementation of reforms from the government. The proper empowerment of citizens is deemed to be crucial. Empowering citizens to promote good leadership is the essence of a true democracy and in addition, while leaders are in office, citizens must continue to call them to account (Okure 2014: xxi). Okure argues that leaders may come and go, but citizens remain because in a democracy the power lies with the people. Therefore, the

aim of this study is to explore the structural weaknesses that continue to exist by developing a model for mediation that can address these and lead to sustainable peace.

6.5 THE MODEL FOR MEDIATION FOR ELECTORAL VIOLENCE

The model for mediation for electoral violence presented here was arrived at on the basis of the findings of the study, which indicate that while mediation worked to an extent, it has not as yet fully reformed the structures that generate electoral violence.

This mediation model development, therefore, intends to address the weaknesses in the Kenyan mediation processes as revealed by the study. Figure 6.1 illustrates the model for mediation proposed for ending electoral violence.



Source: Researchers' own analysed model 2015.

Figure 6.1: Model for mediation for electoral violence.

6.5.1 Pre-requisite conditions

The electoral model for mediation presented in Figure 6.1 consists of ten steps. The ten steps are pre-requisite institutional conditions numbered one to ten and represent significant points in the mediation process. They serve as the guiding principles which must be followed sequentially as indicated in rule 1 to rule ten so as to move towards a mutually acceptable settlement. Each condition stipulates and emphasize the condition of the rule from one to ten as indicated below.

6.5.1.1 Condition one

Rule one: 1

Condition → Initial meeting with the disputing principals or parties to grasp the issues.

A basic understanding of the issues occurs when the mediator makes initial contact with the disputants. At this stage, each disputing party narrates their version of the issues. During these initial meetings, the main focus of the mediator would be to gather as much information as possible regarding the problems and issues associated with the conflict.

6.5.1.2 Condition two

Rule two: 2

Condition → Encourage a mediated negotiation that is inclusive of all stakeholders in the on-going process. Though the stakeholders are included, they will be involved as informants and provide written documents they want to be included or through records of information they would like to share with the mediating team. The identification and mapping of the root causes of electoral violence are carried out at the negotiation “narration” table.

The second stage is the continued gathering of information by encouraging a mediated negotiation that is inclusive of stakeholders. Therefore, other than the disputants, the information is also gathered from other stakeholders who include civil society representatives, Non-Governmental Organisations (NGOs) working for peace, human

rights activists, Transparency International (TI) working against corrupt practices, victims of the electoral violence, perpetrators of the violence, members from the business community, religious groups, and representatives of marginalised groups such as women, the disabled and youth. Together they should map the deep -rooted historical issues related to the conflict. These should also focus on, among others, the structural issues, the access to information issues, interest issues, identity and cultural issues, economic issues, and democracy and human rights' issues. All these insights should be discussed in order to identify and list the root causes of electoral violence. However, if negotiators merely do ad hoc work during the mapping of the root causes of violence, they will get ad hoc reforms. If they are serious in their objective to achieve the reformation of the structures that create violence, a deep-rooted analysis of the undercurrents of the violence is crucial and will yield significant results.

6.5.1.3 Condition three

Rule three: 3

Condition → List the causes identified and then discuss the reforms corresponding to the root causes identified.

The third stage takes place at the negotiation table where negotiators discuss the root causes identified. They then list them and discuss the reform agendas corresponding to the root causes identified. Any assistance needed in terms of expertise to help identify reforms that fit the root causes can be sourced from skilled persons.

6.5.1.4 Condition four

Rule Four: 4

Condition→ Prioritise the reform agendas into short-term, medium-term and long-term goals and embed them in the constitution through constitutional amendments. Where necessary, continue to seek the assistance of experts, particularly where legal matters are concerned.

The fourth stage also takes place in the negotiation room where the reform agendas are prioritised into short-term, medium-term and long-term agendas. The short-term agendas would deal with the emergencies that are seen to escalate the crisis and violate human rights. These short-term agendas should be implemented within a period of between one day and two months. The medium-term agendas take a period of between two months and six months for their implementation, while long-term agendas require six months to two years as they include restructuring and converting the political system from conflict-generating into peaceable structures. All reform strategies should be embedded in the constitution for legitimacy and ease of implementation via step five.

6.5.1.5 Condition five

Rule Five: 5

Condition→ Institutional reforms inscribed in policies.

All the reforms and their checks and balances should then be embedded in the constitution of the country as laws. This can be done by embarking on either amendments or a complete review of the whole constitution. If there is a complete review, then a referendum may be required to pass the constitution into law. If there are simply amendments, then a majority parliamentarian should be able to vote for their passage to policy in the country.

6.5.1.6 Condition six

Rule Six: 6

Condition→ The mediation is considered successful if it reaches an outcome. Once the outcome is arrived at, the principal negotiators sign the agreement publicly and can make closing remarks.

The stage takes place after a long period of negotiation. The agreement arrived at should be a mutually agreed-upon outcome. Each disputing party should fully understand what the agreement entails before they can finally conclude the negotiations with a public

signing of the mutually accepted agreement. It is also important to have closing remarks that mark the end of negotiation and pave the way for peacebuilding.

6.5.1.7 Condition seven

Rule Seven: 7

Condition → Capacitate and launch independent institutions with a stress on the integrity and the rule of law.

The seventh step calls for capacitation of independent institutions for democratic consolidation. This capacitation must have clearly articulated policies and conduct rules for individual officers. The policies should target priorities such as the stabilising of values, ethics and principles of democratic governance. The institutions should aim at fostering the building of nationhood through democratic practices and service to all citizens without ethnic discrimination so as to diffuse ethnic rivalries. The institutions should share national resources equally across the full spectrum of citizens and ensure that all Kenyans are represented equitably at the national level. In addition, the electoral system needs to be reformed from 'winner takes all' to an all-inclusive system. The EMB and its staff must be empowered to be transparent and returning officers, in particular, be deployed, not according to their ethnic regions, but to the other regions.

The system of devolution should be a mechanism for devolving power and shifting service closer to the people. Devolution should be encouraged to enhance freedom and equitable sharing of the national resources by all. Land administration should address past historical injustices.

6.5.1.8 Condition eight

Rule Eight: 8

Condition → Recruit by vetting officers, according to merit, for employment in the newly reformed and independent institutions.

The eighth stage entails the advertisements for recruitment into offices for service to the public. Recruitment, strictly according to merit, should include a vetting process by a constituted body that is transparent and public. The new recruits should immediately be required to learn and apply the policies associated with their service.

6.5.1.9 Condition nine

Rule Nine: 9

Condition→ Educate recruited officers through training on democratic principles and practices. Educate on independent democratic institutions, human rights, accountability, and provision of basic human needs.

The ninth stage shall be the training of the newly appointed government officials to handle the new independent institutions that have been created. The training should focus on democracy and the development of officials that adhere to genuine democratic principles. Training may require various workshops and seminars focusing on integrity, democratic values, ethics and accountability in the offices. The conversion of institutions should not just mean a change of personalities, but should encompass a wide range of attitudinal changes that incorporate human rights, the environment, the rule of law and public accountability. Attitudinal change can only be achieved if all the new changes incorporated are not simply a matter of new 'faces' to run the institutions, but that these new incumbents are re-educated, trained and conscientised on what democratic and independent institutions mean. The new understandings should focus on how the provision of relevant basic human needs for Kenyans can be achieved. Reforms thus need to go beyond mere capacity building and institutional independence

6.5.1.10 Condition ten

Rule Ten: 10

Condition → Peacebuilding implementation process overseen by the mediation team.

The tenth phase caters for peacebuilding which should focus on reconstruction for both the people and the structures. Peacebuilding may include continued institutional

empowerment, reconciliation of people and nation-building, both physical and psychological, aimed at the restoration of broken relationships. The provision of retributive justice should take its course and perpetrators dealt with. Peacebuilding entails holistic healing aimed at reconciling people and the nation.

The rules indicated above show the steps that should be followed from one to ten in mediating electoral violence. The steps are conditional because omitting one would lead to a different and unintended mediation outcome. Each of the conditions has implications for yielding results that in turn lead on to the next condition. The tasks stipulated have to be performed sequentially in order to achieve optimal reforms required for the resolution of the electoral violence.

This study argues that new people and independent institutions are very important in bringing about the required changes, but alone they are not enough to change the context from conflict-generating to peace. This can only happen if the new incumbents have a change of attitude, are accountable, respect human rights, and are serious about undertaking the new changes. Therefore, the proposals for training, re-educating and conscientising people who are to serve will revitalise a new way of re-imagining Kenya as a successfully transformed society.

6.6 THEORETICAL IMPLICATIONS

Through a systematic analysis of the research, key findings emerged. This case study demonstrates that interrogating the root causes and developing reform agendas that ensure their transformation are key in moving from 'wars of the third kind' (Kaldor 2013) to sustainable peace in a democratic society. In sum, the evidence demonstrates that the root causes of electoral violence were structural, data-based, presence of ethnic militia, ethnicised presidency, socio-economic issues such as poverty and unmet basic human needs, a neglect of human rights and a lack of 'democrats' in governance. Structural violence may be mitigated by good governance and political will. To be able to change unjust structures from those that induce violence, to those that generate peace, well-conceived reforms are required.

A peace agreement was eventually achieved in Kenya because the mediators had vast experience of mediation. Moreover, they enjoyed international support, managed to focus and were fully aware of would-be potential spoilers. The mediators were part of a high-powered team that came with considerable leverage. They were tactically attuned during the mediation process and were able to handle stalemates effectively. They were also active participants in the initial implementation stages of the reform agendas 1, II and III. The initial implementation was also made possible through support of international resources and leverage requested by the mediating team.

Even though the mediation was able to address some of the disputed issues, it, however, failed to address and change the political parties' behaviour vis-a-vis ethnicised presidency, hence, socio-economic inequality still goes on, while poverty and unemployment is on the rise. There appears to be a shortage of genuine democrats among some of the political elites. Ethnic values and ethnic militia are still used by the politicians to appeal to ethnic identities in Kenya in order to secure political ascendancy via illicit access to political seats.

While so much has been written about ethnicity, its relation to electoral violence in Africa quickly turns election dispute to a civil war that are threatening to be intractable in Africa. The triangular correlation between negative ethnicity, electoral violence and intractable conflicts of the new wars require further attention. This study suggests that the practice of negative ethnicity, of ethnic stereotyping, of ethnic marginalisation by political elites is a major source of propensity to be violent. One wonders whether if the political elites called on negative ethnicity and no-one turned up? What would be the next strategy of the political elites in their divide and rule tactic? Negative ethnicity has been used as an empty signifier of unity on to which diverse groups have lost their lives trying to protect 'their' politician. Generally, the consumers of such negative messages also become emotional either supporting their ethnic group through life or violence or ready to die supporting its identity. Negative ethnicity in its more networked version from political elites to youthful militia quickly degenerates to violent attacks against fellow citizens. Negative ethnicity, then becomes a radical systemic ideology occupying a paradoxical space that has to be shunned through rule of law and workable policies if a nation has to grow as

one united democratic country. Getting down to the root of negative ethnicity will mitigate and reduce the intractability of the 'new wars' in Africa.

Further practical theoretical implications generated from this case study include the fact that other scholars may use other theoretical frameworks to explore the findings of this study. Novel findings such the notion of 'stateless persons' in shaping electoral violence may be examined further. Basically, the findings on 'stateless persons' mirror the importance of states' ability to resolve statelessness particularly in Africa and the world. Employing the UN international laws on human rights of stateless persons which stipulates that 'everyone has the right to a nationality' and that 'no one shall be arbitrarily deprived of his nationality should be deeply examined if electoral violence has to be ended.'⁵⁷ How possible is the assimilation and naturalisation of 'stateless persons' for states? Jack Donnelly (2003) theorises that 'human rights are literally rights that one has simply because one is a human being.'⁵⁸ Some scholars like Spiro (2012) have tried to eliminate the concept of citizenship so as to counter statelessness.⁵⁹ However, states continue to exist and have their due responsibilities. Stateless persons and their involvement in violence during elections to some extent reflect lack of respect for human rights by states, hence, the pains of statelessness induce emotional feelings of aggressiveness and ultimately may lead to violence. Subsequently, unresolved statelessness will continue to be a source of violence.

The advent of independent institutions was laudable, however, the recruitment of new groups of officers and removal of previously corrupt officers has been brought into question by the findings. The assumption that independent institutions would be transformed by change of personalities without proper change of attitude was inadequate. This is because corruption and ethicised power around the presidency, as well as political influence in government institutions, have all deeply penetrated the Kenyan society for

⁵⁷ United Nations Universal Declaration of Human Rights, Adopted 10th December 1948, General Assembly, resolution part 1 at 71 article 15 Document A/810 (1948).

⁵⁸ Jack Donnelly (2003:1). *Universal Human Rights in Theory and Practice*. 2nd ed. Denver: University of Denver Press.

⁵⁹ Spiro Peter, (2012). *Beyond Citizenship: American Identity after Globalisation*. Philadelphia: Temple University Press.

years and are now ingrained. Chapter One discusses how for decades, power in Kenya was centralised and consolidated around the person of the presidency.

This study illustrates that during the implementation of reform agendas, the reformation of institutions did not yield the required change from bad governance to good governance. Kenyans appointed into government offices require thorough training with a focus on attitudes and understanding of issues such as corruption, poverty and unjust, violent structures. What is required is education that will enhance their commitment to democracy and their understanding of the underlying democratic values of fundamental freedoms, ethics and integrity. This transforming education should apply equally to the presidency, the political elites and those working in government institutions. A commitment to moral and ethical values will enable all the people to take their responsibilities seriously, to govern democratically and offer services fairly and justly to all Kenyans. Institutions had been weakened and various aspects of ethnicity thrived like an ethnicised presidency and ethnic militia, among others.

Corruption and impunity also flourished unabated and deeply penetrated the structures and as such were perceived as the norm. Kenya still ranks as the third most corrupt country in the world and East Africa's most corrupt state. Hence, it would not be easy to fully transform structures unless people change their attitudes, values and beliefs which is going to take time.

The study argues that much-needed changes necessitate re-education and training. The training should not be a once-off event but a continuous formation embedded in the constitution on democratic ideals and integrity. All recruited government officials, beginning with the president, must be trained. The rule of law could then be adhered to by transformed and trained personnel.

6.7 CONCLUSION

This chapter began by restating one of the main research aims posed at the beginning of this study apropos developing a model for mediation for countering electoral violence. To answer this research question, it was necessary to review the mediation timeline, together with what has and what has not been achieved in terms of these processes, thereby showing the need for a model for mediation.

The chapter was divided into five main parts. The first part discussed the reason why mediation succeeded. The second part analysed the achievements of mediation, including the ceasefire, the devolution process and the 2010 constitution with politically marginalised groups now represented in parliament via special seat slots.

Part three reflected on what did not work, including the continuing existence of fragile institutions, ethnic militia, an ethnicised presidency, and growing poverty, unemployment and ethnocentrism. The model for mediation was then explained and discussed in the fourth part. The model argues that the mediation process did not go far enough in terms of deeper transformation processes in Kenyan governance

Kenya as a country had been run with centralised power consolidated in the person of the president. Institutions too had been weakened and their weak functionality and performance 'accepted' as the norm. Corruption and impunity among the political elites and public officers were perceived by many as the standard. Democracy was viewed as winning elections by whichever means available. Winning elections were highly celebrated because it generally meant that it was a 'turn to eat' with your cronies and selected ethnic group members).

However, there were a few dissenting voices who rejected the kind of governance Kenya was reinforcing as illustrated in chapter one. The struggle for good governance and a true democracy has been a tough journey over the decades. For any meaningful change to take place in Kenya, this study argues, there must be a change of attitude in terms of what democracy truly entails. The change of attitude should target the president, the

elected politicians, the cabinet, the government officers and all those working in the government institutions.

Changing officials' attitudes from toleration of corruption, impunity, non-democrats, and violators of human rights, to people who can be accountable to the citizens is not easy as has been discussed. Kenya needs people who are true democrats and a government that provides for human liberties and fundamental freedoms; it needs to transform itself into the kind of a state that meets its peoples' needs and politicians and officials that serve the people. Above all Kenyans must learn to stand up against abuse of political influence.

Deep transformation of the society will ensure a consolidated democracy, greater satisfaction of basic human needs, an end to wars and respect for human rights, and ensure that institutions function with checks and balances and that good governance prevails in their country. These people must be educated and trained, beginning with the president. This study argues that Kenyan presidents and many political elites, as well as government officials, have had no proper training in politics, good governance, or human rights. The political elites running the government have had no training on how to meet citizens' needs, no training in practising institutional governance and, above all, no training in how to run a democratic government with checks and balances.

The model for mediation developed from the grounded theory and founded on the study outcomes has been described and explained in detail, following a ten-point strategy. This was followed by the fifth part that deliberates on the theoretical implications of the study findings.

CHAPTER SEVEN

SUMMARY OF THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 INTRODUCTION

This final chapter provides a brief overview of the research study. The chapter is divided into five sections. The first section summarises the study findings and provides the conclusion. Following this, the limitations of the study are outlined. This is followed by the importance of this research in the field of conflict management. Finally, recommendations for policy development and further research are also discussed.

Summary of the findings

This study generated significant findings and this section, therefore, provides a summary of the findings, together with the conclusions drawn.

7.2 CAUSES OF ELECTORAL VIOLENCE

The study established that the spontaneous post-election violence during the 2007-2008 crisis was sparked off by the perception that the announced results reflected election rigging. The main underlying causes of the electoral violence were found to be based on a variety of multi-faceted and multi-layered factors. The causes were found to include structural factors, denial by the government of access to information, ethnicity, different value systems, human rights violations and economic factors such as poverty and unemployment.

7.2.1 Structural factors

Electoral violence was stimulated by unjust structures which involved corruption and abuse of state resources, statelessness, the electoral system used in Kenya, and weak institutions. Participants named a broad range of corrupt practices that continue to take place and which deny Kenyans opportunities to meet their basic human needs. Corruption was seen as deterioration of societal virtues.

Corrupt practices were perceived as endemic not only in the government sector but also in the private sector. Due to corrupt practices many industries have collapsed, thus denying jobs to the youth of Kenya. The study also found that corruption in Kenya has become entrenched, hindering Kenyans from accessing effective and efficient public services such as healthcare, education, and service delivery.

7.2.1.1 Corruption

Corruption appears to have become institutionalised owing to the impunity it enjoys among the political elites and government officers. This has implications for the citizens. The implications are evidenced by public discontentment with the government over unmet needs and goals caused by corrupt officers and slowed development. Corruption was also found to be used in rigging elections. Participants' views were consistent with the European Union (EU) election observation mission records and documents that confirmed that there were corrupt irregularities at the tallying centre of the EMB in Nairobi (EUEOM 2008: 27).

Corroborating earlier notions put forward by Sisk (2008: 4), the study concludes that corruption, particularly by the Election Management Body (EMB), is a major cause of electoral violence. The study found from the documents surveyed that this corruption constitutes part of the 'politics of clientelism' which is a network system of exchange of goods and services for political support. In Kenya, the 'clientelism system' has a political patron at the top of the power structure who rewards his ethnic group as clients, with government resources, including employment in return for their votes. According to PEAP (2014: 16), this corrupt behaviour exploits public resources for the accumulation of individual wealth at the expense of national development. Through 'clientelism,' the incumbent political elites marginalise the other ethnic identity groups by denying access to government jobs and infrastructural development. Clientelism fosters conditions where unmet basic human needs, poverty and the skewed distribution of resources create mounting frustration among the marginalised. As Ademola (2008: 55) points out:

“Among the factors that make political violence possible and indeed likely during elections are deepening poverty, unemployment and hunger resulting from

corruption, manipulation of ethnic loyalties, and attempts to rig future elections to remain in power.”

The study shows that via corruption public resources have been diverted into the pockets of politicians, middlemen, and cronies of government, thereby denying the citizens necessary public services, and illicitly diverting scarce resources. This study maintains that corrupting the EMBs through elite manipulation could be a confirmation of Sisk's (2008: 5) claims that being in power in developing countries means control of state resources and being out of power means denial of access to opportunities.

The study vividly indicates that the consequences of corruption include unequal justice, electoral fraud, unequal public services, continued high levels of poverty, and violence. The high level of social violence is a singularly pernicious symptom of societal problems that undermine democratic institutions, the rule of law and citizen confidence in government institutions. This study, therefore, concludes that corruption, particularly as exhibited by the political elites and the EMB to remain in power through fraud and vote-rigging, engenders frustration, which may subsequently lead to aggression and violence. Corruption, therefore, becomes a precursor as well as an aggravator of violence.

7.2.1.2 Statelessness

The notion of statelessness as a cause of electoral violence emerged as a unique and important finding of this study. The study found for example, that some members of the Nubian community are not recognised as Kenyans despite the fact that this group has been living in the country for over a century. Young Nubians, in particular, feel that their need for recognition and acceptance has been violated. Many of this group of youths from Kibra live in poverty as they cannot be employed by government institutions or by registered companies. This is because they lack a national identity and are not recognised as bona fide citizens under Kenyan laws. Hence, they have no passports or national identity cards and subsequently are unable to be employed, travel abroad or to access government services such as healthcare and education that are offered to citizens.

A good deal of hostility exists in the Kibra region which has been christened the 'hot zone' and which is a 'hot spot' for electoral violence. The Nubian youths have confronted the police in battles around Kibra in Nairobi city. It also has the highest number of victims killed by police shootings. The Nubian community feels deprived of citizenship. Their right of freedom of movement from Kenya to any other country is denied because they do not have passports or any travel documents. This could be the reason why they eventually formed groups during the electoral violence to fight for their rights. The violence that was related to elections thus led to other demands as the conflict continued.

This Nubian group collectively assembled to fight for their rights. According to Dollard, Doob et al., (1939: 1) this type of collective assembly signals the kinds of frustration and aggression which explains the motivation behind social groupings and social violence. Cliffort (1973) also argues that frustrations stemming from relative deprivation, in terms of rights having been historically thwarted in comparison to other Kenyans in the same society, are likely to result in revolt and violence. In Gurrs' (1971: 23) view, they lose hope of fulfilling their needs, exercising their cultural values and thus seeing no solution in the near future they turn to violence. The Nubian community's frustration also corresponds to Azar's (1986: 28) claim that when a group is frustrated, threatened or their basic human needs of belonging, recognition, security and participation are not addressed by the state, there is a high likelihood of ensuing violence.

7.2.1.3 The electoral system

The First-Past-The-Post (FPTP) electoral system was mentioned by many participants as one of the key causes of electoral violence in Kenya. The study established that this electoral system is viewed as being politically marginalising. The Kenyan electoral system is basically perceived as facilitating an environment conducive to electoral violence (Hoglund 2008 and Sisk 1998). In this context, it is apposite to conclude that the electoral system of FPTP played a major role in inducing violent behaviours during the PEV. This is because the political marginalisation caused by the FPTP electoral system denies equal representation to all the ethnic identities across the country. However, Agbehonou (2014: 245), who is sceptical of the connection between electoral system and electoral violence, asserts that the type of electoral system a country chooses is of little

consequence. On the contrary, he asserts that what is important is the degree of transparency and fairness of the electoral process.

However, the current study sees the electoral system as one of the multi-layered causes of electoral violence. An electoral system needs to reflect the multi-identities of different groups, including minority groups in political representation. FPTP is seen as one of the political systems that generates violence (Atuobi 2008: 11-12). The study concludes that an electoral system that is politically non-representational of its society generates violence as marginalised communities feel excluded from the polity and decision-making processes in their country. After all, they feel not represented and have no one to address their issues. The perception of non-representational election system may eventually make some of these marginalised members become aggressive.

7.2.1.4 Weak institutions

Based on evidence from the study, the majority of the participants maintained that weak institutions, particularly the EMBs, the judiciary, the police, the security sector, the executive and the legislature, contributed to electoral violence. The study revealed that political power is associated with these institutions, thereby, making them dependent on the political elites of the time. Additionally, successive presidents did the appointments to the EMB single-handedly over the years. Loyalty to the president was then expected and was paramount to maintaining the appointment position. Impunity then settled in, making it difficult for citizens to hold any institutional or political elites to account. Similarly, the judiciary and the legislature were all easily manipulated for political reasons. The populace at that time had, according to interviewees, one option; namely, violence. The finding that the manipulation of institutions for political ends existed in Kenya is analogous with Tlalajoe's (2012) finding that the EMB in Lesotho was a weak institution manipulated by the political elites and that it showed bias in the 2007 elections, thereby sparking violence in Lesotho.

This study, therefore, concludes that when political institutions such as the judiciary, EMB, the police, the legislature and the security sector are weak, the citizens may resort to violence to voice their grievances. Adolfo (2013: 3) advocates for independent institutions

free from political manipulation, while participants argued that ensuring the independence of institutions will require re-training for attitudinal changes in terms of ethics, morality and values of integrity for the observance of the rule of law and to bring about true transformation in society.

The study concludes that while making institutions independent is important, that alone is not enough. It only brings in new people who are similarly easily influenced by the political elites. The participants confirmed that the new officers recruited after the 2010 constitution are still too easily manipulated. The study also concludes that there is a need for re-education and training to conscientise people on democratic principles and values. This would strengthen institutions, making them independent because weak institutions generate conflicts (Atuobi 2008: 12).

The study findings confirm Johan Galtung's (1969) theory that structures such as weak institutions can be violence-generating. Galtung (1969: 32) asserts that certain structures can generate violence via the creation of a needs deficit. If they occur suddenly as with the malpractices experienced with election results, this can give rise to a collective trauma that quickly degenerates into violence. He states that in this way, violence breeds further violence. Violence in this sense, is an outcome of 'needs deprivation' that leads to feelings of hopelessness, deprivation, and frustration. If structures are not transformed, then a vicious cycle of violence is created (Ibid.). Peace researchers need to know about the relationship of 'needs deprivation' and violence hence, strategise on how best to mitigate it.

7.2.2 Access to data

The study established that lack of access to information and data-based bias caused electoral violence. First, there was the intentional denial of access to information by the government about institutional accountability and functioning of the executive. Denial of access to information hindered the public from making informed decisions on voting choices for political seats. The probability of corrupt officers and exploiters being elected via illicit means and wrong choices easily exacerbates violence. According to scholars (Bestey & Burgess 2002; Stromberg 2004), wrong choices can lead to voters suffering

serious consequences such as a deficient provision of services, corruption and exploitation of the vulnerable. Information can also be skewed through media bias and sensationalised reporting.

7.2.2.1 Media bias

Media bias was manifest from the main media houses that took sides, either in favour of the government or the opposition. The biased attitudes by the media houses denied both sides of the political divides fair hearing to the public. They also denied the citizens an opportunity to access a true analysis of the political parties' performances for the last five years or their actual focus for the next five years. The instances of open, selective and divisive bias perspective taken by media houses provoked hostile reactions in some people who felt aggrieved that their ethnic political party was being marginalised. The finding on media bias may indicate one of the reasons why the PEV turned ethnic in Kenya.

The finding that media was selectively biased contrasts experiences in Uganda and Ivory Coast media bias during the elections. According to Kutna (2012: 65), all media houses in Uganda and the Ivory Coast sided with the incumbent president in the 2008 and 2011 elections respectively, thus propagating biased views against all the opposition candidates. Ochieng's (2012: 65) findings hold that electoral violence due to biased media coverage occurred in Algeria in 1992, in Angola in 1992, Ivory Coast in 2011, and in Uganda in 2008. Ochieng found that all media houses in all these cases sided only with the incumbent government, in so doing, side-lining the opposition parties.

7.2.2.2 Lack of access to information

Participants indicated that lack of access to information was a cause of electoral violence. Access to information was viewed as important in ascending to political power. The relationship between access to information and ascent to power is supported by Anstey (2002: 37). According to Anstey's findings, citizens need information to, first, hold accountable their government and the political elites. Secondly, to make informed decisions and lastly, to engage the politicians accordingly. The participants expressed their right as an electorate to know how their political representatives had been performing

in their term in office. This information was denied by media as they chose what to divulge and what not to. Hence, the voters were forced to make uninformed choices. Incumbent regimes also hindered access to certain information concerning matters such as the extent of corruption, accountability, poor economic growth and poverty levels in the country, in that way, giving themselves undue advantage over the opposition in elections. This lack of information impedes the ability of the public to effectively evaluate the quality of politicians' service in the public domain, thereby aggravating citizens' anger.

7.2.2.3 Sensational reporting

The study showed that there was sensational broadcasting and journalism that was perceived as intended to divide the citizenry along ethnic lines. Sensational media reports aroused deep-seated emotions stemming from airing historical injustices relating to past ethnic conflicts, in this manner, bringing them to the conscious fore. Sensational reporting was blamed for aggravating the violence in 2008. Media sources aided the airing of hate speech, stereotyping and derogatory language by both opposition and government political elites. This finding is analogous with Allan's (2014: 3) study which identified sensational media reporting as a cause of violence in Rwanda in 1994 where ethnic groups used demeaning language on perceived 'other' to justify the violent genocide.

This study, therefore, concludes that data distortions in the form of media bias towards either opposition groups or government, lack of access to information, reporting of hate speech together with stereotyping and use of demeaning language on other ethnic identities, were all causes of frustration, that aggravated feelings of anger, causing an escalation and justification of violence during the election crisis.

7.2.3 Interests

Evidence from the research indicates that regional dynamics and interests were at play in the politics of the electoral violence of 2008 in Kenya and used as a political strategy. The neighbouring states escalated the violence by taking sides, with some supporting the opposition and others the regime. They even used the security sector to suppress demonstrations and protests and ended up killing unarmed innocent women and children. The actual interests of some of the neighbouring states in this conflict have not been

documented but external forces were sent in to kill citizens perceived to be in the opposition. This study concludes that interests involved in skewed election outcomes are not confined only to the political elites within the country but also include external actors-neighbouring political elites. Electoral violence is then used by both internal and external forces to suppress certain groups and alter the election results. Electoral violence, then, is a 'new war' fought within the country but often involves external actors.

7.2.4 Identity, culture and values

This section discusses the findings in terms of identity, culture and value-based causes. These were found to revolve around an ethnicised presidency and the culture of ethnic militia groups within the state.

7.2.4.1 Ethnicised presidency

This study has revealed that politics, identity groups, culture, values of ethnic groups are indivisible in Kenya. It also revealed that there is a culture of an ethnic presidency who is viewed as a means of access to scarce resources by the identity group in power and to their alliance partners. As such, each ethnic group votes for its ethnic presidency or its alliance so as access jobs, government tenders, infrastructure and other necessities. As opposed to scenarios where many presidents in Africa cling to power as individuals or with their cronies, in Kenya, the study revealed, the political presidency is highly ethnicised. This means that the president comes from a particular ethnic group that enjoys exclusive access to the resources and then strategically hands it on to another individual of the same ethnic group to continue the practice.

Since independence in 1963, only two ethnic groups have been in power for more than five decades, while the rest of the 40 ethnic groups have been forced to feel marginalised over the years and suffer the lack certain services and resources necessary for their healthy survival. The marginalised groups are known to be among the poorest in Kenya as discussed via the poverty index in Kenya. However, there were a few participants from the ethnic group of the incumbent 2008 president who argued that they work hard to earn a living without any assistance from the president or the politicians.

The study indicates that marginalised ethnic groups turned to violence against the incumbent ethnic group, claiming that they did not want the same ethnic group to keep ruling any longer and particularly not through manipulated election outcomes. From the findings two ethnic groups of the former, incumbent presidents have enjoyed a monopoly of government resources while the other ethnic identities are marginalised due to an unequal resource distribution. These groups thus believed that marginalisation would continue unabated. Hence, the ethnic identities from the opposition feel relatively deprived, with weaker economies, as compared to the incumbent ethnic group. The research, therefore, confirmed that electoral violence was like a strong declaration from the populace protesting against a particular system of culture of governance, particularly the dominating 'ethnicised presidency' and its approach of an exclusive distribution of resources.

The finding on ethnicised presidency is ultimately coherent with the "Nairobi Star Newspaper's" (2008: 2) assertion that in reality, in Kenya, for any tribe, being in opposition and not being in government is a dreaded fate guaranteeing continued poverty for most of your ethnic identity and as a politician. This finding is also consistent with Kriegler and Waki's (2009) argument that presidential political power in Kenya is ethnicised and cemented by various lawful constitutional changes aimed at fortifying the presidential powers and weakening institutions.

This study, therefore, concludes that in an 'ethnicised presidential' system, coupled with a systemic approach of exclusion of certain identity groups from access to government resources, an environment ripe for potential electoral violence is developed. Likewise, where partisan employment is based on ethnicity and where ethnically biased infrastructural development takes place, there is a likelihood that rigged elections may cause electoral violence. In such cases, the people feel relatively deprived in comparison to their counterparts who are privileged and this explains the eruption of ethnic violence during the electoral crisis. The culture of 'ethnicised presidency' and its marginalisation system should be abolished if Kenya has to move forward as one country.

7.2.4.2 Ethnic identity

The study found that almost each ethnic identity group in Kenya has its own ethnic militia. The ethnic militia may have been formed for other reasons but are paid by the political elites and used at will by the same elites, particularly during elections. The study reveals that there are three types of militia; the first, the 'perpetrators' of violence; secondly, those who function as 'revenge' groups attacking those who have attacked their ethnic groups and lastly, those that function as 'protector' groups' protecting their ethnic communities.

The 'protecting type' of militia are perceived to be nurturing peace and are viewed in a positive light by the participants. There is parity or balance of power with the knowledge that each ethnic group has its own militia group. Any arbitrary attack would draw a counter-attack or organised revenge. The 'protector' militia enhance security and ensure that their community continues its normal duties without interference from civil violence. They are valued within communities and protect their identity groups.

It is the 'perpetrator' militia who are used by the political elites. They are called upon by the politicians to, start up and cause chaos during elections. They are violent and work around polling stations during elections to disrupt elections. They are also used to skew results so as to favour their candidate.

The last type, the 'revenge' ethnic militia group are needed when an ethnic group has been attacked either by another ethnic group or by the police. The ethnic militia group is organised and funded by the same political elites. They, therefore, target specific ethnic groups, in particular, geographic areas and annihilate, injure, rape, and torch houses of the target group. This study, hence, concludes that the very presence of a culture of ethnic militias within a country in itself, creates an environment that threatens imminent electoral violence and the electoral process. The study also concludes that though the militia in Kenya is perceived as three separate and different typologies, they are basically groups posing security risk and signifying a potential for electoral violence, albeit at the order of the political elites.

7.2.5 Socio-economic problems: land, poverty and inequality

This section explores the causes of electoral violence related to socio-economic issues such as land, poverty and inequality.

7.2.5.1 Land

Land in Kenya has become a scarce resource because the population has grown exponentially. The high demand for land has eventually made this resource a cause of violence, particularly, during the violent election cycles. Land as an underlying cause of electoral violence has provided interesting revelations. Kenya saw a historically unjust appropriation of land after the British colonialists left the country in 1963. Land that had been reserved for large agricultural projects by the British was supposedly returned to indigenous identity groups. However, the study reveals that, soon after independence, the first president allocated the fertile land to his cronies and his own ethnic group. Later, the second president tried through election violence to re-distribute this same land to his ethnic group, using militia and ethnic police. The next and third president gave back the land to his ethnic group evicted from the same area by the second president. These findings differ from interpretation of Kagwanja and Southall (2013: 34) who link land conflicts to ethnic clashes rather than 'wars over land fought by presidents' and their proxies on behalf of their ethnic groups.

Studies on African electoral violence that find land as a cause of violence include Tlalajoe's (2012) Lesotho study and a study in Uganda by Sewanyana (2002). Violence centred on land issues is thus apparently a strategy used by political elites to consolidate ethnic votes. However, further research on the land issue and how politicians use it to skew election results is necessary. This study, therefore, concludes that land remains a contentious issue and is used as a campaigning tool by politicians to cause violence and displace certain citizens through land evictions. The study also concludes that land violence during elections is perpetuated by the incumbent presidents on behalf of their own ethnic group. The battle is fought by proxy through militia and security forces with ordinary 'citizens often suffering high casualties,' a element of 'wars of the third kind'.

7.2.5.2 Poverty

Poverty was found to be another cause of electoral violence. This study can confidently reveal that there was more violence, with injuries and deaths, in those areas and regions that have higher poverty rates, such as the slums of Kibra and Kisumu. The research also established that wealthier and middle-class earners suffered few casualties or none at all and that youth groups from wealthy families were rarely involved in the violence. There were similar findings following Zimbabwean electoral violence where poverty was also established as a cause of the 2008 electoral violence (Tlalajoe 2012: 12); and the same pattern applies in the Ivory Coast in the 2010 and Nigeria in the 2011 electoral violence respectively (Sakina 2012: 92). The research study, therefore, concludes that poverty arouses feelings of antagonism that may lead some people to violence.

Economic-based causes of electoral violence reflect unfulfilled basic human needs in Kenya, thus, confirming Burton's (1987) and Azars' (1986) theory on the relationship between human needs and protracted social conflicts. Kenya's protracted electoral violence can be related to its high poverty index that is at 57%. This means that majority of Kenyans live in poverty and their basic human needs unmet. The situation as it is, has the potential to generate social violence by a trigger such as electoral malpractice (World Bank 2015: 2). These conflicts that emerge from unmet human needs are seen by Burton and Azar as deep rooted. The conflicts are fought not over interests but over non-negotiable values involving the unjust distribution of resources and unemployment. As a result, these deep-rooted conflicts require innovative conflict management mechanisms and not merely a settlement solution.

7.2.5.3 Inequality

The literature on electoral violence shows that there is a significant relationship between inequality and electoral violence in Kenya. The study further shows how the violence is concentrated in the high poverty regions. Equally, more deaths during the electoral violence occurred in the suburbs and the slum areas as compared to the middle class and the higher social class residential areas. Similarly, quantitative analysis and findings from other studies (Kniss 2010: 10) corroborate the findings that signs of horizontal

inequality were key indicators of electoral violence. The study concludes that electoral violence in Kenya increased with the severity of horizontal inequality in the country.

7.2.6 Lack of democratic officials

Somewhat surprisingly, the study found that the political elites may not fully understand the meaning of democracy and that there may, in fact, be few genuine 'democrats' in Kenya among high-ranking officials from both ends of the political divide. According to the study, democrats are supposed not to use violence as a strategy against another democrat because they understand that in a truly democratic dispensation there are winners and losers. Democracies are more peaceful than authoritarian regimes according to Henderson (2002: 53) who asserts that democrats and democracies begin with peaceful elections, and enjoy cultures of peace. Marc, Verjee and Mogaka (2015: 20) decry the fact that while democratic elections terminated civil wars in Chad (1990); Angola (2002) and Sudan versus South Sudan (2011) and democratically legitimised the new regimes, elections in countries like Kenya remain a source of violence. Musa and Domatob (2012: 27) argue that authorities that hold onto power using violent strategies to predetermine election outcomes in their favour are, therefore, undemocratic.

The ethnically based electoral war in Kenya is fought unconventionally using locally made weapons and targeting Kenyan citizens and their property. The electoral violence in Kenya conforms to the description of 'new wars' (Kaldor 2013). These 'new wars' are seemingly fought in sub-democracies. Although Kenya, can be categorised as an authoritarian 'sub-democracy' which condones swaying of civilian choices by violent means as has been revealed in this study. The 'freedom house of 2008' categorises Kenya as 'not free state' indicating that democracy and liberty rights are not fully adhered to.

The study showed that there was a lack of liberties during the electoral process and violations of human rights. The study indicates that peaceful unarmed demonstrators were killed as they met high-handed police officers. The UN judged this as extra-judicial killings (Rice 2009: 1). Other than that, the electoral violence victims stated that media houses were banned from airing or giving any information on the post-election events and

abuses. Democratic institutions encourage freedom and respect for human rights while undemocratic institutions gag the media (Selvik & Stenslie 2011: 206-207). The research concludes that when the incumbent wants to cling to power, the police are used to silence dissenting voices. These police kill, maim and injure unarmed civilians thus violating their human rights. As a result, this violation of human rights increases the possibility of electoral violence.

7.3 MEDIATION PROCESS IN ELECTORAL VIOLENCE

The mediation process went through the many stages that included pre-mediation, negotiation and signing of the agreement.

7.3.1 Pre-mediation

Shortly after the official appointment of the mediation team by John Kufuor, the AU chairperson, Kofi Annan (the chairperson of the mediation team) began the pre-mediation process by setting up a mediation secretariat. His arrival in the country was aimed first at meeting the rival political party principals. At these initial contact meetings Annan got to listen to the grievances, positions and interests of each of the disputing political parties. Annan's team then embarked on getting acceptance of the Kenyan citizens through various media platforms, consultative gatherings and meetings that included visiting those who had been displaced by the violence. The Kenyans assured them of their support and expressed hope that a solution to their crisis could be found. This pre-negotiation process is in line with Moore's (2014: 208) model of mediation, which states that after the parties have agreed to mediation, the mediator makes contacts with the political parties or their representatives and other stakeholders.

The study established that the chief mediator, Annan, acquainted himself with the background to the conflict. His speeches and the initial contacts, consultations and meetings set the tone for mediated negotiations. The study has noted that there was an opening statement by the mediating team and another by the disputing parties presenting their grievances, interests and positions. Following these, the mediator set agendas for ensuing discussions.

7.3.2 Negotiation

The negotiations began on 29th January 2008. The negotiators (four from each of the disputing political parties) represented the two main disputing factions of the Party of National Unity (PNU) and the Orange Democratic Movement (ODM). The mediation was triad-layered as corroborated by the study. There were the principals of the disputing parties at the top hierarchy followed by their liaison officers (one from each disputing party) at the middle ground and at the base was the negotiation team, consisting of four politicians from each party. The triad structure ensured that there was a smooth flow of communication from the principals to the negotiating teams and vice versa. It was also easier for the principals to keep abreast of the progress of the mediation through their liaison officers.

The root causes of electoral violence were identified and labelled as Agenda One to Agenda Four. The agendas were then prioritised into short, medium and long-term goals. The short-term goals aimed at an immediate cessation of hostility, and restoration of the rule of law and freedoms of all people, including freedom of the media. The short-term goals were to take place within the first five days. The medium-term goals covered agendas two and three seeking reforms which addressed the humanitarian crisis of people displaced by the violence. The displaced included Kenyan refugees in other countries and internally displaced persons. The undertaking to begin reconciliation was also promoted. The negotiator and the principals were to find a negotiated political solution to the political crisis of presidential elections. Finding a negotiated solution to the political crisis turned out, according to the study, to be the most contentious issue. The medium-term goals were to take between one month and six months.

The long-term goal for Agenda Four was justice related and aimed at rebuilding structures that would strengthen democratic institutions. Reforms involving retributive justice were to ensure that perpetrators of the violence were apprehended and that victims would receive justice. The restorative justice would ensure reconciliation in order for communities to live together again in peace. The long term goals were to take a year. The study concludes that to mediate electoral violence by mapping the root causes of the violence is a crucial stage of the mediation process.

7.3.3 Reform agendas

It is important to note that the mediation reform agendas were strategically layered from the less to the most contentious issues. The first agendas were discussed while the disputants and the country were still experiencing hostility, thus, the mediator's approach was to cool tempers by introducing the less controversial issues first. This was presumably a tactical approach seeking to build trust at the initial stages and also move the negotiation forward. Bercovitch (2004: 3) maintains that enhancing communication between disputing parties is a key tactic for managing intractable conflicts. The study showed that reforms of current policies required immediate amendments by parliament to cater for the changes. These were then inscribed in the laws governing the country for legitimate changes to take place.

7.3.4 Stalemate

The standoffs or impasse during mediation were also tactically addressed by the mediating team. The tactics included suspending the meetings for a short time (few hours), postponing the meetings for some days, eliciting sustained pressure and threats from the international community and individually organisation a joint face-to-face meeting with the disputing principals. In the end, Annan met the two principals having also invited the African Union (AU) chairperson, Jakaya Kikwete and in that meeting, a mutually acceptable political solution to the crisis was arrived at. The peace deal was thereby brokered and signed publicly.

7.3.5 The outcome

It is important to note from the study that the outcome of the crisis was finally the decision of the two disputing principals-the PNU (incumbent) and ODM (opposition) presidential candidates. Meeting the two principals moved the mediation from a triad-layered negotiation to a single layered negotiation of the principals and the mediators alone. At this meeting, final decisions were made and agreements were signed in public before the media. The decision to meet only the two principals was considered another mediator tactic to manage hardliners from each party. The signed peace deal was a power-sharing approach, which was signed on 28th February 2008. Celebrations across the country

followed the public and media-covered signing of the deal. The signing of the peace deal conveyed the message of the end of this conflict and ushered in the transition of the country from a state of internal war and peacemaking to the instigation of peacebuilding.

7.4 THE ROLE OF MEDIATION

The study found that most of the interviewees saw the mediation as constituting an effective mechanism in mitigating electoral violence. The majority of the participants approved of mediation as one of the best options in building peace in a country where electoral violence has erupted. They accepted that this mode of conflict management, when well-handled, has the potential to transform the unjust structures that create violence, together with citizens and their institutions, into a democratic state where human rights are respected, the rule of law is obeyed and citizens can enjoy the right to fully participate in the affairs of their own country. However, the 'political will' by the incumbent is very important. On the one hand, the 'political will' to carry out the transformations as stipulated in the peace deal may mean complete reforms with the society upholding peace, rule of law and order. While on the other hand, the lack of 'political will' to fully carry out the restructuring programme may mean a future that is bleak and volatile to the repeat of the same type of violence.

7.4.1 Mapping the root causes of electoral violence

The study revealed that mediation presented the political elites with an opportunity to listen to each other as they jointly mapped unjust systems dating from the past to the post-colonial period. Mapping of the root causes of violence enabled them to seek solutions via reform strategies.

7.4.2 Consolidated democratic institutions

The study pointed to the fact that mediation has the capacity to reinforce democracy and prioritise reform agendas that target structural and institutional reforms that also include respect for human rights. On the other hand, Tlalajoe (2012) points out how mediation failed to successfully capacitate a democratic outcome in Lesotho. Similarly, the mediation of electoral violence in Ivory Coast in 2010 correspondingly failed after three

attempts by three different mediators. Ultimately, military intervention from the French and ECOWAS forces ended the electoral violence (Strauss 2011: 482). However, mediation in Kenya ushered in peacebuilding and the implementation of structural reforms.

7.4.3 Recognition of politically marginalised groups

Mediation, in the view of the participants, facilitated liberation from the oppressive system that marginalised groups. The system had marginalised female participation in political space, which had been limited to a majoritarian male-dominated affair. Others that were historically marginalised included the disabled, youth, minority identities and ethnic groups not in coalition with the incumbent government (all other ethnic groups in opposition). The politically marginalised groups could now become recognised lawfully and be represented fully in political spaces. However, as this study found out, stateless people of the Nubian origins still wait to be recognised as Kenyans in a country where they were born and brought up and where they had land allocated them during the colonial period. The ethnic groups in the opposition are still marginalised in terms of equal allocation of government resources, jobs, service delivery and other infrastructural developments.

7.4.4 Devolution of power

Through the mediated efforts one of the reform agendas was to transform marginalisation of other ethnic groups. Devolution was set up to cater for these groups and allow self-democratic governance by the people at grassroots levels. Devolution, as it operates in Kenya, involves decentralisation of power from a previously highly centralised power locus and the transfer of resources to duly elected governors in sub-national government entities called Counties (Akech 2010: 2). The centralised government was criticised for being too authoritarian and paternalistic and for entrenching itself via misuse of power, violation of human rights and corruption (SID 2014: 26). Devolution could challenge paternalistic system and entrenching power on a centralised individual. Devolution would also provide employment to the people at the grassroots. With the dawn of devolution, professionals were required to run the newly created institutions and consequently, some employment was generated in the forty-seven (47) Counties across the country.

Devolution also reduced the presidential powers to some extent. However, the 'political will' to equally allocate government resources or enough funds to the devolved government has been limited. To this end, devolution seem to be a mere office that does not fully empower governance at the local level. Most government resources and fund is still highly centralised.

7.4.5 New 2010 constitution

The new 2010 Constitution was as a result of a struggle over two decades and through mediation the goal of this long struggle was achieved. Constitutional review was part of Agenda Four during the negotiations. The 2010 constitution established procedures for the reformation of violence-generating structures so as to restore democracy through the rule of law. The constitution also legitimises the peacebuilding structures to be established. With this, the causes of human rights abuse and violations have been addressed in the constitution. The achievement of the 2010 Constitution is that it provides a point of departure in the journey towards addressing the root causes of electoral violence. The challenge remains in ensuring its implementation, full realisation and the obeisance of rule of law by all (Akech 2010: 3).

The study also established that though the reform agendas were supposed to bring meaningful measurable change, little has in fact been done thus far by the political elites to implement the peace agreement. Poverty, corruption, inequality and electoral clashes, among other problems, are still part of the Kenyan system. The independent institutions were capacitated and new people were appointed but to the surprise of many, although the officials changed, the corrupt and biased practices continued. The persistence of corrupt practices and weakening of institutions has been blamed on lack of training of the new officials who fail to understand how independent institutions should work, what democracy means, how to make institutions respect human rights and how to provide for the basic human needs of fellow citizens.

The study, thus, basically concluded that in an authoritarian state where power is centralised around the presidency, politicians manipulate government institutions. Consequently, the marginalised, civil society, the opposition and those citizens generally

not allied to the incumbent powers, can find no space to vent their grievances. In Kenya, basic human needs for the majority of the citizens are still not being met. The grievances of unmet basic human needs, unjust systems and structures may lead to frustration as marginalised groups see no way forward. Their frustrations may also be relative to those enjoying the authorities' power and resources. The frustrations may eventually mount into deeper and deeper emotional pain over the years.

Some of the pent-up frustrations may then turn into violence at any trigger event such as electoral rigging. Then a return to peace may only be made possible through mediation processes. Mediation can bring together the conflicting parties to strategise on how to rebuild structures that give equal opportunities to all citizens and provide for at least the basic human needs of the individual citizens and services. Such structures may not only bring peace but also constitute a preventive process.

From the findings and based on the research questions and objectives, this study, therefore, proposes that the model for mediation for the electoral violence should be based on the facilitative mediation style that was used in the 2008 mediation. Mediation at this facilitative stage critically depends on the negotiators' ability to accurately and correctly map out the violence by identifying the underlying causes of the electoral violence from the historical past to the contemporary period. Negotiators have to strategically craft out reform agendas that match the causes of electoral violence. For mediation to succeed, there must be a clear focus on the root causes of the violence. Any vaguely researched undercurrents by the negotiators or lack of 'political will' to reform may mean a return to violence from unreformed structures.

The negotiators require assistance from experts in areas of democracy that they are unfamiliar with. For example, consultation with stakeholders such as the civil society, human rights watch groups, Amnesty International, legal experts, business experts, religious groups, peacebuilders, academic researchers and the media, among others, could prove invaluable in identifying the root causes of electoral violence. The multifaceted array of experts can help to ensure that unjust structures are properly reformed in the final agreements.

The reforms should then be organised according to the needs and underlying issues of the conflict. The agendas are then prioritised and follow the same procedure of prioritisation. Then there should be re-training and education of personnel on what democratic principles, institutional values and personal integrity would entail when appointed to office. The ethos must be embedded in the constitution and strengthened by rule of law. This will ensure that appropriate preventative measures are put in place and that impunity is dealt with.

7.5 CONTRIBUTION OF THE STUDY TO THE FIELD OF CONFLICT MANAGEMENT

The following discussion outlines the main novel research contributions to the field of conflict management and resolution. First, a model for mediation for electoral violence has been developed and secondly, the role of mediation in electoral violence has been explored in novel ways. The positive achievements, as well as the shortcomings of the mediation process, have been critically examined. The causes of electoral violence were found to be multi-layered and multi-faceted. The study has also demonstrated that the causes of electoral violence include weak state institutions which deprive citizens of their basic human needs by creating autocracies that generate violence. This can come about because prolonged unmet basic human needs may provoke the emotions of frustrated people which may lead to violence. Violence occurs in weak institutions because they do not offer spaces for ventilation of grievances or provide opportunities for dialogue. Other unique findings on the causes of electoral violence include the issue of statelessness and the regional interests in the elections by neighbouring states. These are novel findings that have now been brought to the attention of the researchers and interested parties.

The four reform agendas that transformed the violence were delineated. The findings of these reform agendas will assist scholars, practitioners and negotiators to map out their conflict scenarios and prioritise factors involved into achievable goals. The study shows unambiguously that if the causes of electoral violence are haphazardly explored, the country cannot transform unjust structures into peaceable institutions. Therefore, as revealed, a critical analysis and mapping of the root causes of electoral violence are both crucial and central in seeking to obtain a peaceful and sustainable resolution.

The mediation process, as well as the timeline for the mediation in countering electoral violence is discussed, thereby, paving the way for further research on how to mediate electoral violence. The role of mediation in mitigating electoral violence is deliberated on, pointing to the fact that mediation would still be the best option for managing electoral violence. At best, the study has emphasised that future research may be enhanced as this study provides other researchers with examples of how to implement and develop a model for mediation and interrogate the role of mediation.

The study indicates that reform agendas should not only focus on making the institutions independent, (though this is a very crucial step in consolidating democracy) but should also train officials to be democrats of integrity. This is because the absence of genuine and committed democrats to run democratic institutions even when the institutions are made independent may yield very little change, as is the case in Kenya today. Government officers and political elites must have integrity, ethical values and respect for human rights and the rule of law. Therefore, the study proposes that any officers in government be conscientised, trained and educated on democratic principles and values. The findings of this study pose a challenge to independent institutions to play their part in consolidating democracy in emerging democracies. The model for mediating electoral violence needs to include education on ethics, consolidation of democracy, human rights, societal values and strategies on creating opportunities for individual citizens to meet their basic human needs.

Furthermore, the implications arising from this model for mediation challenges mediation practitioners to improve their practice and widen their horizons in mediating electoral violence. It also adds to the body of knowledge and literature on mediation and electoral violence in the field of conflict management. Applying and testing this model in other electoral violence to build on this knowledge will enhance considerations for peace and promote democratic maturity.

This study makes a crucial contribution to the conflict management field in having developed a model for mediation that fills an important gap in the literature and that can also be used as a model for preventative measures in combatting electoral violence. The study is generalisable to other contexts with minor changes as most emerging

democracies experience similar sources of electoral violence such as corruption, inequality, poverty and have identity groups and ethnicities who experience marginalisation. In addition, weak institutions, land issues and unemployment are all part of emerging democracies' predicaments. As a result, this model for mediation could easily be adapted and implemented globally.

7.6 LIMITATIONS OF THE STUDY

This research, an exploratory, qualitative case study investigating the mediation of electoral violence in Kenya in 2008, has particular limitations that are generally deemed to apply when exploring such case studies as well as those that were unique to this particular study. The procedures for acquiring information were very tedious as the country's' President and Deputy President were undergoing charges at the International Criminal Court (ICC) on the issues related to PEV. Anyone collecting data was viewed suspiciously as an ICC spy. Getting participants to voluntarily give accounts of their perceptions required documents to verify that the research was duly meant for educational purposes only.

In keeping with the qualitative research approach and principles, the study findings as a case study investigating conflict in Kenya is *sui generis*, that is, simplistic generalisations are inappropriate without proper contextualisation or taking into consideration the diverse and unique social, cultural, religious, economic and political factors involved. However, the findings may still be generalisable within contexts of electoral violence within emerging democracies in multi-ethnic, politically polarised societies like Kenya.

7.7 RECOMMENDATIONS

Grounded in the limitations of the research findings, several areas for policy recommendations can be identified. These identified areas are deliberated in the next section and identified areas for further research are also discussed below.

7.7.1 Recommendations for policy development

The study findings revealed that ethnicity and an ethnicised presidency, as also the power game of clientelism had marginalised certain opposition communities. At the same time, the study established that the electoral system of First-Past-The-Post (FPTP) is not fully representational in a pluralistic society. Hence, this study recommends that the state should ensure that government is genuinely a representation of all the identity groups of the country. In this sense, this study proposes a democratic system with consensus (that is, consensus democracy) with a proportional representation system for elections.

The consensus democracy with a proportional representation was designed to address marginalisation in pluralistic societies (Tadjbaksh 2014: 139). In this manner, it caters for even smaller parties and minority ethnic groups. It also favours and develops multi-party democracy by ensuring political representation in the legislature for minority political parties (Herberg & Bloomberg 2012: 11). The one pre-condition for democracy to work in an ethnically polarised society is to create a consensus democracy among major ethnic groups by making a deal in forming an all represented government (Diamond 2010: 13). Therefore, this study recommends that the Kenyan electoral system be adjusted so as to be politically accommodative of its ethnic groups and to ensure that resources be more justly distributed. Consequently, Kenya needs to have good governance to be able to make any meaningful progress towards effective leadership in a consensual democracy and its transitions in elections as institutionalised in the 2010 constitution.

Elections form an integral part of the maturing democratic transition. If there is no continuous political and social transformation, elections in Kenya will continue to be a battlefield. As such, this study recommends on-going democratic training for government officials that takes place quarterly each year in all its institutions in order to bring about greater institutional integrity and attitudinal changes.

Secondly, the land question needs swifter attention than at any time in the past. More than ever before, Kenya needs now to revisit legislation surrounding land and types of land tenure and introduce amendments which allow a land commission to re-appropriate

unjustly acquired lands. Those who are landless like the Nubian people should be allocated land within the country and be recognised as citizens of the country.

Thirdly this study, like Olawale (2004: 34) proposes that there is need for a combined AU and an International Legal Body that specifically addresses the issue of electoral violence in African states. The proposed legal body should be composed of the AU PEAP at the helm with a full secretariat to be able to assist elections in countries with intractable, electoral violence, with options for an AU PEAP managed re-run of elections where deemed necessary. The proposed legal body should be able to work with the EMBs of the member countries through seminars, workshops and colloquiums than can focus on attaining integrity of elections in Africa.

This study proposes the presence of an AU election body as recommended above, to also journey with the political parties, and frequently give assurances to the people with regard to the credibility of elections being held. This is because many ethno-political parties and EMB bodies are always vulnerable to biased favouring of their ethnic community for a win by any means rather than accepting the rightly elected person.

The selection and appointment of the EMB should focus on people with integrity and without bias. The EMB body should be proficient and independent of the politics of the day. After their elections into office, therefore, a re-training and re-education programme on the running of democratic independent institutions is necessary. This EMB should be under the AU PEAP that was proposed by this study. Their mandate should include among others, the strengthening and training of officials of the local democratic election institutions.

The study findings indicate that there is perceived rigging of elections from ethnic strongholds of both the opposition and the incumbent parties. This study, therefore, recommends that in a politically polarised, pluralistic society like Kenya, EMBs should not deploy returning tribal officers to man affairs in their tribal regions as this is where malpractices occur with turnouts exceeding the actual numbers of registered voters in the EMB register, repetitive voting, and identity theft, amongst other issues.

Each returning officer should manage elections where their tribes are regionally not based. For Example, a Digo returning officer should manage elections among the Marakwet and not among the Digo tribe. Citizens also should guard and monitor their votes and ensure votes have been counted correctly in their presence at the polling station in which they voted and also ensure that the same is announced by the EMB at the local and national tallying centres respectively. This will guard against fraudulent tallying of votes and the kind of election rigging that takes place in Kenya each election year. To this end, the country will avoid ethnic rigging of elections from both the opposition and the government strongholds. Delay of election results due to rigging will also be avoided. The election results should be announced from the local polling centres and not the capital city where serious rigging has been known to take place.

Findings from the interviewees showed that there is impunity and perpetrators of electoral violence have been allowed to remain free and unpunished over the years, thereby, encouraging electoral violence and its perpetration to intractable levels. This study recommends that all perpetrators be charged as criminals in the law courts so as to end election violence. From the findings, electoral violence has claimed more than 20,000 Kenyan lives and yet no one has ever been charged with causing electoral violence. Ethnic militia should be disarmed, demobilised and re-integrated into the government force to restore security.

The Kenya curriculum should incorporate teaching of democratic values to all its citizens, beginning at schools in order to attain long-term solutions. Present adult citizens should be trained by civil societies and NGOs to take responsibility in the way they are governed. The training should include democratic values, and on the negative implications of rampant ethnicity in emerging democracies which must be above ethnic biases. Once citizens know their rights and responsibilities, they will be empowered to take charge of their destiny and refuse bribes, coercion and manipulation by political elites. They will hold political elites accountable and demand good governance.

7.7.2 Recommendations for further research

Although this study touched on some pre-election issues relating to past electoral violence in Kenya, the main focal point was the phenomenon of post-election violence. Pre-election issues indicate that there is a need for further research on the causes of pre-election violence and the dynamics of 'election day' violence. The study on electoral violence focusing on the other phases of the electoral cycle will eventually provide insights into full electoral cycles of violence and their causes.

Statelessness was mentioned as an underlying issue of post-election violence. Future in-depth research, therefore, should explore the causes of statelessness in relation to violence, especially with regard to election violence, so as to be able to address the issue and give practical recommendations for policies in line with international laws, refugees, migrants and the United Nations regulations on statelessness.

While there has been electoral violence in Kenya each election year (1992, 1997, 2002, 2005 referendum and 2007-2008) since the introduction of multi-party elections in 1992, this study has focused on the post-election violence of 2007-2008. As such, this study, therefore, recommends that a more holistic approach to the vicious and seemingly intractable electoral violence be studied further using a quantitative research method to provide statistical corroborative support for the current research.

The study found that after the mediated negotiations, a power-sharing deal was signed where the president was to share his power with the newly created office of the prime minister. Hence, the study recommends that there should be further research on the benefits and challenges of power-sharing brokered after electoral violence. The study should also focus on the dynamics of such processes and investigate whether incumbents, knowing they may be beaten, may employ violence to encourage a power-sharing deal.

This study developed a model for mediation for electoral violence. The study, therefore, recommends that more research be carried out on the theoretical and practical application of this model to see if it can be adapted, utilised and improved.

REFERENCES

- Acemoglu, D., Johnson, S., and Robinson, J. A. 2002. *An African success story: Botswana*. Princeton: Princeton University Press.
- Acemoglu, D., and Simon, J., 2006. *Economic Origins of Dictatorship and Democracy*. New York: Cambridge University Press.
- Achieng', A., Oyier-Ondigo, 2011. *School Violence and the Role of Peace Education: The Case of Kenyan Secondary Schools*. Unpublished MA thesis, Hekima College, Catholic University of Eastern Africa, Nairobi-Kenya.
- Abegunde, T., 2009. *Why Media Bias Triggers Violence*. Lagos: Gadaal Publishers.
- Adam, C., 2014. *Psephos Elections Archives*. Available from <http://psephos.adam-carr.net/>. Accessed on 5th August 2015.
- Adam, M, A., 2014. *Map of Kenya: List of Ethnic Major Identity Groups*. London: Central Intelligence Agency.
- Adam, S., 1775. The Theory of Moral Sentiments In Adam, M. A., 2014. *Map of Kenya: List of Ethnic Majority Identity Groups*. London: Central Intelligence Agency Press.
- Adamu, G., 2012. *The Politics in Hybrid Democracies*. Lagos: Highway Press.
- Adebayo, A. G., Adesina, O. A., Adeyeye, M., Adjei, J. K., Achoka, J. S. K., Agbehonou, E., Alao, A., Bangura, A. K., Bingol, H. B. & Danso, S. O., 2012. *Managing Conflicts in Africa's Democratic Transitions*. London: Lexington Books.
- Adekunle, D., 2008. 'Electoral Management Bodies (EMBs) and the Management of Election Related Conflicts.' Paper at *Africa Network of Constitutional Law*. Dakar: 21-42.
- Ademola, A., 2008. 'Brace up for political violence in 2002, in this day 2 January 2002' In *IFES White paper* London: 1-16.

- Adjibolosoo, S. K., 2001. *Portraits of Human Behaviour and Performance: The Human Factor in Action*. Michigan: University Press of America.
- Adolfo, E. V., 2012. Electoral Violence in Africa. *The Nordic Institute Africa-Uppsala*, 3 (1)1-4.
- African Union., 2002. *Protocol Relating to the Establishment of the Peace and Security Council*. Protocol Article 11.3 Addis-Ababa. AUC and NZ Publishers.
- Africa Watch., 1993. *Divide and Rule: State Sponsored Ethnic Violence in Kenya*. New York: HRW Press.
- Afrol, Swan, C., 2001. *British Broadcasting Corporation News*, 'Mugabe sued for election violence,' April 23, London: BBC.
- Afrol, Swan, C., 2001. *British Broadcasting Corporation News*, 'Mugabe grants amnesty on election violence,' October 11, London: BBC.
- Agbehonou, E., 2014. *A Preventive approach to Post-Election conflicts in Contemporary Africa*. Kennesaw: Kennesaw State University.
- Ahenda, S. K., 2008. 'The Church in Africa in Service to Reconciliation, Justice, and Peace: In the Light of the Second Special Assembly for Africa of the Synod of Bishops.' *The Proceedings of the 10th Interdisciplinary Theological Session (2008)*, Nairobi: Catholic University of Eastern Africa Publications 23-36.
- Ahluwalia, D. P. and Nursey-Bray. F., 1969. *The Post-Colonial Condition: Contemporary Politics in Africa*. New York: Nova Publishers.
- Akech, M., 2010. *Institutional Reform in the New Constitution of Kenya*. Nairobi: International Centre for Transitional Justice.
- Ali, T. M. and Mathews, R.O., 2004. *Durable Peace: Challenges for Peacebuilding in Africa*. Toronto: University of Toronto Press.

- Alston, P., 2010. *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions: Election-related Violence and Killings*. Geneva: UN Publications.
- Amer, R., Swain, A. and Ojendal, J. 2011. *The Democratization Project: Opportunities and Challenges*. Sydney: Anthem Press.
- Amoo, S. G., 1997. *The challenge of Ethnicity and Conflicts in Africa: The Need for a New Paradigm*. New York: Emergency Response Division, United Nations Development Program.
- Andreassen, A. and Tostensen, A., 2006. 'Of Orages and Bananaa: The 2005 Kenya Referendum on the Constitution.' *Research for Development and justice, CMI Working paper* Bergen 8-13.
- Annan, K., 2012. *Deepening Democracy, Why Elections with Integrity Matters*. Geneva: Olive Branch.
- Annan, K., 2013. *Kenyan National Dialogue and Reconciliation*. Nairobi: KNDR.
- Annan, K., 2014. *Challenging the Conventional: Can Truth Commissions Strengthen Peace Processes?* Geneva: International Centre for Justice Press.
- Annan, K., Machel, G., Mkapa, B., 2014. *Back from the Brink: The 2008 Mediation Process and Reforms in Kenya*. Nairobi: African Union Commission.
- Annemi, S. and Bezuidenhout, R., 2014. Qualitative Data Collection. In Bezuidenhout, R., Davies, C. and Du Plooy-Cilliers., 2014. *Research Matters*. Cape Town: Juta 173-194.
- Anifowose, R. and Odukoya, A., 2013. *Toward curbing electoral violence in Nigeria*. London: Lexington Books.
- Anstey, M. 2006. *Managing Change: Negotiating Conflict*. Cape Town: Juta and Company Ltd.

- Asamoah, A., 2015. *Nature and Drivers of Insecurity in Kenya*. Nairobi: ISS Press.
- Asher, B. & Simpson, J., 2006. *Encyclopaedia of language & linguistics*, Michigan: Elsevier.
- Atuobi, S., 2008. Election-Related Violence in Africa. *Conflict Trends*. Pretoria: ACCORD.
- Azar, E., 1986. *A theory of contracted social conflict*. Dartmouth: Aldershot.
- Azar, E., 1990. *The Management of Protracted Social Conflict: Theory and Cases*. Dartmouth: Aldershot.
- Babbie, E., 1989. *The practice of Social Research*. Belmont: Wadsworth Publishing Company.
- Babbie, E., 2002. *The practice of social research*. Belmont: Wadsworth Publishing Company.
- Babbie, E., 2013. *The Basics of Social Research*. Wadsworth Cengage Learning.
- Babbie, E., 2015. *The practice of social research*. 23rd ed. London: Wadsworth Cengage Learning.
- Bachmann, V. and Muller, M., 2015. *Perceptions of the European Union in Eastern Europe and Sub-Saharan Africa: Looking in from the Outside*. Hampshire: Palgrave.
- Bogdanor, V., 1987. *The Blackwell Encyclopaedia of Political Institutions*. New York: Basil Blackwell.
- Baker, D. and McMahon, R., 2015. *Human Needs and Scarce Resources*. Manila: Plontyne
- Balaton-Chrimes, S., 2015. *Ethnicity, Democracy and Citizenship in Africa: Political Marginalisation of Kenyas' Nubians*. Dorchester: Ashgate.

- Bandura, A., 2006. *Social Cognitive Theory*. Beverly Hills: Sage Publications.
- Bandyopadhyay, K., 2013. *Why Minorities Play Or Don't Play Soccer: A Global Exploration*. Oxon: Routledge.
- Barbour, R., 2008. *Doing Focus Groups*. London: Sage Publications.
- Bardall, G. A., 2010. *Conflict Cycle Perspective on Electoral Violence: Taking the Long and Broad View on Electoral Violence, Monday Developments*, available at <http://www.ifes.org/Content/Publications/Articles//A-Conflict-Cycle-Perspective-on-electoral-Violence.aspx>. Accessed on 6th October 2014.
- Baregu, M., 2011. *Understanding Obstacles to Peace: Actors, Interests and Strategies in Africa's Great Lakes Region*. Kampala: Fountain Publishers.
- Barkai, J., 2015. *Negotiating, Mediating and Managing Conflict: Evolution in a Global Society*. Hawaii: University of Hawaii Press.
- Barkan, J. D., 1994. *Beyond Capitalism Vs. Socialism in Kenya and Tanzania*. Colorado: Lynne Rienner.
- Barratt, E., Berger, G., 2007. 50 Years of Journalism: Africa's Media since Ghana's Independence. *Africa Editors Forum, Highway Africa and Media Foundation for West Africa*. Johannesburg: 9-20.
- Barsky, A., 2014. *Conflict Resolution for the Helping Professions*. New York: Oxford University Press.
- Bayne, P. S., 2008. *A Guide to Library Research in Music*. Montreal: Scarecrow Press.
- Baun, C., 2011. *Media and Violence*. Toronto: Meas press.
- Beardsley, K., 2010. Pain, Pressure and Political cover: Explaining Mediation Incidence. *Journal of Peace Research*, 47 (4) 395-407.

- Beaulieu, E., 2014. *Electoral Protest and Democracy in Developing World*. New York: Cambridge University Press.
- Beber, B., 2009. Why Mediation Matters: Ending intractable conflicts, In *The Sage Handbook of Conflict Resolution*. Thousand Oaks, CA: Sage Publications.
- Bekoe, D., 2010. Trends in Electoral Violence in Sub-Saharan Africa. *Peacebrief*, 13 (1)1-5.
- Bellamy, A. J., 2014. *Responsibility to Protect: A Defence*. Oxford: Oxford University Press.
- Bercovitch, J., 1984. Problems and approaches in the study of bargaining and negotiation. *Political Science*, 36 (1) 125-144.
- Bercovitch, J., 1989. International dispute mediation: A comparative empirical analysis. In Kressel, K. and Pruitt, D., eds., *Mediation Research: The Process and Effectiveness of Third Party Intervention*. San Francisco: Jossey Bass.
- Bercovitch, J., 1991. International mediation and dispute settlement: Evaluating the conditions for successful mediation. *Negotiation Journal*, 7 (1) 17-30.
- Bercovitch, J., 1992. Mediators and mediation strategies in international relations. *Negotiation Journal*, 8 (1) 99-112.
- Bercovitch, J. and Houston, A., 1993. The influence of mediator characteristics and behaviour on the success of mediation in international relations. *International Journal of Conflict Management*, 4 (2) 297-321.
- Bercovitch, J., 1997. Mediation in international conflict: An overview of theory, a review of practice. In Zartman, I. W. and Rasmussen, L., eds. *Peacemaking in International Conflict: Methods and Techniques*. Washington D.C.: United States Institute of Peace Press.

- Bercovitch, J., 2004. Social research and the study of mediation: Designing and implementing systematic archival research. *International Negotiation*, 9 (3) 415-428.
- Bercovitch, J., 2006. Mediation success or failure: The search for the elusive criteria. *Cardozo Journal of Conflict Resolution*, 7 (3) 601-615. Available at <http://cadozojcr.com/vol7no2/CAC206.pdf>. Accessed on 6th January 2014.
- Bercovitch, J., 2008. Third parties and conflict management in the context of East Asia and the Pacific. In J. Bercovitch, K. B. Huang, and C. C. Teng, eds., *Conflict Management, Security and Intervention in East Asia*, 19-39. London: Routledge.
- Bercovitch, V. Kremenyuk, & I. W. Zartman, eds., 2008. *The Sage Handbook of Conflict Resolution*. London: Sage Publications.
- Bercovitch, J., Huang, B. and Teng, C. C. eds., 2008. *Conflict Management, Security and Intervention in East Asia*. London: Routledge.
- Bercovitch, J., 2009. *Mediation and International Conflict Resolution: Analysing Structure and Behaviour*. London: Routledge.
- Bercovitch, J and Gartner, S. S., eds. 2009. *International Conflict Mediation: New Approaches and Findings*. London: Routledge.
- Bercovitch, J. and Jackson, R., 2009. *Conflict Resolution in the Twenty-First Century: Principles, Methods, and Approaches*. Michigan: University of Michigan Press.
- Bercovitch, J. and Kadayifci, S., 2009. Religion and Mediation: The Role of Faith-Based Actors in International Conflict Resolution. *International Negotiation Journal*, 14 (2)175–204.
- Bercovitch, J. and Kadayifci, S., 2002. Exploring the relevance and contribution of mediation in peacebuilding. *Peace and Conflict Studies*, 9 (1) 21- 41.

- Bercovitch, J., 2011. *Theory and Practice of International Mediation: Selected Essays*. London New York: Routledge.
- Berg, B., 1995. *Qualitative Research Methods for Social Sciences*. Boston: Allyn and Bacon.
- Berman, E., and Sams, K. E., 2000. *Peacekeeping in Africa: Capabilities and Culpabilities*. Geneva: United Nations Institute for Disarmament Research.
- Bermeo, N., 1997. Myths of Moderation: Confrontations and conflicts during democratic Transitions. *Comparative Politics*, 29 (3) 305-322.
- Bernard, H. R., 2002. *Research Methods in Anthropology: Qualitative and Quantitative Approaches*. London: AltaMira Press.
- Bernard, H. R., and Ryan, G. W., 2010. *Analysing Qualitative Data: Systematic Approaches*. London: Sage Publications.
- Bertrand G. R., 2015. *International Peace Conference*. Leiden-Netherlands: Martinus Nijhoff, May 24th, available at <http://www.international/peace/conference>, accessed on 14th January 2014. 45-69.
- Besley, T. and Burgess, R., 2002. The political economy of government responsiveness: theory and evidence from India. *The Quarterly Journal of Economics*, 117 (4) 1415-1451.
- Best, W. and Khan, J., 1993. *Research in Education*. London: Allyn and Bacon.
- Bezuidenhout, R. and Cronje, F., 2014. Qualitative Data Analysis. In Du Plooy-Cilliers, F., Davis, C., and Bezuidenhout, R. M. 2014. *Research Matters*. Cape Town: Juta.
- Birch, S., 2011. *Electoral Malpractice*. Oxford: Oxford University Press.
- Blankenship. T., 2015. *The Vitality of the Opening Statement in Mediation*. Murfreesboro: Blankenship Press.

- Bodewes, C., 2014. *Civil Society in Africa: The Role of a Catholic Parish in a Kenyan Slum*. Newcastle: Cambridge Scholars Publisher.
- Bohmelt, T., 2011. *Disaggregating Mediations: The Impact of Multiparty Mediation*. Cambridge: Cambridge University Press
- Boix, C., 2003. *Democracy and Redistribution*. Chicago: Cambridge University Press.
- Boulle, L., 2001. *Mediation: Skills and Techniques*. Adelaide: Butterworth.
- Boutros, B. G., 1992. *An Agenda for Peace Preventive Diplomacy, Peacemaking and Peace-Keeping*. Geneva: UN Publications.
- Bowling, D. and Hoffman, D., 2000. *Bringing Peace into the Room: The Personal Qualities of the Mediator and Their Impact on the Mediation*. New York: Wiley and Sons.
- Bradshaw, G., 2008. *Conflict Management for South African Students*. Cape Town: New Voices Publishing.
- Brahimi, L., 2000. "Brahimi Report" Report of the Panel on United Nations Peace Operations 2000, A/55/305. Geneva: United Nations Publications.
- Brancati, D., 2014. Democratic Authoritarianism: Origins and Effects. *Annual Review of Political Science*, 17 (4) 313-326.
- Branch, A., 2011. *Displacing Human Rights: War and Intervention in Northern Uganda*. New York: Oxford University Press.
- Brand, J. C., 1997. *Labour Dispute Resolution*. Cape Town: Juta.
- Brand, J., Steadman, F and Todd, C., 2012. *Commercial Mediation: A User's Guide*. Pretoria: Juta.

- Bratton, M., 2008. Vote buying and violence in Nigerian election campaigns. *Electoral Studies*, 27 (1) 621-632.
- Bratton, M., 2010. Anchoring democracy in Africa. *Journal of Democracy*, 21(4)106-113.
- Bratton, M., 2010. Formal versus informal institutions in Africa. In Diamond, L. and Plattner, M.F. eds. *Democratization in Africa: Progress and Retreat* 2nd ed. Baltimore: The John Hopkins University Press.
- Braun, V. and Clarke, V., 2006. *Using Thematic Analysis in Psychology*. Bristol: University of West of England Press.
- British Broadcasting Corporation (BBC)., 2008. *Kofi Annan Meets Kenyan Stakeholders*. 26th January, 9.30 am news.
- Bubenzer, F. and Lacey, E., 2013. Opportunities for gender justice and reconciliation in South Sudan. *Institute for Justice and Reconciliation*, Policy Brief 12, 17-26.
- Burnell, P. Randall, V. and Rakner, L. 2014. *Politics in the Developing World*. Oxford: Oxford University Press.
- Burnham, P., Karin, G., Wyn, G. and Zig, L., 2004. *Research Methods in Politics*. Houndmills: Palgrave Macmillan.
- Burrowes, R. J., 1996. *The Strategy of Nonviolent Defense: A Gandhian Approach*. New York: State University of New York Press.
- Burton, John., 1987. *Resolving Deep-Rooted Conflict: A Handbook*. London and New York: University Press of America.
- Burton, J., 1988. *Needs and Analogues of Primary Emotions*. New York: St. Martins.
- Burton, J., 1990. *Conflict: Human Needs Theory*. London: Macmillan.

- Burton, J., 1997. *Violence Explained: The Sources of Conflict, Violence and Crime and Their Provention*. Manchester: Manchester University Press.
- Bush R. A. and Folger, J., 1994. *The Promise of Mediation: Responding to Conflict through Empowerment and Recognition*. San Francisco: Jossey-Bass Publishers.
- Calderon, F., 2013. *Electoral Violence: The Dynamics of Conflict*. Colombia: Nexas Press.
- Candless, E. and Karbo, T., 2011. *Peace, Conflict, and Development In Africa: A Reader*. Geneva: University for Peace Press.
- Carey, J., 2012. *Intractable Conflicts in Central African Republic*. Bangui: Bangui printers.
- Central Depository Unit (CDU)., 2003. *Ghasia Watch*. Nairobi: Central Depository Unit Press.
- Central Intelligence Agency (CIA)., 2015. *World FactBook*. Washington, DC: CIA Publications.
- Centre for Security Studies (CSS), 2009. *Dealing with the Past and Peace Mediation*. Zurich: CSS Publications.
- Chanie, P. and Mihyo, B., 2013. *Thirty years of Public Sector Reforms in Africa: Selected Country Experiences*. New York: OSSREA and Fountain Publishers.
- Charbonneau, B. and Parent, G., 2013. *Peacebuilding, Memory and Reconciliation: Bridging Top-Down and Bottom-Up Approaches*. Canada: Routledge.
- Charmaz, K., 2014. *Constructing Grounded Theory*. London: Sage Publications.
- Cheeseman, N., 2008. The Kenyan elections of 2007: An introduction. *Journal of Eastern African Studies*, 2(2), 166-184.

- Cheeseman, N., 2009. Kenya since 2002: The more things change the more they stay the same. In Whitfield, L., & Mustapha, R., eds. *Africa since 2002*. London: James Currey.
- Cheeseman, N., and Tendi, B. M., 2010. Power-sharing in comparative perspective: the dynamics of 'unity government' in Kenya and Zimbabwe. *Journal of Modern African Studies*, 48 (2), 203-229.
- Chigas, D., 2010. Track II (Citizen) diplomacy. In: *Guy Burgess and Heidi Burgess eds. Beyond Intractability*. Colorado: University of Colorado.
- Choti, M., 2009. *University Going in Context: A Case Study of Gusii Students of Southwestern Kenya*. Adelphi: University of Maryland, College Park Press.
- Christie, D. J., 2011. *The Encyclopedia of Peace Psychology*. London: Wiley and Sons.
- Chuhan-Pole, P., 2015. *Africa's Pulse Spring*. New York: World Bank Publications.
- Clapham, C., 1985. *Third World Politics*. Wisconsin: University of Wisconsin Press.
- Cliffort, G., 1973. *The Interpretation of Cultures: Selected Essays*. New York: Basic Books Publishers.
- Cloke, K., 2001. *Mediating Dangerously: The Frontiers of Conflict Resolution*. San Francisco: Jossey-Bass.
- Coffey, A. and Atkinson, P., 1996. *Making Sense of Qualitative Data: Complementary Research Strategies*. New York: Sage Publications.
- Cohen, C., 1966. Civil Disobedience and the law. *Rutgers Law Review*, 21 (1) 1-18.
- Cohen, J., 2012. *Going Beyond ADR: A Federal Sector Mission and Work Life-centered Approach to Building Collaboration and Democratic Values on the Job*. Available at <http://www.Mediate.com/accessresources/pg/3>. Accessed on 24th September 2015.

- Colby, B.G., 2004. *Review of Past Efforts to Define and Evaluate Success in Environmental Conflict Resolution*. Norwell: Kluwer.
- Collier, P., and Vicente, P. C., 2008. *Votes and Violence: Evidence from a Field Experiment in Nigeria*. Lagos: Center for the Study of African Economies Press.
- Collis, J. and Hussey, R., 2006. *Business Research: A Practical Guide for Undergraduate and Postgraduate Students*, 2nd ed. New York: Palgrave Macmillan.
- Compton, R., 2000. *East Asian Democratisation: Impact of Culture and Economy*. Westport: Greenwood Publishing Groups.
- Connolly, P. 2013. *Evaluation of the Effectiveness of the "Promoting Reconciliation through a Shared Curriculum Experience" Programme*. Belfast: Queen's University Press.
- Corbin, J. and Strauss, A., 1990. Grounded Theory Research: Procedures, Canons and Evaluative Criteria. *Qualitative Sociology*, 13 (1) 200-221.
- Corbin, J. and Strauss, A., 2014. *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. London: Sage Publications.
- Corbin, J. and Strauss, A., 2015. *Basics of Qualitative Research: Techniques and Procedures for developing Grounded Theory*. 4th ed. London: Sage Publications.
- Coser, L., 1956. *The Functions of Social Conflict*. Glencoe: Free Press.
- Coser, L., 1957. Social conflict and theory of social change. *The British Journal of Sociology*, 8 (1) 197-207.
- Creswell, J., 1994. *Research Design, Qualitative and Quantitative Approaches*. London: Sage.
- Creswell, J., 2007. *Qualitative Inquiry and Research Design*. New York: Sage Publications.

- Creswell, J., 2013. *Research Design, Qualitative, Quantitative, and Mixed Methods Approaches* 4th ed. Nebraska: Sage Publications.
- Crocker, C. A., 1992. *Conflict Resolution in the Third World: The Role of the Superpowers*. Washington, DC: U.S. Institute of Peace.
- Crocker, C. A., 2007a. *Peacemaking and Mediation: Dynamics of a Changing Field*. New York: Sage Publications.
- Crotty, M., 1998. *The Foundations of Social Research: Meaning and Perspective in the Research*. London: Sage Publications.
- Curtis, D., 2013. Post-conflict peacebuilding, In Cheeseman, N., David, A. and Andrea S. (eds), *Routledge Handbook of African Politics*. London: Routledge.
- Cyllah, A., 2014. *Elections Worth Dying for? A selection of Cases from Africa*. Washington, DC: IFES Publications.
- Dabalan, Narayan, and Suarez 2014. *Do African Children have an Equal Chance?* Washington, DC: World Bank.
- Davis, K., 2012. *Disruptive Power: Kenya and US Relations*. Nairobi: Nyeri Press.
- Daxecker, U. E., 2012. The cost of exposing cheating: International election monitoring, election manipulation and violence. *Journal of Peace Research*, 49(4), 503-516.
- Decalo, S., 1998. *The Stable Minority: Civilian Rule in Africa, 1960–1990*. Gainesville and London: Florida Academic Press.
- Devon, T., 2013. *Elections 2013-Results*. London: Devon County.
- De Magalhaes, C. J., 1988. *The Pure Concept of Diplomacy*. New York: Greenwood Press.

- De Vos, A.S.; Strydom, H.; Fouché, C.B. and Delpont, C.S.L., 2005. *Research at Grass Roots: for the Social Sciences and Human Service Professions*. 3rd ed. Pretoria: Van Schaik Publishers.
- De Vos, A.S., Strydom, H., Fouche, C.B. and Delpont, C.S.L., 2011a. *Research at Grass Roots: For the Social Sciences and Human Service Professions*. Pretoria: Van Schaik Publishers.
- De Vos, A.S., Strydom, H., Fouche, C.B. and Delpont, C.S.L., 2011b. *Research Methods in the Social Sciences*. Pretoria: Van Schaik Publishers.
- De Waal, A., 2012. *Bigmanity and Network Governance in Africa Conflicts*. New York: Routledge
- Diamond, L. and McDonald, J., 1996. *Multi track diplomacy*. 3rd ed. Connecticut: Kumarian Press, Inc.
- Diamond, L., 1997. *Consolidating the Third Wave Democracies: Regional Challenges*. Baltimore: JHU Publishers.
- Dickovick, T., 2014. *Africa 2014*. Rowman and Littlefield.
- Dolgopal, K. and Gardam, J., 2006. The challenge of conflict. *International Humanitarian Law series*. Martinus Nijhoff Publishers.
- Dollard, J., Doob, L., Miller, N., Mowrer, O. and Sears, R., 1939. *Frustrations and Aggression*. Yale: Yale University.
- Dillon, M. and Reid, J., 2009. *The Liberal Way of War: Killing to Make Life Live*. London: Routledge.
- Dolonec, Y., 2013. *Democratic Institutions in Africa*. Mashire: Westcrest.
- Doyle, D., 2007. The John W. Holmes Lecture: Building, *Peace Global Governance Journal*, 13(1) 1-16.

- Duffield, M., 2007. *Development, Security and Unending War*. Cambridge: Polity Press
- Dumont, R., 1966. *False Start in Africa*. Worcester/London: Trinity Press.
- Du Plooy-Cilliers, G. 2001. *Communication Research: Techniques, Methods and Applications*, Landsdowne, Juta.
- Du Plooy-Cilliers, F., Davis, C., and Bezuidenhout, R. M. 2014. *Research Matters*. Cape Town: Juta.
- Duverger, M., 1994. *Political Institutions, Contexts, and Ethnic Conflict in Comparative Perspectives*. Texas: Proquest.
- Eboe, H., 2012. Security sector governance and peacebuilding, In Curtis, D. and Dzinesa, G. A. 2012. *Peacebuilding, Power, and Politics in Africa*. Ohio: Ohio University Press.
- Ehrman, J. and Lesnick, N., 1988. The policy dialogue: Applying mediation to the policy making process. *Mediation Quarterly*, 20 (1) 24-36.
- Eilers, C., 2009. *Diplomats and Diplomacy in the Roman World*. California: Brill.
- Elangovan, A. R., 1995. Managerial third-party dispute intervention: A prescriptive model of strategy selection. *Academy of Management Review*, 20, 800-830.
- Electoral Institute of Southern Africa (EISA)., 2002. *Theory Causes and Consequences of Election-Related Conflicts*. Johannesburg: EISA Publications.
- Engberg, J. and Ersson, S., 1999. Illiberal Democracy in the Third World- An Empirical Study. A paper presented for the workshop '*Democracy in the Third World: What should be done?*' Mannheim, Germany. 26-31 March.
- English, F. W., 2006. Understanding leadership in educational: Life Writing and its Possibilities. *Journal of Educational Administration and History*. 38 (2) 141-154.

- Erickson, F., 2011. A history of Qualitative Inquiry in Social and Educational research, In Norman K. Denzin, Yvonna S. *The Sage Handbook of Qualitative Research*. New York: Sage Publications.
- Erickson, S. and Marilyn, S. M., 2014. *The Practitioner's Guide to Mediation: A Client-Centered Approach*. New York: John Wiley and Sons INC.
- Esman, M., 2004: *Ethnic Conflict*. Cambridge: Cambridge Polity Press.
- European Union Election Observation Mission (EUEOM)., 1992. *Of Ethnicity, Manipulation and Observation 1992 Elections in Kenya*. NDI: EUEOM report.
- European Union Election Observation Mission (EUEOM)., 2008. *Kenya Final Report: General Elections 27th December 2007*. Brussels: Belgium EUOM Commission.
- European Union Election Observation Mission (EUEOM)., 2012. *Ethiopia Rejects biased Monitoring*. EUEOM Publication.
- Fanon, F., 1961. *The Wretched of the Earth: A Handbook about for the Black Revolution that is changing the Shape of the World*. New York: Grove Weidenfeld.
- Farrington, P., 2009. Conduct disorder, aggression and Delinquency. In Lerner, R. and Steinberg L., 2009. *Handbook of Adolescent Psychology*. New Jersey: Wiley Press.
- Fearon, J. and Laitin, D., 2008. Ethnic Minority Rule and Civil War Onset. *American Political Science Review*, 101(1)187–193.
- Finley, A. and Khan, S., 2011. *Understanding Electoral Violence in Asia-Mongolia*. New York: UNDP Publications.
- Fischer, J., 2002. *Electoral Violence and Violence: A Strategy for Study and Prevention*. Washington, D.C.: International Foundation for Electoral Systems (IFES).
- Fischer, A. M., 2011. Reconceiving Social Exclusion. *BWPI Working Paper*, 146 (1)1-18. Manchester: University of Manchester.

- Fisher, R. J. and Ury, W., 1981. *Getting to Yes: Negotiating Agreement Without Giving In*. New York: Random House.
- Fisher, R. J., 1997. *Interactive Conflict Resolution*. Syracuse: Syracuse University Press
- Fisher, R. J., 2001. Cyprus: The failure of mediation and the escalation of an identity-based conflict to an adversarial impasse. *Journal of Peace Research*, 38 (2) 307-326.
- Fisher, R. J., Ury, W., and Patton, B., 2011. *Getting to Yes: Negotiating Agreement without Giving In*. 3rd Ed. New York: Penguin Books.
- Fomunyoh, C., 2009. *Mediating Election-Related Violence*. Background paper, Geneva: Centre for Humanitarian Dialogue. 1-20
- Ford, H., 2010. *Rituals of Peace in Africa*. New York: Hamper.
- Forman, S. and Steward, P., eds. 2000. *Good Intentions: Pledges for Aid for Post-Conflict Recovery*. London: Lynne Rienner Publishers.
- Fossungu, P. A., 2013. *Democracy and Human Rights in Africa: The Politics of Collective Participation and Governance in Cameroon*. Bamenda: Langaa RPCIG.
- Foucault, M., 1972. *The archaeology of knowledge*. New York: Pantheon Books.
- Fouere, M. A. and Mwangi, S., 2015. *Kenya's Past as Prologue: Voters, Violence and the 2013 General Election*. Nairobi: Twaweza Communications.
- Friedrich-Ebert-Stiftung (FES)., 2012. *African Media Barometer: Tanzania 2012*. Available from <http://library.fes.de/pdf-files/bueros/africa-media/09818.pdf>. Accessed on 24th July 2014.
- Fritz, J. 2013. *Moving Toward a Just Peace: The Mediation Continuum*. Cincinnati: Springer Science and Business Media

- Fromkin, D., 3rd ed. 2012. *A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of the Modern Middle East*. 1st American Ed. New York: Henry Holt and Co.
- Gadamer, H., 1989. *Truth and Methods*. New York: Crossroad.
- Galtung, J., 1967. Theories of conflict: definition, dimension, negation and formations. *Transcend organisation*. Geneva: Transcend Publications.
- Galtung, J., 1969. Violence, Peace and Peace Research, *Journal of Peace Research*, 6 (3) 167-191.
- Galtung, J., 1970. Peace theory, peace practice and international peace academy. *International Peace Research Institute*, 231 (1) 25-35.
- Galtung, J., 1976. Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding. In Galtung, J., *Peace, War and Defence: Essays in Peace Research*. Copenhagen: Christian Ejliders.
- Galtung, J., 1990. Cultural Violence. *Journal of Peace Research*, 27 (3) 291-305.
- Galtung, J., 1993. *Budhism, a Quest for Study and Peace*. Colombo: Sarvodaya Printing Services.
- Galtung, J., 2004. *Transcend and Transform: An Introduction to Conflict Work*. New York: Pluto Press.
- Ganahl, J. P., 2014. *Corruption, Good Governance, and the African State: A Critical Analysis of the Political-Economic Foundations of Corruption in Sub-Saharan Africa*. Postdam: Postdam University Press.
- Garreton, M., 2012. *Why are Elections So Violent in Kenya?* Nairobi: More Publishers.
- Gay, L., 1996. *Educational Research: Competencies for Analysis and Application*. New York: Merrill Publicantions.

- Geddes, M., 2006. Neoliberalism and local governance: cross-national perspectives and speculation. *Policy Studies*, 26 (3) 359–377.
- Geest, G. and Mattiacci, G., 2014. *The Rise of Carrots and the Decline of Sticks*. Washington, D.C. Washington University School of Law.
- Gekonge, C. O., 2013. *Emerging Business Opportunities in Africa: Market Entry Competitive Strategy and the Promotion of Foreign Direct Investments*. Hershey, PA: IGI Global.
- Gentile, V., Maffettone, S. and Chandhoke, N., 2013. *From Identity-Conflict to Civil Society Restoring Human Dignity and Pluralism in Deeply Divided Societies*, Luiss University Press.
- Gerzon, M., 2014. To Resolve a Conflict, First Decide: Is It Hot or Cold? *Harvard Business Review* 2 (1) 1-12.
- Gibbon, P., 1995. *Markets, Civil Society and Democracy in Kenya*. New York: Stylus Publications.
- Gillies, D., 2011. *Elections in Dangerous Places: Democracy and the Paradoxes of Peacebuilding*. Michigan: Michigan University Press.
- Glaser, B. and Strauss, A., 1967. *The Discovery of Grounded Theory: Strategies for Qualitative Research*. Chicago: Aldine.
- Glaser, B., 1978. *Theoretical Sensitivity: Advances in the Methodology of Grounded Theory*. Mill Valley, CA: Sociology Press.
- Glaser, B., 1998. *Doing Grounded Theory: Issues and Discussions*. New York: Sociology Press.
- Gleditsch, K., and Beardsley, K., 2004. Nosy Neighbours: Third-Party Actors in Central American Conflicts. *Journal of Conflict Resolution*, 48 (3) 379-402.

- Gona, G. and Wa-Mungai, K., 2014. *(Re)membering Kenya: Interrogating Marginalization and Governance*. Nairobi: Twaweza Communications
- Green, E., 2012. The Political Demography of Conflict in Modern Africa. *Civil Wars*, 14 (4) 477–498.
- Greig, J. M., 2005. Stepping into the Fry: When do Mediators Mediate? *American Journal of Political Science*, 49 (2) 249-266.
- Guba, E. G. and Lincoln, Y. S., 1989. *Fourth generation evaluation*. Newbury Park, CA: Sage.
- Gurr, T., 1970. Why Men Rebel. *Midwest Journal of Political Science*, 14 (4) 725-728.
- Gurr, T., 1971. Relative Deprivation Theory, Nationalism, Ethnicity and Identity Conflicts. *Geopolitics Quarterly*, 8 (4) 156-174
- Haas, R., 1988. Ripeness and the Settlement of Disputes. *Survival Journal*, 30 (3) 245-246.
- Hamdok, A. and Rukambe, J., 2008. *Electoral Process and the Prospects for Democracy Consolidation*. Pretoria: AISA Publishers.
- Hancock, D. and Algozzine, R., 2006. *Doing case study research: A practical guide for beginning researchers*. New York: Teachers College Press.
- Hanna, F., 2003. *Conflict Resolution and Mediation in the Real World*. Boston: Lulu.
- Hansard, 2004. *Parliamentary Debate* August 3rd. Nairobi: Kenya National Assembly Official Record.
- Henderson, E. A., 2002. *Democracy and War: The End of an Illusion?* Boulder, CO: Lynne Rienner Publishers.

- Herbel, T., 2004. *Poverty: How States Can Improve Conditions of Slum Dwellers*. New York: Rodham House.
- Herberg, K. and Bloomberg, F., 2012. *Electoral Systems: Proportional Representations*. New York: Clinders.
- Herbst, J., 2000. *States and Power in Africa: Comparative Lessons in Authority and Control*. New Jersey: Princeton University Press.
- Hoglund, K., 2009. Electoral Violence: Causes, Concepts and Consequences. *Terrorism and Political Violence* 21 (3) 412-427.
- Hoeffler, A., 2012. Can International Interventions Secure the Peace? *International Area Studies Review*, 17 (1) 75-94.
- Hoffman, F., 2007. *Conflict in the 21st Century: The Rise of Hybrid Wars*. Potomac Institute for Policy Studies. Arlington-Virginia: PIPS Press.
- Hoffman, D., 2007. Exploring the boundaries and terrain of adr practice: mediation, arbitration and collaborative law. *Dispute Resolution Journal* 6 (2) 1-22.
- Hoffman, D., 2011. *Mediators can break political Impasse*. Washington, DC: Christian Science
- Hornsby, C., 2011. *Kenya: A History Since Independence*, I.B.Tauris.
- Hornsby, C., 2013. *Kenya: A History Since Independence*, 2nd ed. I. B. Tauris.
- Horvat, E., 2013. *The Beginner's Guide to Doing Qualitative Research: How to Get into the Field, Collect Data, and Write Up Your Project*. Amsterdam: Teachers College Press.
- Human Rights Watch., 1993. *Divide and Rule: State-Sponsored Ethnic Violence in Kenya*. Nairobi: HRW Publications.

Human Rights Watch., 2003. *Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa*. Nairobi: HRW Publications

Human Rights Watch., 2009. *Bring the Gun or You'll Die: Torture, Rape and Other Serious Human Rights Violations by Kenyan Security Forces in the Mandera Triangle*, New York: Human Rights Watch.

Human Rights Watch., 2010. *Popular Defense Force: A government Sponsored militia*. Nairobi: HRW Publications

Human Rights Watch., 2013. *Election Campaigns, Ethnic Profiling, and Violence*. Nairobi: HRW Publications.

Humphreys, M. and Weinstein, J. M., 2007. Demobilization and Reintegration. *Journal of Conflict Resolution* 51 (4) 531-567.

Hunter, K., 2012. *Litigation: An Expensive Exercise in Nigeria*. California: Myers.

Huntington, S. P., 1991. *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma.

Huntington, S. P., 1993. *The Clash of Civilizations and the Remaking of World Order*. New York: Simon & Schuster.

Huntington, S. P., 2012. *The Third Wave: Democratization in the Late 20th Century*, University of Oklahoma Press.

Ilo-Chu, S., 2006. *The Face of Africa: Looking Beyond the Shadows*. Bloomington: AuthorHouse.

Ilona, T., 2006. *Security of Elections in Southern Africa*, Occasional Paper June 14th Johannesburg: EISA Publications.

- Institute for Multitrack Diplomacy (IMTD). 2004. *Multi-track Diplomacy*. Arlington. IMTD Publications.
- International Foundation for Electoral Systems (IFES)., 2012. *An integrated Approach to Elections and Conflicts*. New York: IFES Publications
- International Foundation for Electoral Systems (IFES)., 2013. *Mediating Election Conflict in a Bruised society: Code of conduct monitoring committees in post-war Sierra Leone, 2006 – 2012*. Princeton, NJ: Princeton University.
- International Peace Academy., 2005. The role of civil society in peacebuilding in the great lakes region. *International Peace Institute*. Vienna Conference 3rd September.
- Isaac, K., 2009. *Kenya the British Colony*. New York: Palgrave.
- Jacobs, A., 2011. *Nairobi Burning: Kenya's Post-Election Violence from the Perspective of the Urban Poor*. Peace Research Institute Frankfurt, Report No. 110.
- Jahanbakhsh, F., 2001. *Islam, democracy and religious modernism in Iran, 1953-2000: from Bazargan to Soroush*. Leiden: Brill.
- Jeong, H. W., 2008. *Understanding Conflict and Conflict Analysis*. New York: SAGE Publications.
- Johnnie, N. D., 2011. *Sampling Essentials: Practical Guidelines for Making Sampling Choices*. Thousand Oaks-California: Sage Publications.
- Jones, E., 1987. *The European Miracle: Environments, Economies and Geopolitics in the History of Europe and Asia*. New York: Cambridge University Press.
- Kagwanja, M., 1998. *Killing the Votes: State Sponsored Violence and Flawed Elections in Kenya*. Nairobi: Kenya Human Rights Commission Publications.

- Kagwanja, P., 2003. Facing Mount Kenya or Facing Mecca. The Mungiki Ethnic Violence and the Politics of Moi Succession in Kenya, 1987-2002. *African Affairs* 102 (1) 25-49.
- Kagwanja, P. and Southall, R., 2008. On the Brink of the Precipice: A human Rights Account of Kenya's post 2007 Elections. *KNCHR-2007-PEV-report*. Nairobi: KNCHR Press
- Kagwanja, P. and Southall, R., 2013. *Kenya's Democracy: The Electoral Crisis of 2008*. Oxon: Routledge.
- Kaldor, M., 2013. *New and Old Wars: Organised Violence in a Global Era*, London: Wiley.
- Kalisa, C., 2009. *Violence in Francophone African and Caribbean Women's Literature*. Nebraska: University of Nebraska.
- Kamau-Rutenberg, W., 2008. *Feuding in the Family: Ethnic Politics and the Struggle for Women's Rights Legislation*, University of Minnesota.
- Kanyinga, K. and Okello, D., 2010. *Tensions and Reversal in Democratic Transitions: The Kenya 2007 general Elections*. Nairobi: Society for International development.
- Kargbo, A. H. 2014. *Post-Conflict Governance in Sierra Leone*. London: Author House.
- Karua, M., 2008. How Kenyans' Election was Rigged. Washington DC: *McClatchy news* 31st January 2008, available [www. McClatchy/news/nation-world/article24475582.html](http://www.McClatchy/news/nation-world/article24475582.html) accessed on 25th March 2015.
- Katrien, H., 2010. *The Complex Reality of Religious Peacebuilding: Conceptual Contributions and Critical Analysis*. Plymouth: Lexington.
- Keith, K., 1996. Bridging the Agenda of Security Studies: Politics and Methods. *Mershon International Studies Review*, 40 (2) 229-254.

- Kelle, U. and Bird, K., 2009. *Computer-Aided Qualitative Data Analysis: Theory, Methods and Practice*. London: Sage Publications.
- Kenya Gazette., 1938. Native Reserve and White Highland Administration. Nairobi: KG, (717) of 5th July.
- Kenya Gazette., 2005. *Public Disposal and Procurement Act*. Nairobi: Government Printer.
- Kenya Human Rights Watch (KHRW)., 2014. Kenya: Killings, Disappearances by Anti-Terror Police-Donors Should Suspend Support for Abusive Units. Nairobi: KHRW Publications.
- Kenya, Law., 2010. *The Constitution of Kenya, 2010*. Nairobi: Government Printing Press
- Kenya National Bureau of Statistics., 2005. *The National Inequality and Poverty index*. Nairobi: Government Printing Press.
- Kenya National Commission of Human Rights (KNCHR)., 2008. The Mountain of Terror – a Report on the Investigations of Torture by the Military at Mt. Elgon. Nairobi: KNCHR press
- Kenya National Dialogue and Reconciliation (KNDR)., 2008. *The mediation process*. Nairobi: KNDR
- Kenya National Human Development (KNHD)., 2009. *Report on Women representation in Politics in Kenya*. Nairobi: KNHD Publication.
- Keren-Paz, T., 2013. *Torts, Egalitarianism and Distributive Justice*. London: Ashgate Publishing.
- Kervin, B., 1992. *Methods for Business Research*. Auckland: Harper Collins Publishers.
- Keys, J., 2013. *Fighting Brits*. Nairobi: Lulu Press.

- Kiai, M., 1998. Commentary: A last chance for peaceful change in Kenya. *Africa Today* 45 (2) 185-197.
- Kim, S. 1986. *Social conflict: Escalation, stalemate, and settlement*. New York: Cengage
- Kimani, M., 2008. *The medium that became a tool for mass murder*. London: Pluto.
- Kimani, K., 2014. *Identity Politics and ethnography*. Beverly Hills, CA: Sage.
- Kimmel, M., 2000. *The gendered society*. New York: Oxford University Press.
- Kinash, S., 2013. *Research Methods and Methodology in the context of ontology and epistemology*. Calcutta: Vendra Books.
- Kish, L., 1965. *Statistical Design for Research*. New Jersey: John Wiley and Sons.
- Kleibor, M., 1996. Understanding Success and Failure of International Mediation. *The Journal of Conflict Resolution*, 40 (2) 360-389
- Kleibor, M., 1998. *The multiple realities of international mediation*. Boulder, CO: Lynne Rienner.
- Kleibor, M., 2002. Great Power Mediation: Using Leverage to Make Peace? In Jacob Bercovitch (editor), *Studies in International Mediation: Essays in Honour of Jeffrey Z. Rubin*. New York: Macmillan.
- Klopp, J., 2001a. *Electoral Despotism in Kenya: Land, Patronage and Resistance in the Multi-Party Context*. PhD thesis, McGill University.
- Klopp, J., 2001b. Ethnic Clashes and Winning Elections: The Case of Kenya's Electoral Despotism. *Canadian Journal of African Studies* 35 (3) 74-517.
- Klopp, J., Githinji, P. and Karuoya, K., 2010. Internal displacement and local peacebuilding in Kenya: Challenges and innovations. *United States Institute of*

Peace. Available at <http://www.usip.org/publications/internal-displacement-and-local-peacebuilding-in-kenya>. Accessed on 7th August 2015.

Koki, M., 2009. *The Bridge Model of electoral violence*. New York: Ace Publications.

Koonin, M., 2014. Validity and reliability. In *Research Matters*. Cape Town: Juta.

Kriesberg, L. and Dayton, B. W., 2012. *Constructive Conflicts: From Escalation to Resolution*. New York: Rowman & Littlefield.

Kumar, C. R., 2008. *Research Methodology*. New Delhi, India.

Kumar, C. and Haye, J., 2011. Hybrid Peacemaking: Building National “Infrastructures for Peace” *Global Governance Journal*, 7 (1)13–20.

Kumar, K., eds. 2014. *Post-Conflict Elections, democratization and International Assistance*. Colorado: Boulder, Co: Lynne Rienner.

Kurtz, L. R., 2015. *Gods in the Global Village: The World's Religions in Sociological Perspective*, Sage Publications.

Lafargue, J., 2009. *The General Elections in Kenya, 2007*. Nairobi: African Books Collection.

Laraki, B., 2011. *Election by Majority Judgement: Experimental Evidence*. California: Springer.

Leavitt-Alcantara, S., 2009. *Religion and Environmental Struggles*. Oxford: Oxford

Lederach, J. P., 1997. *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington, D.C. United States Institute of peace Press.

Lederach, J. P. and Lederach, J. A., 2011. *Strategic Peacebuilding: An overview*. New York: Oxford University Press.

- Leeds, C. 1997. Conflicts across cultures: challenges to practitioners. *The International Journal of Peace Studies* 2(2) 78.
- Levitsky, S. and Way, L., 2010. *Competitive Authoritarian: Hybrid Regimes after Cold War*. Cambridge: Cambridge University Press.
- Lewis, J. L. and Sheppard, R. J., 2006. Culture and communication: Can landscape visualization improve forest management consultation with indigenous communities? *Landscape and Urban Planning* 77 (3) 291-313.
- Lieberman, E. and Singh, P., 2011. *Solid democratic trends across African continent*. New Delhi: Pynar Books
- Lijphart, A., 1990. Electoral Systems and Conflicts Management in Segmented Societies, in *Critical Choices for South Africa: An Agenda for the 1990s*, Schreier, R.A. ed. Cape Town: Oxford University Press.
- Lindbeck, A., 1976. Stabilization Policy in Open Economies with Endogenous Politicians. *American Economic Review* 12 (2)1-19.
- Lindberg, S., 2003. It's Our Time to 'Chop': Do Elections in Africa Feed Neopatrimonialism rather than Counter-Act it? *Democratisation* 14 (2) 121-140.
- Lindberg, S., 2006. The Surprising Significance of African Elections. *Journal of Democracy* 17(1) 139-151.
- Lindberg, S., 2008. Are African voters really ethnic or clientelistic? Survey evidence from Ghana. *Political Science Quarterly* 123 (1) 95-122.
- Lindenmayer, E. and Kaye, J. L., 2009. *A choice for Peace: The Story of Forty-one days of Mediation in Kenya*. Nairobi: International Peace Institute.
- Lisa, G., 2008. *The Sage Encyclopaedia of Qualitative Research Methods*. New York: Sage Publications.

- Lisa, G., 2015. *100 Questions (and Answers) About Qualitative Research*. Sturt: Sage Publications.
- Lucuta, G. M., 2014. *Peacebuilding and human rights: An agenda for democratic transformation*. Ibadan: University of Ibadan Press.
- Lumumba, P. L. O. and Mbondenyei, M. K., 2014. *The Constitution of Kenya: Contemporary Readings*, African Books Collective.
- Lyons, D. M., 1993. *Conflict as a constructive force in social life*. Albany: State University of New York Press.
- Machika, S., 2009. *Causes and Consequences of Youth Involvement in Electoral Violence*. Kano: NVS press.
- Magstadt, T., 2009. *Understanding Politics: Ideas Institutions and Issues*. Belmont: Wadsworth Cengage Learning.
- Mahoso, T., 2010. Completion of Africa's liberation, *The Herald*. Available at: <http://allafrica.com/stories/20100420042.html> accessed 25th July 2014.
- Maiese, M., 2004. Limiting Escalation / De-escalation. Beyond Intractability. Eds. Guy Burgess and Heidi Burgess. *Conflict Information Consortium*, University of Colorado, Boulder. Available: <http://www.beyondintractability.org/bi-essay/limiting-escalation>. Accessed on 23 July 2014.
- Maiese, M., 2012. Underlying causes of disputes and conflicts. *Beyond Intractability*. Available: <http://www.beyondintractability.org/essay/underlying-causes>. Accessed 14th October 2014.
- Makumi, M., 2007. *Governance and Conflict Management*. Nairobi: University of Nairobi Press.

- Makumi, M., 2008. *The Water's Edge: violent Electoral violence and Mediation in Kenya*. Nairobi: University of Nairobi Press.
- Malone, L. A., 2008. *International Law*. Berkeley: Aspen Publishers.
- Mapendere, J., 2001. Defining Track One-and-a-Half Diplomacy: Its Complementarity and the Analysis of Factors that Facilitate its Success. Ottawa: Royal Roads University.
- Track One and a Half Diplomacy and the Complementarity of Tracks. *Culture of Peace Journal* 2 (1) 66-81.
- Mapendere, J., 2000. Track One and a Half Diplomacy and the Complementarity of Tracks. *Culture of Peace Journal* 2 (1) 66-81.
- Mapendere, J., 2005. Consequential Conflict Transformation Model, and the Complementarity of Track One, Track One and a Half, and Track Two Diplomacy. Atlanta: Carter Centre.
- Marc, A., Verjee, N. and Mogaka, S., 2015. *The Challenge of Stability and Security in West Africa*. Washington, DC: World Bank.
- Marcil, J. G. and Thornton, N. D., 2008. Avoiding Pitfalls: Common Reasons for Mediation Failure and Solutions for Success. <http://www.beyondintractability.org/bi-essay/avoidingpitfalls>, accessed 14th February 2015.
- Marsh, S. R., 2000. Mediation Pitfalls and Obstacles. *Beyond Intractability*. Available: <http://www.beyondintractability.org/essay/mediation-pitfall> and-Obstacles. Accessed 1st June 2014.
- Maslow, A. H., 1943. A theory of human motivation. *Psychological Review*, 50, 370–396.
- Materu, S. F., 2014. *The Post-Election Violence in Kenya: Domestic and International Legal Responses*, Nairobi: T.M.C. Asser Press.

- Maundeni, Z., 2011. Protracted Social Conflict or Interest-Based Conflict: The Basis for Successful Liberal Politics in Botswana. *Afro Asian Journal of Social Sciences*, 2 (2) 2229 -53131
- Maxon, R. M. and Ofcansky, T. P., 2014. *Historical Dictionary of Kenya*, Rowman & Littlefield Publishers.
- Mbaka, J., 2013. *The Media and Responsible Journalism*. Valletta: progress Press.
- Mbugua, T., 2008. *Corruption in Kenya: A Monster eating up the society*. Nairobi: Kitper Press.
- McDermott, P. and Obar, R., 2012. What's going on" in mediation: an empirical analysis of the influence of a mediator's style on party satisfaction and monetary benefit, *Harvard Negotiation Law Review* 75 (9) 12-29.
- McDonald, J. W., 1991. Further exploration of track two diplomacy. *Timing the De-escalation of International Conflicts*, 3 (2) 201-220.
- McKay, J., 1982. An Exploratory Synthesis of Primordial and Mobilisationist Approaches to Ethnic Phenomena', *Ethnic and Racial Studies*, 5 (2) 395-420.
- McMillan, J. H. and Schumacher, S., 2001. *Research in Education: A Conceptual Introduction*. London: Longman.
- McMullin 2013. *Ex-Combatants and the Post-Conflict State Challenges of Reintegration*. London: Palgrave Macmillan.
- McNamara, C., 2009. *General guidelines for conducting interviews*. Retrieved December 23rd 2014, from <http://managementhelp.org/evaluatn/intrview.htm>
- Mead, G. H. 1934. *Mind, self, and society*. Chicago: University of Chicago Press.
- Meredith, M., 2005. *The State of Africa: A History of Fifty Years of Independence*. London: Free Press.

- Merriam, S.B., 1988. *Case Study Research in Education. A Qualitative Approach*. San Francisco Jossey-Bass.
- Merril, J. G., 2005. *International Dispute Settlement*, Cambridge: Cambridge University Press.
- Meyer, J. and Giacomini, N. 2009. *Reframing Conflict through Mediation*. New York: Bokus
- Miller, D., 2011. *Stewardship or Agency? As Social Embeddedness Reconciliation of Conduct and Performance in Public Family Businesses*. Montreal: University of Alberta.
- Miller, F., 2015. *States at War, Volume 4: A Reference Guide to Delaware, Maryland and New Jersey in the Civil War*. University Press of England.
- Mitchel, M. I., 2012. Power-sharing and peace in Ivory Coast: Past examples and future prospects. *Conflict Security and Development*, 12 (2) 171-191.
- Montville, V. J., 1991. *The Arrow and the Olive Branch: Track Two Diplomacy*. Lexington. Lexington Books.
- Moore, C. W., 2014. *The Mediation Process: Practical Strategies for Resolving Conflict*, Wiley.
- Morgan, D. L., 1993. *Successful focus groups*. Newbury Park, CA: Sage.
- Morgan, R. L., and Dutton, J. E., 2009. *Exploring positive identities and organizations: Building a theoretical and research foundation*. New York: Routledge
- Morsander, J. and Valtonen, A., 2006. *Qualitative Marketing Research: A Cultural Approach*. Helsinki: Sage Publications.
- Morrison-Malley, K., McCarthy, S. and Hines, D., 2012. *International Handbook of War, Torture, and Terrorism*, Springer New York.

- Morse, J. M., 2001. *Are There Risks in Qualitative Research?* Thousand-Oak: Sage Publications.
- Motsamai, D., 2010. When Elections become a curse: Redressing Electoral Violence in Africa. *EISA Policy Brief Series*, 1, Johannesburg: EISA publishers.
- Mpangala, G., 2007. Conflict Resolution and Peacebuilding in Africa as A Process: Case Studies of Burundi and the Democratic Republic of Congo. Retrieved from <https://repositories.lib.utexas.edu/bitstream/handle/2152/.../2984.pdf>. Accessed on 14th September 2015.
- Mpofu, E., 2011. *Counselling People of African Ancestry*. Cambridge: Cambridge University Press.
- Mueller, S, D., 2014. "Party adaptation and change and the crisis of democracy: Essays in honour of Peter Mair." *Party Politics*, 20 (2) 45-56.
- Musa, B. and Domatob, J. K., 2012. *Communication, Culture and Human Rights in Africa*. California: University of America.
- Mutai, D., 2008. *Power-sharing to end Political Crisis*. Nairobi: Kyu Sung Printers.
- Mutahi, P., 2005. *Political Violence in the Elections*. Nairobi: Trans Africa Press.
- Mutua, M., 2008. Kenya's Quest for Democracy: Taming Leviathan. Michigan: L. Rienner Publishers.
- Mwakikagile, G., 2001. *Ethnic Politics in Kenya and Nigeria*, Nova Science Publishers.
- Mwangi, S., 2008. African Diplomacy and Diplomacy from the West. Sert Press
- Mweka, L., 2015. Militia and non-state actors in Kenya. Nairobi: Litho Press.
- Nafzinger, W., 2012. *Economic Development*. Cambridge: Cambridge University Press.

- Naidoo, S., 2012. The Role of Track Two Diplomacy in the Democratic Republic of Congo Conflict. *African Journal of Conflict Resolution* 1 (2) 85-104.
- Nathan, L., 2013. *A clash of Norms and Strategies in Madagascar: Mediation and the AU policy on unconstitutional Change of Government*. Pretoria: CMA publications.
- National Archives Kenya., 1996. *British Arrival in Kenya*. Nairobi: NAK
- National Bureau of Statistics Kenya., 2005. *The national inequality and poverty index per province in Kenya*. Nairobi: NBS.
- National Elections Monitoring Unit (NEMU)., 1992. The Multi-Party General Elections in Kenya, 29 December Report. NEMU publications
- Ndulo, M., 2010. *Free and Fair Elections: Violence and Conflicts*. Cornell Law Faculty Publications. <http://scholarship.law.cornell.edu/facpub/186>
- Nelson Mandela Metropolitan University (NMMU). 2005. *Institutional regulatory code*. Available:www.nmmu.ac.za/documents/rm/Code%20of%20conduct%20for%20researchers%20at%20NMMU [Accessed 14th September, 2015].
- Neergaard, H. and Ulhoi, J. P., eds. 2007. *Handbook of Qualitative Research Methods in Entrepreneurship*. Cheltenham: Edward Elgar Publishing Limited.
- Neville, C., 2007. *The Complete Guide to Referencing and Avoiding Plagiarism*. Berkshire: Open University Press/McGraw-Hill.
- Neuman, E. and Karl, D., 2014 *Routledge Handbook of Civil Wars*. New York: Routledge.
- Neuman, W. L., 2006. *Social research methods: Qualitative and quantitative approaches*. 6th ed. Boston, MA: Allyn and Bacon.
- Newman, E. and Schnabel, A., 2014. *Recovering from Civil Conflict: Reconciliation, Peace, and Development*. London: Taylor and Francis.

- Nhema, A. and Zeleza, T., 2008. *Resolution of African Conflicts: The Management of Conflict Resolution and Post-Conflict Reconstruction*. Addis Ababa: OSSREA, Ohio University Press.
- Nhema, A., Zeleza, T., and Currey, J., eds. 2008. *The Roots of African Conflicts: The Causes and Costs and The Resolution of African Conflicts: The Management of Conflict Resolution and Post-Conflict Reconstruction*. Addis Ababa: OSSREA, Ohio University Press.
- Njageh, K., 2009. *Research methods for Social Sciences*. Nairobi: Kinoo Printers.
- Njagi, K., 2009. *Inequality as a Cause of Electoral Violence in Africa*. Nairobi: Kiambu Printers.
- Njogu, K., 2011. *Defining Moments: Reflections on Citizenship, Violence and the 2007 General Elections in Kenya*. Kampala: African Books Collective.
- Nkejiaka, C., 2010. *Emergence of Ethnic Militia Movements in the Niger Delta Region*. New York: VDM Publishing.
- Nohlen, D., Krennerich, M. and Thibaut, B., 1999. *Elections in Africa: A Data Handbook*. Oxford: Oxford University Press.
- Nordhaus, W. 1975. The political business cycle. *Review of Economic Studies*, 42,169–90.
- Norris, P., Frank, R. and Coma, E., 2015. *Contentious Elections: From Ballots to Barricades*. New York: Routledge.
- Nugent, P., 2004. *Africa since Independence: A Comparative History*. New York: Palgrave Macmillan.
- Nwokeafor, C. U. and Langmia, K., 2010. *Media and Technology in Emerging African Democracies*, University Press of America.

- Obadare, E., 2013. *Democracy and Prebendal Politics in Nigeria: The Rise and Fall of Second Republic*. Cambridge: Cambridge University press.
- Obodo, K., 2012. *Non-Governmental Organisations and Peacebuilding*. Lagos: Kaldre
- Ochieng, M., 2012. *Africa: Politics and democratisation*. New York: Routledge.
- Ochieng', W. R. and Maxon, R. M., 1992. *An Economic History of Kenya*, East African Educational Publishers.
- Oduro, F., 2012. *Transitional Societies, Democratic Accountability and Policy Responses: The Formulation of the Truth and Reconciliation Commission-Approach to a Transitional Justice Policy in Africa (South Africa, Nigeria, Ghana),"* Carleton: Carleton University.
- Ogot, B. A., 2009. *Decolonization & Independence in Kenya, 1940-93*. Nairobi: J. Currey.
- O' Gorman, E., 2011. *The Front Line Runs Through Every Woman: Women and Local Resistance in the Zimbabwean Liberation War*. Rochester, NY: Boydell and Brewer INC.
- Ohlson, T., 2008. Understanding Causes of War and Peace. *European Journal of International Relations*, 14(1), 133-160.
- Okoko, P., 2013. Elections nullified for serious irregularities. *Kenya law report*, Issue 105.
- Okoth-Okombo, D., 2011. *Challenging the Rulers: A Leadership Model for Good Governance*, East African Educational Publishers Limited in partnership with Community Aid International.
- Okure, T., 2014. They will never follow a stranger: Good citizenship as antidote for bad leadership in Nigerian Context In *Good Citizenship and Leadership in the Bible*. Ed. Ukweugbu, B.; Jerome, M.; Nyoyoko, V. and Gotan, C. Port Harcourt: Caban Publications.

- Okwudiba, N., 2000. *Ethnic Conflicts in Africa*. Senegal: Codesria.
- Olick, J., 2013. *Election Process Matters*. Nairobi: Kiambu Printers.
- Olorunnisola, A. A., 2013. *New Media Influence on Social and Political Change in Africa*: Lagos: IGI Global.
- Omotola, S., 2010a. Mechanism of post-election conflict resolution in Africa's new democracies. *African Security Review*, 19 (2) 2-13.
- Opiyo, D., 2008. Kenya Crisis Talks End. *Daily Nation* 30th July, 1
- Orieko, P. and Mutiso, R., 2015. *Working with Rural Communities: Participatory Action research in Kenya*. Nairobi: University of Nairobi Press.
- Osabuohien, E., 2014. *Handbook of Research on In-Country Determinants and Implications of Foreign Land Acquisitions*. Hershey, PA: IGI Global.
- Osaka, G., 2015. *Electoral Violence in Asia and its Characteristics*. New Delhi: Laxmi Publications.
- Oswago, J., 2013. Cord, IEBC locked in row over secret 2013 election rigging tape. *Daily nation* 20th April 2014. Available at www.nation.co.ke/news/Cord-IEBC-2013-General-Election-Rigging-Recording-Tape/-/1950946/2287078/-/format/xhtmll. Accessed on 13th June 2015.
- Otieno, A., 2008. Improving Kenya Response to Internal Displacement. <http://www.fmreview.org/FMRpdfs/FMR30/55.pdf>. Accessed 1st June 2014.
- Otieno, A. O., 2008. *Political Instability in Africa: Where the Problem Lies and Alternative Perspectives*. Paper presented at Symposium 2008. Germany: De Wereld.
- Otieno, T. 2012. *Post-Election Violence in Kenya*. Nairobi: Pambazuka
- Otieno, T. 2013. *Politics in Africa: Electoral Violence and Democracy*. Nairobi: Pyplex

- Otomer ,J. B. and Wehr, P., 2012. *Using Conflict Theory*. New York: Cambridge University Press.
- Oucho, J. O., 2002. *Undercurrents of Ethnic Conflicts in Kenya*, Brill.
- Owino, K; Owiro, D; and Marchant, M., 2015. Two Thirds Gender Balance in Kenyan Politics. *The national Women's Steering Committee in Partnership with Institute of Economic Affairs*, Seminar paper, 9 (1) 14-25.
- Owuor, O. and Leonard, D. K., 2009. The Political and Institutional Context of the 2007 Kenya Elections and Reforms Needed for the Future. *Journal of African Elections*, 8 (1) 71-107.
- Parel, A., 2006. *Gandhi's Philosophy and the Quest for Harmony*. Cambridge: Cambridge University Press.
- Pascoe, G., 2014. Sampling. In *Research Matters*. Cape Town: Juta.
- Patino, P. and Velasco, D., 2004. 'Election Violence in the Philippines', *Friedrich Ebert Stiftung Publications*, Philippines.
- Payne, S., 2007. Grounded theory, In Lyons, E. and Coyle, A. *Analysing Qualitative Data in Psychology*. London: Sage Publications.
- Patton, M., 2001. *Qualitative Research and Evaluation Methods*. Thousand Oaks, CA: Sage Publications.
- Pearce, W. B. and Littlejohn, S. W., 1997. *Moral Conflict.*, California: Thousand Oaks, Sage.
- Peleg, S., 2002. *Zealotry and Vengeance: Quest of a Religious Identity Group*. Lanham MD: Lexington Books.
- Perrigrew, T., 2015. Samuel Stouffer and relative deprivation. *Social Psychology Quarterly*, 78(1) 7-24.

- Peters, B., 2010. Equity and quality: Setting standards for women in journalism, In *International Federation of Journalists (IFJ) survey on the status of women journalists*. Brussels: IFJ
- Peters, K., 2009. *Conflict and Fragility*. London: ODI
- Peterson, R., 2015. *Prophet without Honour: Glen H. Taylor and the Fight for American Liberalism*. Kentucky: University Press of Kentucky.
- Pfetsch, F. R. and Landau, A., 2010. *Symmetry and Asymmetry in International Negotiations*. (2nd ed.), London: Kluwer Academic Publishers.
- Piombo, J. and Nijzink, L., eds. 2005. *Electoral Politics in South Africa: Assessing the First Democratic Decade*. California: Palgrave MacMillan.
- Pitswane, J. T., 2014. *The Dynamics of Mediation and Conflict Resolution in Darfur, Sudan: 2004-2011*. Unpublished PhD University of Witwatersrand.
- Podszun, L., 2011. *Does Development Aid Affect Conflict Ripeness? The Theory of Ripeness and Its Applicability in the Context of Development Aid*. Wiesbaden: VS Verlag Springer.
- Prah, K., 2013. *Multiparty Democracy and its Relevance in Africa*. Carrollton. University of West Georgia Press.
- Preeti, P., 2001. Multi-Party Politics in Kenya. London: *Political Science review*, 21 (1) 1-23
- Provencher, R., 1968. *Two Malay communities in Selangor*. Michigan: Michigan University press.
- Punch, K. F., 2014. *Introduction to Social Research: Quantitative & Qualitative Approaches*. 3rd ed. London: Sage.

- Rajasaker, S., Philominathan, P. and Chinnathambi, V., 2013. *Research Methodology*. Ithaca: Cornell University press.
- Ramcharan, B., 2014. *Preventive Diplomacy at the United Nations*. Bloomington: Indiana University Press.
- Ramsbotham, O., Miall, H. and Woodhouse, T. 2011. *Contemporary Conflict Resolution*, Wiley.
- Regan, P. and Stam, A., 2000. In the Nick of Time, *International Studies Quarterly* 44 (2) 239-260.
- Reid, L., 2014. *Examining Leverage in Civil War Mediation: A Dynamic Theory of Mediator Leverage*. Carolina: University of North Carolina Press.
- Reidy, S., 2013. *African Multi-Party Elections and Constitutional Changes*. New York: Mike Woods.
- Rene, G., 2013. *Violence and the Sacred*. London: Bloomsberg Publishing.
- Republic of Kenya. 2008. *The Independent Review Committee (Kriegler report)*. Summarised Version. Nairobi.
- Republic of Kenya. 2008. *The Report on Commission on Inquiry into the Post-Election Violence (Waki Report)*. Summarised Version. Nairobi.
- Rice, E. 1990. *Wars of the Third Kind: Conflict in Underdeveloped Countries*. Berkely: University of California Press.
- Rice, P; 2009. *Humans Right Abuse: Kenya 2008*. Nairobi: Arcade Press.
- Richard, B., 2010. When combatants become judges: The role of ex-combatants in Gacaca courts and its effect on the reintegration and reconciliation processes in Rwanda. *Institute of Security Studies*, 161-194.

- Reis, H. T., 2009. *Handbook of research methods in social and personality psychology*. New York: Cambridge University Press.
- Rodney, W., 1972. *How Europe underdeveloped Africa*. Washington, DC: Howard University Press.
- Rosas, G., 2010. Trust in Elections and the Institutional Design of Electoral Authorities: Evidence from Latin America. *Electoral Studies*, 29 (1) 77-92.
- Rossman, G. and Rallis, S. F., 2012. *Learning in the Field: An Introduction to Qualitative Research*. (3rd ed.) Thousand Oaks, CA: Sage.
- Rossman, G. and Marshall, C., 2013. Designing Qualitative research. *Issues in Applied Linguistics*, 1 (2) 268-275.
- Rothchild, D., 1996. 'Successful mediation: Lord Carrington and the Rhodesian Settlement.' In Crocker C. A.; Hampson, F. O. and Aall, P. eds., *Managing global chaos: Sources of and Responses to international conflict*. Washington DC: United States Institute of Peace.
- Rubin, B., 2007. Central Asia and Central Africa: Transnational Wars and Ethnic Conflicts, *Journal of Human Development*. 3 (2) 5-22.
- Rull, M., 2013. *Timing in Political Mediation*. New Delhi: Saraswati Printers.
- Said, A. and Lerche, C., 1995. *Concepts of International Politics in Global Perspective*. New Jersey: prentice Hall.
- Sakina, S., 2012. *Electoral Violence in Africa*. Lagos: Mynner Publications.
- Sanders, H., 1991. "Officials and Citizens in International Relations." In Vamik, D.; Volkan, J.; Montville, P. and Demetrios, A., eds., *The Psychodynamics of International Relations: Vol. 2, Unofficial Diplomacy at Work*. Lanham Maryland: Lexington Books.

- Saunders, M., Lewis, P. and Thornhill, A., 2003. *Employee Relations: Understanding the Employment Relationship*. London: Financial Prentice Hall.
- Schellhaas, C. and Seegers, A., 2009. Peacebuilding: imperialism's new design, *African Security Review* 18(2) 2–15.
- Schermernhorn, A. C., D'Onofrio, B. M., Turkheimer, E, Ganiban, J. M., Spotts, E. L., Lichtenstein, P., Reiss, D., Neiderhiser, J. M., 2011. A genetically informed study of associations between family functioning and child psychosocial adjustment. *Developmental Psychology*, 47: 707–725.
- Schulz-Herzenberg, C.; Aling'o, P. and Gatimu, S., 2015. *The 2013 General Elections in Kenya: The Integrity of Electoral process*. Policy Brief 74. Institute of Security Studies.
- Schwarzmantel, J. and Kraetzschmar, H. J., 2013. *Democracy and Violence: Global Debates and Local Challenges*, England: Taylor & Francis.
- Scimeca, H., 1987. *Human needs and social Conflict*. Monaco: Alpen
- Selim, Y., 2012. Transitions: Creating space to address injustice after conflict or political turmoil. *Conflict and Peacebuilding*, 1st February, 1.
- Selvik, K. and Stenslie, S., 2011. *Stability and Change in the Modern Middle East*, I. B. Tauris.
- Sewanyana, S., 2002. *Poverty and Conflict in Uganda*. Cornwell: World Bank Publications.
- Sharpe, M. E., 2004. *Public Administration and Society: Cortical Issues in Governance*. California: CU Press
- Shenton, A. K., 2004. *Strategies for Ensuring Trustworthiness in Qualitative Research Projects*. New York: Education for Information Books.

- Shields, A., 2013. *Reasons Why Mediation Fail*. Lancashire: ESRC Press.
- Shillington, K., 1989. *History of Africa*. Revised Edition. New York: St. Martin's Press.
- Shizha, E., 2014. *Remapping Africa in the Global Space: Propositions for Change*. Brantford-Canada: Springer.
- Sidaway, R., 2013. *Resolving Environmental Disputes: From Conflict to Consensus*. London: Cromwell Press Limited.
- Silverman, M. and Patterson, K. L., 2015. *Qualitative Research Methods for Community Development*. New York: Routledge.
- Simiyu, R., 2010. Politics of residency, friends and neighbours effect and voting patterns in Kwanza Constituency, Kenya 1988-2000. *African Geographical Review*, 29 (1) 37-61.
- Singh, B. D., 2008. *Managing Conflict and Negotiation*. New Delhi: Excel Books India.
- Sisk, T. D. and Reynolds, A. T., 1998. *Elections and Conflict Management in Africa*, United States Institute of Peace Press.
- Sisk, T., 2008. 'Elections in Fragile States: Between Voice and Violence', *International Studies Association Annual Meeting*, San Francisco, California, on 24–28 March.
- Sisk, T. D., 2009. *International Mediation in Civil Wars: Bargaining with Bullets*, Taylor & Francis.
- Sites, P., 1973. *Control: The Basis of Social Order*. New York: Dunden Publication Company.
- Skocpol, T., 1979. *States and Social Revolutions: A Comparative Analysis of France, Russia and China*. Cambridge: Cambridge University Press.

- Smith, R., 1998. *Beyond Conflict of Interest: Transparency is the Key*. New York: BMJ 317: 291-292.
- Smith, D., 2004. *Trends and Causes of Armed Conflicts*. Berlin: Berghof Research Centre for Constructive Conflict Management.
- Smith, R., 2012. *Electronic Voting and Electoral Integrity*. Sydney: TEIP Publications.
- Snodgrass, L., 2005. *A Comparative Case Study of the Emerging Role of Conflict Resolution in Education Transformation in two South African Schools*. Nelson Mandela Metropolitan University, Unpublished PhD Thesis.
- Society for International Development (SID)., 2014. *Poverty and Inequality Ranking by Country*. Nairobi: SID Publications.
- Soderbaun, R. and Tavares F., 2013. *Regional Organisation in African Security*. New York: Routledge.
- Spencer, D. and Altobelli, T., 2006. *Dispute Resolution in Australia: Case, Commentary and Materials*. Law Book Company.
- Spencer, D. and Brogan, M., 2007. *Mediation Law and Practice*. Cambridge: Cambridge University Press.
- Staniland, P., (2013). *Armed Groups and Militarized Elections*. <http://home.uchicago.edu/~paul/StanilandMilElecDec13.pdf>
- Stewart, F., 2008. "Horizontal inequalities and conflict: An introduction and some hypotheses", in: Francis Stewart (ed.), *Horizontal inequalities and conflict. Understanding group violence in multi-ethnic societies*, London: Palgrave Macmillan.
- Stormberg, P., 2000. Conflicts of Interest and Market Illiquidity in Bankruptcy Auctions: Theory and Tests, *The Journal of Finance* 55 (6) 2641-2693.

- Strauss, A. L. and Glaser, G. B., 1967. *The Discovery of Grounded Theory: Strategies for Qualitative Research*. New Jersey: Aldine Transaction.
- Strauss, S., 2011. 'It's sheer horror here': Patterns of violence during the first four months of Côte d'Ivoire's post-electoral crisis. *African affairs*, 110 (1) 481-489.
- Straus, S., and Taylor, C., 2009. Democratisation and Electoral Violence in Sub-Saharan Africa, 1990-2007. *American Society for Public Administration* 1 (1) 12-26.
- Straus, S. and Taylor, C., 2012. *Democratization and electoral violence in sub-Saharan Africa, 1990–2007*. Oxford: Oxford University Press.
- Straus, S., 2012. *Wars do end*. Washington, DC: USIP Press.
- Suad, J. and Afsana, K., 2003. *Encyclopaedia of Women and Islamic Culture*. New York: Brill
- Sule, M., 2009. *Causes and Consequences of electoral Violence*. Kano: CIGI Printers.
- Suleiman, Y. 2010. *Arabic, Self and Identity: A Study in Conflict and Displacement*. Oxford: Oxford University Press.
- Sumathi, S. and Samaravel S., 2009. *Marketing Research and Consumer Behaviour*. New Delhi: Vikas Publications.
- Susskind, L. and Cruikshank, J., 1987. *Breaking the Impasse: Consensual Approaches to Resolving Public Disputes*. New York, NY: Basic Books.
- Swainson, N., 1980. *The Development of Corporate Capitalism in Kenya, 1918-77*. California: University of California.
- Szegal, B. A. and Andras, I., 2011. *Conflict in a Society in Transition*. Dunaújváros: College Press.

- Tadjbaksh, S., 2014. *Human Security Twenty Years on*. Basingstoke: Palgrave Macmillan.
- Taminnen, T., 2012. *Strengthening the EU's peace mediation capacities: Leveraging for peace through new ideas and thinking*. Tampere-Finland: The Finnish Institute of International Affairs.
- Tanner, F., 2010. Conflict prevention and conflict resolution: limits of multilateralism (2nd ed). *Global governance Review*, 16 (1) 209-217.
- Taras, R. and Ganguly, R., 2002. *Understanding Ethnic Conflict. The International Dimension*: Longman 2nd edition.
- Tardio, M. A., 2013. The Impact of Political Violence during the Spanish General Election of 1936. *Journal of Contemporary History*, 48, 463-485.
- Thaxton, R., 2010. *Salt of the Earth: The Political Origins of Peasant Protest and Communist Revolution in China*. California: University of California Press.
- Thomas, A., and Schwarzbaum, S., 2011. *Culture and Identity: Life Stories for Counsellors and Therapists*. Chicago: Loyola University Press.
- Throup, D. and Hornsby, C., 1998. *Multi-Party Politics in Kenya: The Kenyatta and Moi States and the Triumph of the System in the 1992 Election*, Cumbria, UK: Long House Publishing Services.
- Timmer, S., 2012. Causal Factors of Election Violence in Africa. Unpublished MA thesis, University of Stellenbosch.
- Tischler, H., 2010. *Cengage Advantage Books: Imperatives of Sociology*, Cengage Learning.
- Tlalajoe, T., 2012. *Evaluation of the 2012 Lesotho National Assembly Elections*. Maseru: UNDP.

- Tongco, M. D. C., 2008. Purposive sampling as a tool for informant selection. *Ethnobotany Research and Applications*, 5 (1) 147-158.
- Totten, S. and Ubaldo, R., 2011. *We Cannot Forget: Interviews with Survivors of 1994 Genocide in Rwanda*. Newark: Rutgers University Press.
- Touval, S., 1982. *The Peace Brokers*. Princeton: Princeton University Press.
- Touval, S., 1992a. "The Superpowers as Mediators," in Jacob Bercovitch and Jeffrey Z. Rubin. eds. *Mediation in International Relations*. New York: St. Martin's Press.
- Trainor, A. and Graue, E., 2014. *Reviewing Qualitative Research in the Social Sciences*. London: Taylor & Francis.
- Transparency International (TI)., 2014. *Kenya's Performance in Corruption Perception Index Casts Doubt on Reforms*. Nairobi: TIK Publications.
- Trochim, W. M. K., 2015. *Research Methods Knowledge Base*. New York: Prime Books.
- Tuckman, B., 1999. *Conducting Educational Research*. New York: Harcourt Brace College Publishers.
- Ubomba-Jaswa, P., 1989. *Ethnic Causal Differentials in Early Childhood Mortality in Kenya*. Wisconsin: University of Wisconsin Press.
- United Nations (UN) 2008. *Causes of Ethnic Tensions in Kenya*. Geneva: UN Publications.
- United Nations (UN) Charter., 1945. *Chapter VI: Pacific Settlement of Disputes-Article 33*. Geneva: UN Publications
- United Nations Development Programme (UNDP)., 2009. *Road to 2015: Driving the MDGs*. Nairobi: UNDP Publications

United Nations Development Programme (UNDP)., 2009. *'Elections and Conflict Prevention: A Guide to Analysis, Planning and Programming*. New York: UNDP Publications.

United Nations Development Programme (UNDP)., 2013. *Consolidating the Peace Processes and Establishing Foundations for a Successful Political Transition in Kenya: 2010-2013*. Nairobi: UNDP Publications.

United Nations Development Programme (UNDP)., 2014. *Human Development Index-Kenya. Human Development Report*. New York: UNDP Publications.

United Nations Development Programme (UNDP) Lesotho., 2011. *Lessons Learned in Mediation of the electoral Dispute in Lesotho*. New York: UNDP Publications

United Nations Economic Commission for Africa., 2013. *African governance report III: Elections and the management of diversity in Africa. Executive summary*. Addis Ababa: UNECA

United Nations Human Rights., 2008. *Report of the Special Rapporteur on Extrajudicial Summary Executions-Mission to Kenya*. (A/HRC/11/2/.6). Available at [http://www.
Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions - Mission to Kenya \(A/HRC/11/2/Add.6\)](http://www.Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions - Mission to Kenya (A/HRC/11/2/Add.6) accessed on 17th February 2015) accessed on 17th February 2015.

United Nations Population (UNP)., 2014. *Kenya Demographic Growth Trend*. New York: UN Publications

United Nations Statistics Division., (UNSD) 2015. *People on Total Surface Area-Per Country Statistics*. New York: UN Publications.

Ury, W.L., Jeanne, B. and Goldberg, S., 1993. *Getting disputes resolved*. 2nd ed. San Francisco: Jossey-Bass.

- Ury, W. L., Jeanne, B. and Goldberg, S., 2013. *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*. San Francisco: Carnegie Mellon Working Paper, Pittsburgh, PA.
- Vayrynen, T., 2001. *Culture and International Conflict Resolution: A Critical Analysis of the Work of John Burton*, Manchester University Press.
- Viljoen, F., 2007. *International Human Rights Law in Africa*. Great Clarendon: Oxford University Press.
- Wart, J., 2013. *Persistent Positions: European Mediation training for Practitioner*. AIA Press.
- Waller, S., 2004. Conflict in Higher education faculty of Evaluation. *Conflict management in Higher education report 5 (1)* 1-11.
- Walton, O., 2010. 'Civil War, Intervention and Conflict Resolution: Key Trends and Implications for the 'Norwegian Model' of Peacemaking', A Background Paper, Oslo: NRM Press.
- Warren, C., 1998. *Gender Issues in Field Research*. London: Sage.
- Wiberg, H. and Scherrer, C., eds. 1999. *Ethnicity and Intra-State Conflict: Types, Causes and Peace Strategies*. Aldershot: Ashgate,
- World Intellectual Property Organisation (WIPO)., 1996. *Conference on Mediation: Geneva, March 29*. Geneva: WIPO Books.
- Were, S., 2010. *Youth in Armed Post-Election Violence*. Nairobi: Kwetu press.
- Wiafe-Amoako, F., 2015. *African Institutions: Challenges to Political, Social and Economic Foundations of Africa's development*. London: Rowman and Littlefield Publishers.
- Willems, R. 2015. *Security and Hybridity after Armed Conflict*. New York: Routledge.

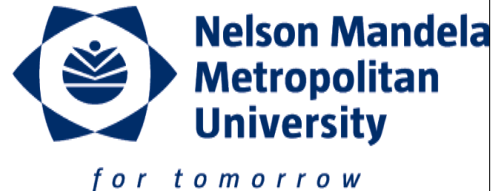
- Wiseman, J., 1993. Democracy and the new political pluralism in Africa: Causes consequences and significance. *Third World Quarterly*, 14 (3).
- World Bank., 2015. *Kenya Economic Update*. Washington, D.C.: World Bank.
- Wrong, M., 2015. Africa's elections and fiasco. *The Spectator*. Available from <http://www/the-spectator.co.uk/features/8890471/the-technological-fix>. Accessed on 15th September 2015.
- Yarn, D. Y., eds. 1999. *Dictionary of Conflict Resolution*. San Francisco: Jossey-Bass Publications. Cultural contingencies of mediation:
- Yassine, H., Nahla, P. and Frederic, S., 2014. *Arab Approaches to Conflict Resolution: Mediation, Negotiation and Settlement of Political Disputes*. Boston: Routledge.
- Yin, R. K., 2003. *Applications of case study research*. London: SAGE Publications.
- Yoichi, M., 2013. *Preventing Violent Conflict in Africa: Inequalities Perceptions and Institutions*. Oxford: Palgrave.
- Young, H. and Goldman L., 2015. *Livelihoods, Natural Resources, and Post-Conflict Peacebuilding*. California: Routledge.
- Zartman, I. W., ed. 1978. *The Negotiation Process*. Beverly Hills, CA: Sage.
- Zartman, I. W. and Berman, M., 1982. *The Practical Negotiator*. New Haven: Yale University Press, 4 (2) 66-78
- Zartman, I. W., 1985. *Ripe for Resolution*. New York, Oxford University Press.
- Zartman, I. W., 1995a. *Dynamics and Constraints in Mediation in International Conflicts*. Washington, DC: The Brookings Institution.

- Zartman, I. W., 2000, 'Ripeness: The Hurting Stalemate and Beyond', in Stern, P. and Druckman, D., eds., 2000, *International Conflict Resolution after the Cold War*, Washington, National Academy Press.
- Zartman, I. W., 2001. The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments. *The Global Review of Ethnopolitics*, 1 (1) 8-18.
- Zartman, I. W., 2010. *Preventing Identity Conflicts Leading to Genocide and Mass Killings*. New York: International Peace Institute.
- Zartman 2011. Greed and Grievance: Methodological and Epistemological Underpinnings of the Debate. *Association for the Study of Ethnicity and Nationalism Journal*, 11 (2) 298-307.
- Ziellinski, J., 2002. *World Politics, Translating Social Cleavages into Party Systems: The Significance of New Democracies*. Cambridge. Cambridge University Press.
- Zoubir, Y., 1999. *State and Civil Society: North African Transition State Society and Economic Transformation in the 1990s*. Gainesville FL: University Press of Florida.
- Zwier, P. J., 2013. *The Principled Negotiation and Mediation in the International Arena: talking with Evil*. Cambridge: Cambridge University Press.

APPENDICES

Appendix 1: Nelson Mandela Metropolitan University certificate to conduct research

• PO Box 77000 • Nelson Mandela Metropolitan University
• Port Elizabeth • 6031 • South Africa • www.nmmu.ac.za
• South Africa • www.nmmu.ac.za



**FACULTY OF ARTS
SOUTH CAMPUS**

Tel . +27 (0)41 5042855 Fax. +27 (0)41 5041661
Noxolo.mngonyama@nmmu.ac.za

Ref: H/13/ART/PGS-0045

14 November 2013

Student number 213382156, Ms AO Achieng

Assisi House

P O Box 21197, Adams Arcade

Nairobi. KENYA222

Dear Ms Achieng

THE ROLE OF TRANSFORMATIVE MEDIATION: THE CASE OF KENYA 2007-2008

Your above-entitled application for ethics approval served at the RTI Higher Degrees sub-committee of the Faculty of Arts Research, Technology and Innovation Committee. We take pleasure in informing you that the application was approved by the Committee.

The Ethics clearance reference number is **H/13/ART/PGS-0045**, and is valid for three years, from 06 November 2013 – 06 November 2016. Please inform the RTI-HDC, via your supervisor, if any changes (particularly in the methodology) occur during this time. An annual affirmation to the effect that the protocols in use are still those for which approval was granted, will be required from you. You will be reminded timeously of this responsibility.

We wish you well with the project.

Yours sincerely

Faculty Administrator

cc: Promoter/Supervisor cc: HoD cc: School Representative: Faculty RTI

Appendix 2: Letter of request to conduct research

Letter to Participants

Faculty of Political and Conflict Studies NMMU

Tel: +27 (0)41 504-4138 Email Faculty Chairperson: s213382156@nmmu.ac.za

Date February 2014

Ref: H/13/ART/PGS-0045

Contact person: Achieng Anne O. Oyier 21382156

Dear Participant,

I would like to invite you to participate in a research study aimed at developing a model for mediation for electoral violence: the case of Kenya 2007- 2008. The study will consist of an interview session where questions related to the objectives will be asked. The researcher will describe each of these steps in detail and will explain exactly what will be expected of you during the interview. The guidelines will also explain the possible benefits of participating in the study, as well as your rights as a participant. When the researcher gives you these explanations, please feel free to ask us to clarify anything that is not clear to you.

Your participation in this research is completely voluntary. If you choose not to participate in this research, your present or future will not be affected in any way and you will incur no penalty or loss of benefits to which you may otherwise be entitled. If you agree to participate in the study, you will need to provide your written consent. This means that you will give your signature and initials to confirm that you understand and agree to the conditions of the research.

You have the right to ask questions regarding the research at any time and you can ask for the explanation to be given in English. You can also report any problems that you have during the study to the researcher telephone number (+254) 713071312 or (+27 788347633) for South Africa. Please feel free to call the numbers.

The ethical integrity of this study has been approved by the Research Ethics Committee (Human) of this university. The REC-H is a group of independent experts which ensures that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. Studies cannot be conducted without REC-H's approval. Queries with regard to your rights as a research subject can be directed to the Research Ethics Committee (Human), Department of Research Capacity Development, PO Box 77000, Nelson Mandela Metropolitan University, Port Elizabeth, 6031. You may also write to: The Chairperson of the Research, Technology and Innovation Committee, PO Box 77000, Nelson Mandela Metropolitan University, Port Elizabeth, 6031.

If you agree to participate in this study, you have the right to withdraw at any time during the study without penalty or loss of benefits. However, if you do withdraw from the study, you will need to return for a final discussion in order to terminate the research in an orderly manner. Should you experience difficulties with how the research is conducted, you can talk about this with the researcher during the research process. During the interview, you will also be given various opportunities to voice any concerns you might have.

All individual information will be kept strictly confidential and all documents used in the study will be stored safely. Anonymous results of this research study may be presented at scientific conferences or in specialist publications but your name will never be used – to protect your identity a pseudonym (false name) will always be given instead. This informed consent statement has been prepared in compliance with current statutory guidelines.

Yours sincerely

A Oyier

Anne Oyier Achieng

Researcher

Department of Political and Conflict Studies

Appendix 3: The National Accord and Reconciliation Act 2008

Preamble:

There is a crisis in this country. The Parties have come together in recognition of this crisis, and agree that a political solution is required. Given the disputed elections and the divisions in the Parliament and the country, neither side is able to govern without the other. There needs to be real power-sharing to move the country forward. A coalition must be a partnership with commitment on both sides to govern together and push through a reform agenda for the benefit of all Kenyans.

Description of the Act:

An Act of Parliament to provide for the settlement of the disputes arising from the presidential elections of 2007, formation of a Coalition Government and Establishment of the Offices of Prime Minister, Deputy Prime Ministers and Ministers of the Government of Kenya, their functions and various matters connected with and incidental to the foregoing.

1. This Act may be cited as the National Accord and Reconciliation Act 2008.
2. This Act shall come into force upon its publication in the Kenya Gazette which shall not be later than 14 days from the date of Assent.
3. (1) There shall be a Prime Minister of the Government of Kenya and two Deputy Prime Ministers who shall be appointed by the President in accordance with this section.

(2) The person to be appointed as Prime Minister shall be an elected member of the National Assembly who is the parliamentary leader of:

(a) the political party that has the largest number of members in the National Assembly;
or
(b) a coalition of political parties in the event that the leader of the political party that has the largest number of members of the National Assembly does not command the majority in the National Assembly.

(3) Each member of the coalition shall nominate one person from the elected members of the National Assembly to be appointed a Deputy Prime Minister.

4. (1) The Prime Minister:

(a) Shall have authority to coordinate and supervise the execution of the functions and affairs of the Government of Kenya including those of Ministries;

(b) May assign any of the coordination responsibilities of his office to the Deputy Prime Ministers, as well as one of them to deputize for him;

(c) Shall perform such other duties as may be assigned to him by the President or under any written law.

(2) In the formation of the coalition government, the persons to be appointed as Ministers and Assistant Ministers from the political parties that are partners in the coalition other than the President's party, shall be nominated by the parliamentary leader of the party in the coalition. Thereafter there shall be full consultation with the President on the appointment of all Ministers.

(3) The composition of the coalition government shall at all times reflect the relative parliamentary strengths of the respective parties and shall at all times take into account the principle of portfolio balance.

(4) The office of the Prime Minister and Deputy Prime Minister shall become vacant only if:

(a) the holder of the office dies, resigns or ceases to be a member of the National Assembly otherwise than by reason of the dissolution of Parliament; or

(b) the National Assembly passes a resolution which is supported by a majority of all the members of the National Assembly excluding the *ex officio* members and of which not less than seven days' notice has been given declaring that the National Assembly has no confidence in the Prime Minister or Deputy Prime Minister, as the case may be; or

(c) The coalition is dissolved.

(5) The removal of any Minister nominated by a parliamentary party of the coalition shall be made only after prior consultation and concurrence in writing with the leader of that party.

5. The Cabinet shall consist of the President, the Vice-President, the Prime Minister, the two Deputy Prime Ministers and the other Ministers.

6. The coalition shall stand dissolved if:

(a) The Tenth Parliament is dissolved; or (b) the coalition parties agree in writing; or

(c) One coalition partner withdraws from the coalition by a resolution of the highest decision-making organ of that party in writing.

7. The Prime Minister and Deputy Prime Ministers shall be entitled to such salaries, allowances, benefits, privileges and emoluments as may be approved by Parliament from time to time.

8. This Act shall cease to apply upon dissolution of the Tenth Parliament, if the coalition is dissolved, or a new constitution is enacted, whichever is earlier.

Agreed this date 28 February 2008

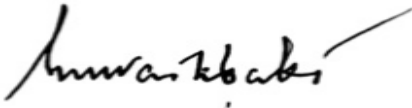
Signing and Witnessed By:



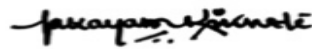
Hon. Raila Odinga
Orange Democratic Movement



H.E. Kofi A. Annan
Chairman of the Panel
of Eminent African Personalities

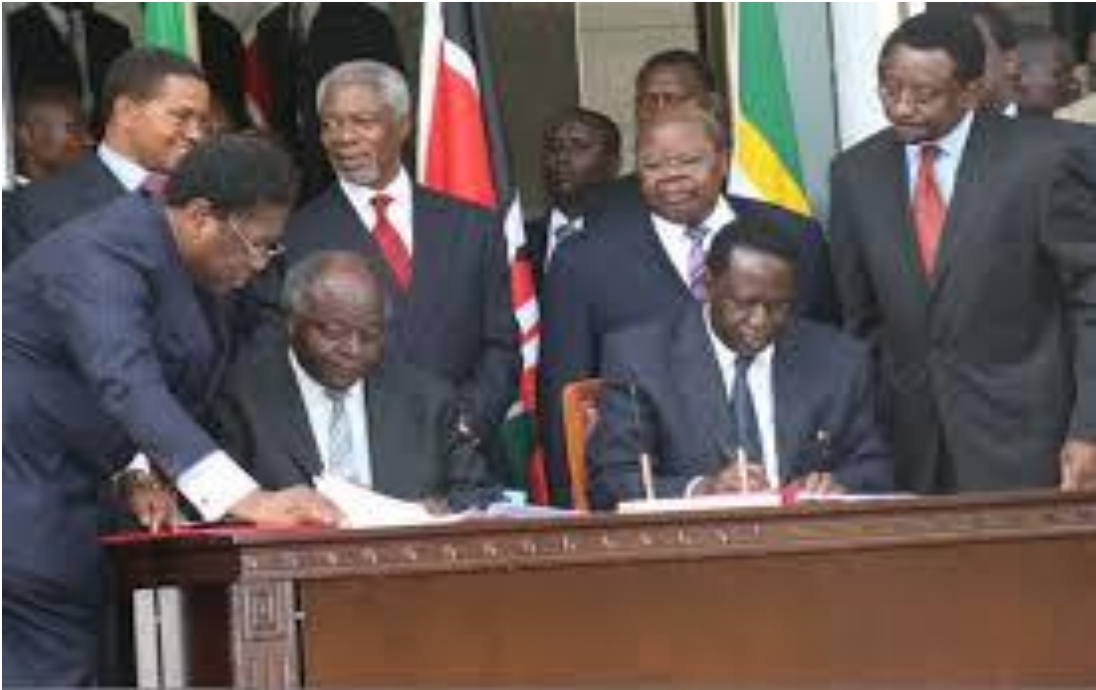


H.E.
President Mwai Kibaki
Government/Party of National Unity



H.E. President Jakaya Kikwete
President of the United Republic
Tanzania and Chairman of the
African Union

Appendix 4: Photo of signing of agreement



Appendix 5: photo of the shaking of hands of the principal disputing parties.



Appendix 6A: Letter of confirmation of editing

TO WHOM IT MAY CONCERN

This is to certify that I have edited and proof-read the whole Thesis of Sr. Anne Oyier Achieng (Student number s213382156) (s213382156@live.nmmu.ac.za),

PhD Student, Political and Conflict Studies, South Campus, Nelson Mandela Metropolitan University.

Her supervisor is Professor Lyn Snodgrass, Nelson Mandela Metropolitan University.

Professor André Lemmer

112 Marine Drive

Schoenmakerskop

Port Elizabeth

24 December, 2015

Appendix 6B: Letter of confirmation of editing

Dear Sister Oyier

This email serves as confirmation that I have edited Chapters 2, 3, 4, 6 and 7 and an early version of Chapter 5 of your Doctor in Philosophy in Political and Conflict Studies thesis entitled **DEVELOPING A MODEL FOR MEDIATION IN ELECTORAL VIOLENCE: THE CASE OF KENYA 2007-2008** which you submitted to me in December 4th 2015. This was done in my private capacity, and as an editor on the Nelson Mandela Metropolitan University list of approved editors.

I edited the assignment for grammar, vocabulary, punctuation and sentence construction. I completed the edit in track changes and using text boxes. Recommendations for changes were given, where considered appropriate.

Kind regards

Vicki Igglesden (MSc)

v.igglesden@polka.co.za

072 432 2260

044 356 2638