

**CONFLICT MANAGEMENT IN KENYAN ELECTORAL
CONFLICT: 2002-2012**

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**CONFLICT MANAGEMENT IN KENYAN ELECTORAL CONFLICT:
2002-2013**

by

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DECLARATION:

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

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ABSTRACT

In the recent years, majority of African countries have been faced by conflicts during election periods. Some of the electoral related conflicts escalated into violence, and they have been transformed or managed. While other electoral related conflicts have just been prevented during the election periods but remain latent conflicts that would escalate triggered by future elections. This study focuses specifically on electoral conflicts in Kenya and its conflict management perspective from 2002-2013. To transform and manage the conflict, peacebuilding initiatives have been integrated in the study. The prime actors in Kenya electoral conflict includes the; the ruling party coalition, the leading opposition coalition and ethnic groupings affiliated to the ruling party and opposition. Other peripheral actors include: the Independent, Electoral and Boundary Commission (IEBC), the International Criminal Court (ICC) and the judiciary.

Triangulation (the combination of two or more methods of collecting and analysing data) has been adopted both in data collection and analysis. Focus group interviews, selected individual interviews, and literature reviews were used to collect data, while research findings were analysed systematically using the constructivist grounded theory. Moreover, the liberal peace theory, Institutionalisation before Liberalisation (IBL) and findings from other researchers like (Elder, Stigant and Claes 2014:1-20), and the Afrobarometer research findings (Kivuva 2015) have been used to authenticate the research findings.

Research findings indicates that claims of election rigging, numerous institutional failures, negative ethnicity and economic disparity, among other factors heighten the fear and anxiety that escalates during elections. Towards achieving peacebuilding and sustainable peace, the following reforms were undertaken: constitutional changes and reviews, electoral body reform, judicial reform, pursuit of transitional justice, extensive range of local initiatives reforms and police reforms. However, findings in the study also reveal that despite the latter reforms, peacebuilding measures have been short-term, temporal, and not fully successful, leaving behind a latent conflict that could be triggered again with future electoral conflicts. Besides that, negotiation, dialogue and mediation played a role in restoring trust and confidence in the democratic structures after escalated elections. We also recommend that multi-ethnic

composition for electoral coalitions should also be adopted as a means to mitigate ethnic triggered conflicts.

LIST OF ACRONYMS

AEMO	=	African Elected Members Organisation
APP	=	African People Party
AU	=	African Union
BVR	=	Biometric Voter Register
CAJ	=	Commission of Administrative Justice
CEO	=	Chief Executive Officer
CIC	=	Constitutional Implementation Committee
CIPEV	=	Commission for Investigating of Post Election Violence
CMS	=	Church Mission Society
COW	=	Correlates of war
CRA	=	Commission on Revenue Allocation
CSOs	=	Civil Society Organisation
CT	=	Conflict Transformation
EACC	=	Ethics and Anti-Corruption Commission
ECK	=	Electoral Commission of Kenya
EEAS	=	European Union External Action Survey
EISA	=	Electoral Institute of South Africa
EMB	=	Election Management Body
ERMT	=	Electoral Risk Management Tool
EU	=	European Union
FCO	=	Foreign and Commonwealth Authority
FORD. K	=	Forum for Restoration of Democracy in Kenya
FPTP	=	First- past-the post
GDP	=	Gross Domestic Product

IEBC	=	Independent Electoral and Boundary Commission
IBL	=	Institutionalisation before Liberalisation
ICC	=	International Criminal Court
IDEA	=	Institute for Democracy and Electoral Assistance
IDP	=	Internally Displaced People
IEC	=	Information, Education and Communication
IED	=	Institute for Education in Democracy
IEP	=	Institute for Economics and Peace
IIEC	=	Independent Interim Elections Commission
IJR	=	Institute for Justice and Reconciliation
IREC	=	Independent Review Commission
KACC	=	Kenya Anti-Corruption Commission
KCHR	=	Kenya Commission on Human Rights
KADU	=	Kenya African Democratic Union
KAMATUSA	=	Kalenjin, Masai, Turkana and Samburu Association
KAU	=	Kenya African Union
KASU	=	Kenya African Study Union
KCA	=	Kikuyu Central Association
KNDR	=	Kenya National Dialogue and Reconciliation
KNCHR	=	Kenya National Commission on Human Rights
LEGCO	=	Legislative Council
MMP	=	Mixed-member proportional
MRC	=	Mombasa Republican Council
NARC	=	National Rainbow Coalition
NARCK	=	National Rainbow Coalition of Kenya

NCIC	=	National Cohesion and Integration Commission
NGOs	=	Non Governmental Organisations
NPSC	=	National Police Service Commission
NSAC	=	National Security Advisory Committee
NSIS	=	National Security Intelligence Service
OAS	=	Organisation of American States
ODM	=	Orange Democratic Movement
OHCHR	=	Office of the UN High Commission for Human Rights
PEV	=	Post Election Violence
PNU	=	Party of National Unity
PPOA	=	Public Procurement Oversight Authority
PPP	=	Peace Practice Project
PR	=	Proportional Representation
TJRC	=	Truth Justice and Reconciliation Commission
TNA	=	The National Alliance Party
UDFP	=	United Democratic Forum Party
UN	=	United Nations
UNDP	=	United Nations Development Programs
VBR	=	Voter Biometric Register
WDM-K	=	Wiper Democratic Movement - Kenya

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CHAPTER ONE:

GENERAL INTRODUCTION

1.0. Introduction and background of the study

The study focus is on conflict management and Peace building measures in Kenyan electoral conflicts from 2002-2013. Particularly, the research aims to discover the causes of election conflicts in Kenya, the effects and consequences of election conflicts, and the appropriate measures for transforming, managing and building peace in Kenya. Moreover, the researcher intends to find out which specific Peace building measures have been undertaken before in response to election conflicts in Kenya and if such interventions are succeeding or failing in transforming and managing Kenyan election conflicts. Also, the study reveals whether leadership still appeals to ethnic difference. The researcher uses both primary data (focus group interviews & individual interviews) and secondary data (selected book reviews and relevant journals) in pursuit of these aims. Institutionalisation before Liberalisation (IBL) paradigm by Paris (2004:187) and the liberal peace theory (Doyle 2005:462; Doyle & Sambanis 2006:4; Richmond 2005:1-7; Hegre 2000 and Oneal 2001:2) has been employed as the theoretical framework to interpret research findings, and draw analysis and conclusions. The data has been analysed according to the constructivist grounded theory by Corbin and Strauss (1990:5) and modified by Charmaz in Denzin and Lincoln (2003:250). Coded data has been categorised into core categories as in Sandole's (2007:28) three-pillar framework of analysing and resolving conflicts at any level. Triangulation has also been carried out.

1.2. Terminological clarification

1.2.1. Conflict

Ramsbotham, Woodhouse and Miall (2011:8) note that conflict has been variously defined in relation to fights, games, and debates. Ramsbotham et al. are of the view that the definition of conflict remains controversial. They argue that some have used ‘conflict’ to refer both to ‘consensual’ conflicts over interests (disputants want the same thing); others however, have called the former ‘disputes’ that only require settlement and have reserved the term ‘conflict’ for deep struggles over unsatisfied human needs that require resolution. Ramsbotham et al. 2011 use the term conflict to refer to the widest set of circumstances in which conflict parties perceive that they have mutually incompatible goals. However, Ramsbotham et al. do see a difference between conflicts, on one hand, and sporting encounters, economic completions and legal cases in which the rules of contestation are not themselves called into question, on the other hand. Sandole (1987:17) says that conflict may be defined as escalated, natural competition between two or more parties about scarce resources, power and prestige. Parties in conflict believe that they have incompatible goals, and their aim is to neutralize, gain advantage over, injure or destroy one another. According to the Conflict Barometer (2007:1) conflict is defined as the clashing of interests (positional differences) over national values of some duration and magnitude between at least two parties (organized groups, states, groups of states, organizations) that are determined to pursue their interests and achieve their goals. Conflict can also be defined according to its intensity; the table below defines conflict according to its intensity.

State of violence	Intensity group	level of intensity	Name of intensity	Definition
Non-violent	Low	1	Latent conflict	A positional difference over definable values of national meaning is considered to be a latent conflict if demands are articulated by one of the parties and perceived by the other as such
Non-violent	Low	2	Manifest Conflict	A manifest conflict includes the use of measures that are located in the stage preliminary to violent force. This includes for example verbal pressure, threatening explicitly with violence, or the imposition of economic sanctions. Violent
Violent	Medium	3	Crisis	A crisis is a tense situation in which at least one of the parties uses violent force in sporadic incidents
Violent	High	4	Severe crisis	A conflict is considered to be a severe crisis if violent force is used repeatedly in an organized way.
Violent	High	5	War	A war is a violent conflict in which violent force is used with a certain continuity in an organized and systematic way. The conflict parties exercise extensive measures, depending on the situation. The extent of destruction is massive and of long duration

Table: 1. Conflict intensities. Adopted and modified by the author from the Conflict Barometer (2007:1).

Generally, Conflict is a universal feature of human society. It takes its origins in economic differentiation, social change, cultural formation, psychological development and political organization-all of which are inherently conflictual and becomes overt through the formation of conflict parties, which come to have, or are perceived to have, mutually incompatible goals. The identity of the conflict parties, the levels at which the conflict is contested, and the issues fought over (scarce resources, unequal relations, competing values) may vary over time and may themselves be disputed. Conflicts are dynamic as they escalate and de-escalate, and are constituted by a complex interplay of attitudes and behaviours that can assume a reality of their

own. Third parties are likely to be involved as the conflict develops, and may themselves thereby become parties in an extended conflict (Ramsbotham et al. 2011:7-8).

1.2.2 Conflict Management

Sandole and Sandole Staroste (1987:4) write that conflict management is synonymous with ‘conflict regulation’, more comprehensive than conflict intervention which focuses on third party activities, and more comprehensive than ‘conflict resolution’ which may or may not be the end result of conflict management process. According to Ramsbotham, Woodhouse and Mial (2011:31) conflict management, like the associated term ‘conflict regulation’, is used as a generic term to cover the whole gamut of positive conflict handling. Ramsbotham, Woodhouse and Mial understand conflict management to refer in a more limited way to the settlement and containment of violent conflict.

1.2.3. Intra-state conflict

Dersso (2012:13) defines intra-states conflicts as conflicts that pit one section of the population of a state against the state itself. Intra-state conflicts are conflicts happening within the boundaries of a given state. Kenya electoral conflict is an example of an intra-state conflict.

1.2.4. Structural and Cultural Violence

Basically, the meaning of violence is connoted by its physical and readily apparent presentations through observable bodily injury and/or the infliction of pain. But according to Galtung (1990:291-305) it is important to recognize the existence of other forms of violence-ones that are more indirect and insidious. Galtung categorises violence into structural violence and cultural violence. Structural and Cultural violence is typically built into the very nature of social, cultural, and economic institutions. Structural violence usually has the effect of denying people

important rights, such as economic well-being; social, political, and sexual equality; a sense of personal fulfilment and self-worth; and so on. When people starve to death or even go hungry, a kind of violence is taking place. Similarly, when people suffer from preventable diseases or when they are denied a decent education, affordable housing, freedom of expression and peaceful assembly, or opportunities to work, play, or raise a family, a kind of violence is occurring, even if no bullets are shot or no clubs are wielded (Galtung 1990:291-305) . A society commits violence against its members when it forcibly stunts their development and undermines their well-being, whether because of religion, ethnicity, gender, age, sexual preference, or some other social reason. Structural violence is a serious form of social oppression, which can also be identified with respect to treatment of the natural environment. However defined, structural violence is widespread yet often unacknowledged. Under conditions of structural violence, many people who behave as good citizens and who think of themselves as peace-loving people may, according to Galtung, participate in “settings within which individuals may do enormous amounts of harm to other human beings without ever intending to do so, just performing their regular duties as a job defined in the structure.”

The concept of cultural violence is any aspect (often symbolic) of a culture that can be used to legitimize violence in its direct or structural forms. Symbolic violence built into a culture does not kill or maim like direct violence or the violence built into the social structure. However, it is used to legitimize either or both, as for instance in the theory of an inferior or a superior race. Cultural violence provides legitimizing frameworks for structural and direct violence, occurring at the levels of religion, ideology, art, language, and (pseudo-)science.

Nonetheless, structural and cultural violence are contested concepts. Clearly, structural and/or cultural violence take place wherever there is slavery or gross political, cultural, and/or economic oppression. However, it remains debatable, on the other hand, whether social inequality constitutes structural violence and whether differing cultural norms and practices constitute violence (Galtung 1990:291-305). Electoral violence is a sub-category of political violence, which deserves special consideration from the policy community (Hoglund and Jarstand 2010:1).

1.2.5. Election-related violence and conflict

According to the UNDP, Election-related violence can be defined as: Acts or threats of coercion, intimidation, or physical harm perpetrated to affect an electoral process or that arise in the context of electoral competition. When perpetrated to affect an electoral process, violence may be employed to influence the process of elections-such as efforts to delay, disrupt, or derail a poll,-and to influence the outcomes, the determination of winners in competitive races for political office or to secure approval or disapproval of referendum questions. Fischer (2002:4) defines “Electoral conflict and violence as any random or organized act or threat to intimidate, physically harm, blackmail, or abuse a political stakeholder in seeking to determine, delay, or to otherwise influence an electoral process (see also Straus and Tylor 2012:19-22 & Pevehouse and Straus 2013:12-15). In this regard, Fischer notes that election security can thus be defined as the process of protecting electoral stakeholders, information, facilities, and events.”

According to the UNDP 2009, electoral violence includes acts, such as assassination of opponents or spontaneous fistcuffs between rival groups of supporters-and threats, coercion, and intimidation of opponents, voters, or election officials. Threat and intimidation are forms of coercion that are just as powerful as acts of violence can be. Indeed, one purpose of acts of

broader intimidation;-such as tossing a grenade into a crowd of rival supporters;-is to induce fear and to intimidate (for example, to suppress mobilization or voting by that group). Violent acts can be targeted against people or things, such as the targeting of communities or candidates or the deliberate destruction of campaign materials, vehicles, offices, or ballot boxes. How the election process and administration is designed, managed, and implemented has a strong bearing on electoral violence. Those elections considered to be free, fair, and transparent are less likely to experience electoral violence than those where allegations of mismanagement or deliberate cheating are prevalent (UNDP 2009; Fischer 2002:4).

1.2.6. Peace

The concept of peace remains notoriously difficult to define (Galtung 1985:141-158). In 1999, the United Nations (UN) General Assembly launched a program of action to build a “culture of peace” for the world’s children, which envisaged working toward a positive peace of justice, tolerance, and plenty. The UN defined a culture of peace as involving values, attitudes, and behaviours that reject violence, endeavour to prevent conflicts by addressing root causes, and aim at solving problems through dialogue and negotiation. The UN proposed that such a culture of peace would be furthered by actions promoting education for peace and sustainable development, which it suggested was based on human rights, gender equality, democratic participation, tolerant solidarity, open communication, and international security. The Institute for Economics and Peace (IEP) (2012:6) identifies key institutions that are in charge of the movement of a social system towards or away from the negative state of violent conflict to positive peace. According to the IEP, these institutional domains known as the Pillars of Peace are: well-functioning government, sound business environment, equitable distribution of

resources, acceptance of the rights of others, good relations with neighbours, free flow of information, high levels of education and low levels of corruption.

1.2.7. Peace building

According to Tait (2001:9), Kuhne (2001:383) and Reychler (2001:12), defined from the perspective of the intended result, peace building is the activity that seeks to “prevent violent conflict from re-emerging” and the efforts to “rebuild the capabilities of a society to resolve conflict without fighting.” Reychler defines peace building as the constructive transformation of conflict and the creation of a sustainable peace environment. In agreement with Reychler, Tschirgi (2004:i) notes that peace building is the non-military intervention by external actors to help war torn societies not only to avoid a relapse into conflict, but more importantly, to establish conditions for sustainable peace. However, Tschirgi argues that peace building originally referred to action to identify and support structures to consolidate peace in post-conflict countries in order to avoid a relapse into conflict. “Through Peacebuilding the conflict is not merely resolved but the whole situation shifts. The term peace building refers to all efforts required on the way to the creation of a sustainable peace zone” (Reychler, 2001:12). Peace building is more often than not acknowledged as the pinnacle of intervention from which conflict can be transformed, and yet it remains a difficult and complex field. On one hand the basic activities of peace building are more difficult to grasp because of its predisposition to the diversity of local responsibility, intervention and input. In fact, in trying to provide a description of peace building, its true dynamism is often lost. Peace building is a difficult process with which to engage. It requires a soul searching and openness. This is not only time consuming but is difficult to measure in terms of impact. Thirdly it cannot be done alone. It requires an interaction between role players to identify new horizons, manage risks, facilitate process and “shift the whole

situation”. Maiese (2003:1) notes that there are two distinct ways to understand peace building. According to the United Nations (UN) document *An Agenda for Peace*, peace building consists of a wide range of activities associated with capacity building, reconciliation, and social transformation. Peace building is a long term process that occurs after violent conflict has slowed down or come to a halt. Thus it is the phase of the peace process that takes place after peacemaking and peacekeeping. Many non-governmental organisations (NGO’S) on the other hand, understand peace building as an umbrella concept that encompasses not only long term transformative efforts but also peacemaking and peacekeeping. In this view peace building includes early warning and response efforts, violence prevention, advocacy work, civilian and military peacekeeping, military intervention, humanitarian assistance, cease fire agreements and the establishment of peace zones. Focussing on peace building failures, Symphorien (2010:43), notes that the prevailing explanations of peace building failures tend to emphasize economic interests and cultural and political aspects. Peace education and recognition of local tensions and understandings of conflict and peace are, however, necessary components for building an enduring peace. Towards successful peace building, Symphorien, paraphrasing Susan Fountain notes that the paradigm of critical consciousness is defined as a ‘process of promoting knowledge, skills, attitudes and values needed to bring about behaviour changes that enable children, youth and adults to prevent conflict and violence, both overt and structural. To resolve conflict peacefully; and to create the conditions conducive to peace, whether at an intrapersonal, interpersonal, intergroup, national or international level; aggressive peace building should be enacted.

1.2.8. Post-conflict peace building

According to Tschirgi (2004:i) “ peacebuilding is no longer an exact term, it often needs the qualifier ‘post-conflict’ peacebuilding to refer primarily to the non-military or civilian dimensions of international efforts to support countries emerging from conflict-even though it might accompany or succeed military operations”. Tschirgi further notes that many international actors respond to challenges of post-conflict peace building by creating designated units, new policy instruments, special funding mechanisms and institutional reforms”. Kanyako (2012:2), defines post-conflict peace building as the set of long-and short-term activities undertaken in a post-war phase to lay the foundation for longer-term developments. Lederach (1995) posits that peacebuilding is more than post-accord reconstruction, and involves the transformation of hostile and violent relationships into a peace system characterised by just and interdependent relationships. Ramsbotham, Woodhouse and Mial (2011:31-32) note that peace building underpins the work of peacemaking and peacekeeping by addressing structural issues and the long-term relationships between conflictants. Ramsbotham et al. in reference to Galtung, suggests that peacemaking aims to change the attitudes of the main protagonists, while peacekeeping lowers the level of destructive behaviour, and peace building tries to overcome the contradictions which lie at the root of the conflict.

1.2.9. Conflict transformation (CT)

Conflict transformation is the process of bringing about some major change in some aspect of the conflict or the socio-political system in which the conflict is embedded. At least, the conception of profound change is implied and it is more compressive than conflict resolution. Ramsbotham, Woodhouse and Mial (2011:31-32) describe conflict transformation as a term which for some analysts is a significant step beyond conflict resolution, but which in their view represents its

deepest level. It implies a deep transformation in the institutions and discourses that reproduce violence, as well as in the conflict parties themselves and their relationships. It corresponds to the underlying tasks of structural and cultural peace building (Mial 1992:5). According to Hart and Saed (2010:11-12), conflict transformation is concerned with meeting the interests and needs of individuals and groups based on analysis involving the historical, political, economic, socio-relational, and psychological aspects of the conflict. It uses principles and practices that stem from a cultural and contextual understanding of the involved parties.

Transformational theories and practices are also concerned with how oppressive structures and regressive leadership contribute to or escalate conflict and prevent transitioning to peace (Hart and Saed 2010:11-12). Transformational methods have been developed to systematically analyze and help constructively to bring about change in relationships and the structures of oppression and impunity. Moreover, conflict transformation approaches and the values of nonviolence, respect, human security, dignity, and growth are meant to empower people at all levels of society. Hart and Saed also maintain that a deeper, more comprehensive peace results from the process of conflict transformation (CT). Conflict transformation is only one element of the larger peace building framework. It is part of a change process that analyzes conflict at multiple social, political, and economic as well as relational levels and applies this knowledge strategically across the range of issues identified by analysts (see Richmond 2005:7). Its focus in the short-term is to stop conflict and start a process of building relationships through listening and dialogue. Over the long-term, it becomes an important component for changing unjust structures. The entirety of the process is meant to help stabilize society and prevent future violence Hart and Saed (2010: 14). Generally, CT is a holistic and multifaceted process that embraces conflict as a potentially constructive force. As such, it aims to reduce violence, protect

and promote social justice and sustainable peace. CT is typically a long-term process of changing relationships, behaviours, attitudes, systems and structures that cause violence. It requires timely interventions, respect for the cultural context, patience and persistence.

Vayrynen (1991:4-7) argues that conflict transformation can take place in at least four different ways including; actors transformation, issue transformation, rule transformation and structural transformation. Actor transformation involves major internal changes within the original parties to the conflict or the addition and subtraction of new parties to the conflict, while issue transformation involves an alteration of the political agenda of the conflict through a transformation of what the conflict is about. Rule transformation entails a change in the norms involved in the conflict and the limits within which the parties conduct their relations. Structural transformation involves changes in the whole structure of inter-party relations.

1.2.10. Conflict resolution

Conflict resolution involves a contention that an acceptable and durable solution to the issues in a particular conflict between adversaries has been discovered or mutually created by parties themselves, possibly with outside assistance from other third parties or possibly through their own efforts and sometimes with local assistance from insider parties (Jeong 1999:5). Final resolution of one particular conflict does not imply a conflict-free future especially if the parties involved have a long history of enmity, fear or mistrust. When a conflict is resolved, it does not mean that exactly the same parties in conflict may not come into conflict in the future over other issues, some of which may even arise from the working out of the agreed solution to the original incompatibilities (See Sandole 2001: 13). Scholars such as John Galtung have argued that conflicts are generally not solved (Galtung 1969:8; Galtung 1996:16 and Galtung and Carl 2000:47).

1.2.11. Negative peace (Sovereign peace)

Negative peace is peace that reflects a single sovereignty that is re-established to exercise a legitimate monopoly of violence (Doyle and Sambanis 2006:7). Galtung 1985:141-158) notes that negative peace has historically denoted the absence of war and other forms of large-scale violent human conflict. It is a condition in which no active, organized military violence is taking place (see also Richmond 2006:17). The Institute for Economics and Peace (2012:6) defines negative peace as the absence of violence and absence of the fear of violence. Negative peace is a comprehensive conceptual base for capturing both traditional typologies of violence and more recent frameworks developed under the human development and capabilities approach. Whether it is interpersonal violence of a direct physical, sexual, and psychological nature committed by family members, acquaintances and strangers, or collective violence driven by cultural, political, or economic manifestations, it is captured under the conceptual umbrella of negative peace (Institute for Economics and Peace 2012:6). It also captures the domains of human security, encompassing common notions of personal security understood as freedom from physical violence, but also community and political security.

1.2.12. Positive peace (Participatory peace)

This is peace that includes a wider participation, and minimal degree of political assent and participation (Doyle and Sambanis 2006:18-19). Participatory peace is a difficult status, one designed to measure whether the post-war state has entered a path toward democratic civil peace. Positive peace denotes the simultaneous presence of many desirable states of mind and society, such as harmony, justice, equity, and so on. Many philosophical, religious, and cultural traditions have referred to peace in its positive sense. Positive peace refers to a social condition in which

exploitation is minimized or eliminated, and in which there is neither overt violence nor the more subtle phenomenon of underlying structural violence. It denotes the continuing presence of an equitable and just social order as well as ecological harmony (Galtung 1985:141-158). Galtung (1967:17) outlined ten vital components of positive peace that can be discussed at the intra-national level of individuals as well as at the international level of nations to include: presence of cooperation, freedom from fear, freedom from want, economic growth and development, absence of exploitation, equality, justice, freedom of action, pluralism and dynamism (See also Galtung & Carl 2000).

1.2.13. Victor's peace ('peace to the undefeated')

Victors' peace is a form of peace that has evolved from the age-old argument that a peace that rests on a military victory, and upon the hegemony or domination of the victor is more likely to survive (Richmond 2005:1). It is peace that prevails after winning a battle. In this kind of peace, conflicts might remain latent and escalate later if triggered by events such as disputed elections, negative ethnicity and unequal resource distribution. The victor's peace in some perspectives holds legitimacy, though it is heavily disguised. It underpins the constitutional and institutional peace. The victor's peace combines governance, law, civil society, democracy, and trade, enshrined in domestic constitutional documentation, and in international treaties at the heart of peace, along with the emergence of civil society and NGO discourses of peace ('the civil peace').

1.2.14. Institutional peace

Peace which rest upon attempts to anchor states within a normative and legal context in which states multilaterally agree how to behave and how to enforce or determine their behaviour

(Richmond :2002:80 &Richmond 2008:34). This kind of peace is intertwined with the inventions by international organisations such as the United Nations (UN), the African Union and committees such as the East African Committee. Through international institutions such as the UN, perpetrators of electoral violence are prosecuted and charged by the International Criminal Court (ICC) in pursuit of peace and justice in afflicted countries such as Kenya. Moreover, international institutions; for instance the UN; intervene into conflict through peace building and peacekeeping missions. Related institutions such as courts, security institutions and legal institutions are also very instrumental in peace processes.

1.2.15. Constitutional peace

Constitutional peace is peace that rests upon the Kantian argument that peace relies upon democracy, trade, and a set of cosmopolitan values that stem from the notion that individuals are ends in themselves, rather than means to an end (Richmond 2005:1). According to a Briefing Paper (2013:1-4) entitled Constitutional Elements in Peace Agreements, it is noted that; as part of peace negotiations, states emerging from violent conflict often adopt new constitutions, constitutional amendments, constitutional principles, or structured plans for drafting a new constitution. These constitutional elements serve many purposes, such as confirming post-conflict power-sharing arrangements, creating new governmental institutions, and ensuring equal representation and treatment among ethnic groups. However, the constitutional elements adopted as part of the peace agreement are not always implemented in the constitution after the conclusion of the agreement as originally adopted, and sometimes require further negotiation among the parties. In some cases, states are unable to agree on further amendments without political deadlock and/or prolonged dissatisfaction by the parties.

1.2.16. Civil peace

The notion of civil peace is derived from the phenomenon of direct action, of citizen advocacy and mobilisation, in the attainment or defence of basic human rights and values (Richmond 2002:13, Richmond 2005:1, & Richmond 2008:36). Richmond further notes that the civil peace discourse often struggles to be heard, even though it may be propagated by non-state actors motivated by human security and social justice, who blame the state for war, and liberal states for self-interest. Civil organisations, labour organisations and human rights groups are the major facilitators of the civil peace.

1.2.17. Civil society

Civil society is comprised of non-state actors or average citizens who mobilise around shared interests, purposes and values. They undertake initiatives designed to positively affect political, cultural and socio-economic dynamics to advance people's common interests (Comaroff and Comaroff 199:9). According to Okuku (2002:81), civil society comprises various interest groups such as human rights groups, co-operatives, trade unions and the church through which individuals collectively carry out their social enterprises. Okuku further notes that the rise of the centrality of civil society in much of Africa (Kenya included), in both development discourse and the democratization process, has been in response to state weakness. As a result it has become the cutting edge of the effort to build a viable democratic order. Moreover, Okuku (2002:81) and Bratton (1989:417) note that the civil society may be seen as an arena where manifold social movements and civil organisations from all classes attempt to constitute themselves into an ensemble of arrangements so that they can express themselves and advance their interests. The concept of civil society has become central to the contemporary discourse on

democracy and democratisation. In Africa, the authoritarian character of the post-colonial state is underlined by dominance of the civil society (Okuku 2002:81).

1.2.19. Local civil society organizations (CSOs)

Local civil society organisation (CSO) refers specifically to those indigenous groups that are staffed and run by Kenyans. As by-products of their local setting, local civil society organisations shape, and are in turn shaped, by the evolving socio-political systems, economy, history and varying geography of the post-conflict context. Examples of CSOs in Kenya include the Kalenjin, Maasai, Turkana and Samburu (KAMATUSA) association, and the Gikuyu, Embu, Meru (GEMA) association.

1.2.20. Reconciliation

Ngari (2012:3) says, reconciliation is the process of amending damaged relationships. It is often thought to originate in religious discourse and around the notions of forgiveness and mercy. However, Mbugua (2011:21) argues that reconciliation now transcends religious discourse into other components and disciplines in the society such as law, education, psychology, philosophy and others. Reconciliation is a longer-term process of overcoming hostility and mistrust between divided peoples (Ramsbotham, Woodhouse and Mial 2011:31-32).

1.2.21. A state in transition

A state in transition is a state that is shifting from periods of gross human rights violations, mass violence or protracted armed conflict towards a peaceful, democratic future characterised by respect for the rule of law (Ngari 2012:3). Such a state is characterised by institutional reforms, constitutional reviews and amendments, policy reformulations, vetting of officials, democratic

freedoms and the observation of human rights. Kenya is a state in transition, from a single party democracy to a multiparty democracy with a recently reviewed constitution established in 2010.

1.2.22. Transitional Justice

Transitional justice refers to the set of judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms.

Transitional justice is not a ‘special’ kind of justice, but an approach to achieving justice in times of transition from conflict and/or state repression. By trying to achieve accountability and redressing victims, transitional justice provides recognition of the rights of victims promotes civic trust and strengthens the democratic rule of law. Transitional justice is important in that in the aftermath of massive human rights abuses, victims have well established rights to see the perpetrators punished, to know the truth, and to receive reparations; because systemic human rights violations affect not just the direct victims, but society as a whole. In addition to satisfying the latter obligations, during transitional justice states have duties to guarantee that the violations will not recur, and therefore, a special duty to reform institutions that were either involved in or incapable of preventing the abuses (Ngari 2012:3). The core elements of a Comprehensive Transitional Justice Policy are:

- i. Criminal prosecutions, particularly those that address perpetrators considered to be the most responsible;

- ii. reparations, through which governments recognize and take steps to address the harms suffered. Such initiatives often have material elements (such as cash payments or health services) as well as symbolic aspects (such as public apologies or a day of remembrance);
- iii. institutional reform of abusive state institutions such as armed forces, police and courts, to dismantle by appropriate means the structural machinery of abuses and prevent recurrence of serious human rights abuses and impunity;
- iv. truth commissions or other means to investigate and report on systematic patterns of abuse, recommend changes and help understand the underlying causes of serious human rights violations (Ngari 2012:3).

For the United Nations (Guidance Note of the Secretary General 2010:1-2), transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice processes and mechanisms are therefore a critical component of the United Nations framework for strengthening the rule of law. According to the UN, transitional justice also consists of both judicial and non-judicial processes and mechanisms, including prosecution initiatives, truth-seeking, reparations programmes, institutional reform or an appropriate combination thereof. Whatever combination is chosen must be in conformity with international legal standards and obligations. Transitional justice should further seek to take account of the root causes of conflicts and the related violations of all rights, including civil, political, economic, social and cultural rights. By striving to address the spectrum of violations in an integrated and interdependent manner, transitional justice can contribute to achieving the broader objectives of prevention of further conflict, peacebuilding and reconciliation. United Nations rule of law and transitional justice activities include developing standards and best

practices, assisting in the design and implementation of transitional justice mechanisms, providing technical, material and financial support, and promoting the inclusion of human rights and transitional justice considerations in peace agreements (UN 2010:1-2).

1.3. Overview of the literature

The researcher reviews literature from different books, journals and theses. Reviewed literature focuses specifically on the causes of electoral conflicts, election-related violence, specific forms and variations of electoral conflicts, and the effects of election conflicts. To address the issue of electoral conflicts in Kenya, the researcher will also review information regarding conflict management, peace building strategies and transformation of electoral conflicts.

Today, intrastate conflict is the dominant type of conflict in the world in general and in Africa in particular (De Goor; Rupesinghe and Sciarone 1996:26; Sandole 1999:136 in reference to Gurr's 1993 research; Lund in Druckman and Diehl 2006:3 & Dokken 2008:3). Conflicts and crises of the post-cold war period are more intrastate conflicts than interstate conflict (Kristen 2004:190). Since the end of the Cold War, the nature of intra- and interstate wars has changed dramatically. On the one hand, a more positive understanding of peace focused on social justice has emerged. On the other hand, violent conflict has increasingly impacted on civilians (Henderson and De Coning 2007:11). Walter (2009:3) argues that more than half of all civil wars in 2008 were fought between ethnic minorities and their central governments over greater autonomy or independence. According to Lund in Druckman and Diehl (2006:3), the vast majority of conflicts are national in nature, dealing with secessionist, ethnic, or ideological issues. Dokken (2008:3) says that currently, 30 out of 53 African countries are experiencing some form of intrastate conflict. Electoral violence has received increasing international attention in recent

years due to the devastating effects of outbreaks of violence in Kenya, Zimbabwe, Egypt, Sudan, South Sudan, Somalia and Afghanistan around elections (Hoglund and Jarstand 2010:1). This study is a response to the increasing frequency of electoral conflicts in the developing world, and specifically in Kenya.

Sisk (2003:1) contends that democracy as a system of political decision making is in many ways a system of conflict management in which the outcomes are unknown but the fundamental rules of the game provide a safe arena in which to compete. In the same vein, Kanyako (2012:5) notes that in post-conflict settings, elections are much more than just a means of choosing public officials and changing government. Due to the symbiotic relationship between poor governance and instability, elections are viewed as a means of conflict management. For this reason, many deeply divided post-war societies in the 1990s have turned to democracy as a way to exit intractable conflicts (Sisk 2003:1). Furthermore, Brahn (2005:3) and Lyons, cited in Dayton and Kriesberg (2009:91-92) assert that elections have been a part of nearly all negotiated settlements of civil wars in the post-Cold War period. Where secession or partition are not an option (and it rarely is, given norms of sovereignty), conventional wisdom is that democratic elections are the most effective means of channelling competition into peaceful means. In a post-conflict setting, elections are much more than just a means of choosing public officials and changing government. Due to the symbiotic relationship between poor governance and instability, elections have also come to be viewed as a means of conflict management (Kanyako 2012:8).

Moreover, Hoglund and Jarstand (2010:1) argue that the notion of violence-free elections is encapsulated in the term 'free and fair' elections, serving as a benchmark for determining the legitimacy of elections. Efforts by local and international actors include electoral assistance,

peacekeeping and monitoring missions, civic and voter education. Yet, an understanding of the consequences of specific strategies and how their returns can be maximised remains limited (Hoglund and Jarstand 2010:1). From a different perspective, Deng, in De Goor, Rupesinghe and Sciarone (1996:226) maintain that Western-Style democracy of the vote, with the ‘winner take all’ outcome, runs counter to the African indigenous principle of power-sharing and conciliation, and therefore cannot be a basis for conflict transformation, management and resolution in the African cultural context. Schake in Von Lipsey (1997:110) argues that elections can be destabilizing and that election alone does not constitute democracy; they can even serve to further disenfranchisement. In the same vein, critics contend that post-conflict elections may be detrimental to state-building and even encourage a return to fighting (Matanock 2012:2). Moreover, Matanock (2012:3) in reference to (Klopp 2001; Wilkinson 2004; Kasara 2009; Wilkinson and Haid 2009; Altier 2010; Dunning 2011; Machado, Scartascini et al. 2011, and Steele 2011), all note that violence itself is used in some elections as a mechanism for electoral competition. Matanock adds that elections do not cause a breakthrough into peace building, but only ratify the constitutional deals that have been agreed to by elites (people with enough power, that is, guns and money to violate the rule with impunity and manipulate policies).

Lyons in Dayton et al. (2009:92) observes that it is not primarily the events on election day, but rather the processes leading up to the election and the kinds of incentives and opportunities developed that encourage warring factions to shift their strategies from violence to electoral politics.

The study emanates from gaps identified by Khadiagala, Matlosa and Shale (2010:1) who argue that it is worth noting that the 14th Session of the Human Rights Council of the United Nations General Assembly, held on 21st May 2010, focused its attention on election-related violence and killings. Paraphrasing the UN General Assembly (2010:6), Khadiagala et al. add that the report of Philip Alston, the special rapporteur on extra-judicial, summary or arbitrary executions, which was tabled during this meeting, noted that:

Until recently, there has been little academic research on the specific subject of election violence. While there has been a tremendous amount of writing on elections generally and on political violence generally, there has been little on the intersection of these two fields: election-related conflicts. Research gaps that have been generally identified include work on causes and effects of election conflicts, cross-national studies, efforts to understand the specific forms or variations of electoral conflicts, work that is both theoretical and case-oriented, and research on the scope, gravity and timing of election violence.

(Khadiagala et al. 2010:1 paraphrasing UN General Assembly 2010:6).

This study is an evaluation of conflict management and peace building measures in relation to electoral conflicts in Kenya from 2002-2012. As in the later report by Philip Alston, some of the gaps that the research will address include: the intersection of elections and political conflict, the causes and effects of election conflicts, the specific forms or variations of electoral conflicts, and the aspect of a theoretical and case-oriented study to address electoral conflicts. The study will focus on the period after the 2002 general elections, the escalated controversial presidential dispute during the 2007 general elections and the coming 2012 general election. Babbie (1989:328) states that evaluation research is a matter of finding out whether something is there, or not there, whether something happened or did not happen. A qualitative approach

(Johson and Onwuegbuzie 2004:20) will be adopted for the study. The researcher will collect qualitative data through focus group interviews, individual interviews and participant observation. Coding and categorisation will be carried out based on the constructivist grounded theory originally developed by Glaser and Strauss (1967), and modified by Charmaz (2000). Sandole's (2007:28) concept of the three pillar framework will also be integrated into the analysis. Theoretically, the study will be guided by Paris' 2004 Institutionalisation before Liberalisation (IBL) and liberal peace theoretical approaches.

1.3.1. Kenya's elections in the multiparty era

Khadiagala (2008:4-5) writes that the elections of December 2007 were the fourth electoral exercise in Kenya since the inauguration of the multiparty era in the early 1990s. Khadiagala further observes that the 2007 elections were momentous because of the large voter turnout, reflecting a yearning to achieve a better future through the ballot box. Also, Khadiagala (2008:5) says that the 2007 elections symbolised a learning process through which, after three elections of varying competitiveness and openness, the electorate had begun to be acclimatised to the perception that it could make a decisive difference through the vote, whether in local, parliamentary, or presidential elections. However, this dream was not achieved when the 2007 elections escalated into violence over the disputed presidential votes. This formed one of the major escalated electoral conflicts in Kenyan history where approximately 1 500 people were killed and 350,000 displaced (Litscher 2008:48, Murithi 2012:103).

1.3.2. Causes of electoral conflicts

Deng in De Goor, Rupesinghe and Sciarone (1996:119) notes that generally, regarding the sources and consequences of conflict, UN secretary-General, Boutros Boutros-Ghali, said that:

poverty, diseases, famine, oppression and despair abound in intrastate conflicts. Esteban & Debraj (2008:163) argue that the onset of electoral conflicts critically depends on the political system in place. Litscher (2008:48); Nasongo, Achoka and Wamocha (2009: XXX) and Kwaja (2009:41) acknowledge that the main trigger of the Kenyan violent conflict was the disputed Presidential election plus the quest for political power of political parties. However, other vital peripheral issues have also been traced and linked to the conflict by Nasongo et al. (2009: XXX). Amongst them, they include: (1) the colonial leadership legacy that encroached into the post-colonial government through leadership policies that influenced constitution rules and land ownership, (2) the international financial institutions and economic conditionalities that were imposed on Kenya in the 1990s, (3) the abuse of ethnicity by political leadership, (4) failures of the National Rainbow Coalition (NARC) government and general problems such as high unemployment rates and inequitable resource distribution.

Ajulu (2007:33) suggests that the spiral of violence that erupted in response to Kibaki's theft of the 2007 election was a symptom of a much deeper crisis in Kenya's political economy, reflecting, as it were, deep-seated frustrations rooted in the socio-economic injustices of landlessness, joblessness and poverty that have beset the country since independence. Furthermore, according to Ajulu (2007:34) the ethnic clashes which have characterised much of the period of multiparty politics are not tribal conflicts in the real sense; rather, they are politically organised conflicts orchestrated to achieve short-and long-term political and ultimately economic advantages. However, we note that Kokole, in (De Goor, et al. 1996:126) maintains that while ethnicity by itself need not generate ethnic conflicts, it is evident that ethnicity can be exploited and manipulated enough to generate social conflict, especially in the developing world. According to Ajulu, an understanding of the electoral crisis in Kenya must be

sought within an analysis that confronts the nature of political economy, forms of accumulation and the way that these have informed the conduct of politics itself.

1.3.3. Democracy as a system of conflict management

Smootha (2002: 423), Sisk (2003:2) Rupiya (2012:180) and Sisk (2012:48), argue that democracy is a system of conflict management because it allows for the resolution of social conflicts through competition in electoral and legislative arenas. Elections are key elements of democratic processes. They provide for transparent and peaceful change of government and distribution of power (Hoglund and Jarstand (2010:1). Smootha and Sisk agree that democracy as a system of conflict management is defined by the following minimalist terms:

- i. A transitional election that imbues a basic sense of legitimacy to the post-war ruling authority;
- ii. The emergence or re-emergence of political parties as primary organisations in the political sphere;
- iii. A new structure to promote basic human rights;
- iv. The re-emergence of elections and some degree of political autonomy for municipal governments, local councils, and rural government structures ;
- v. Oversight and monitoring of elections, political parties, and human rights by external observers;
- vi. The revival of civil society, which is normally overwhelmed during times of war; and
- vii. Often, a process of constitution-making.

Reilly (2001:7-12) and Reilly (2006:811) propose that to solve electoral conflicts, electoral system innovations can be used to counter party fractionalization and encourage inter-party

cooperation and coalition. Moreover, according to Kanyako (2012:8) in post-conflict elections, ballots are often cast along predictable ethnic, clan, regional or religious lines, as these are the most easily mobilized sources of political support. In many cases, political parties merely mirror these cleavages in the process of exposing deep social divisions. Furthermore, Kanyako adds that the key challenge is to go beyond regular elections to instil and consolidate those democratic values that decentralise and devolve political power; tackle corruption; promote human rights and the rule of law; create credible judiciaries; foster independent mass media; empower civil society; and, perhaps most importantly, isolate the spoilers.

1.3.4. Peacebuilding in post-electoral conflicts

Philpott in Philpott and Powers (2010:3) notes that the most recent generation in global politics might well be called the ‘age of Peacebuilding.’ What merits the title is an intense, diverse, and global wave of efforts to end the violence and colossal injustice of civil war, genocide, dictatorship, and large-scale poverty and to foster justice and prosperity in their stead. Doyle and Sambanis (2000:779) note that the political strategy of a peace building mandate is the concept of operations embodied in its design. And that just as civil wars are usually about failures of legitimate state authority, sustainable civil peace relies on its successful reconstruction. Peace building is about what needs to happen in between. According to Collier, Hoeffler and Soderbom (2006:2) post-conflict elections should be promoted as intrinsically desirable rather than as mechanisms for increasing the durability of the post-conflict peace.

Peace-making and peace building is a risky business (Stedman in Druckman and Diehl 2006:255). Tschirgi (2004: II) argues that since 9/11, peace building has increasingly been taken over by a new discourse on “nation building”, “regime change,” and “stabilization and

reconstruction,” which is predicated on the necessity of securing the stability of weak or failing states to avoid the negative external fallout from state failure. Such a formulation, driven primarily by external concerns, is likely to undermine the basic premise of peace building that peace, security and stability cannot be imposed from the outside but need to be nurtured internally through patient, flexible, responsive strategies that are in tune with domestic political realities. Doyle and Sambanis (2000:779) argues that peace building strategies should address the local roots of hostility, the local capacities for change, and the specific degree of international commitment available to assist sustainable peace.

Brinkerhoff (2005:7) shares the view of Paris (2004:188) and outlines three significant features of sequencing and time-frames for reconstruction in peace building. First, exclusive or premature concentration on democracy and elections can lead to destabilisation and renewal of conflict. Second, restarting economic growth requires putting in place the basics of a market economy, but this needs to be done carefully, not as an ideological imperative. Finally, governance reconstruction over the long-term needs to assure attention to equity, social divisions and poverty reduction so as to minimise the odds of societal divisiveness and a return to conflict. Macnair (2003:80) in describing peace research refers to Galtung who was prominent in peace research and is often cited for two conceptual distinctions. First, the difference between negative peace and positive peace, and secondly the distinction between direct violence and structural violence. Negative peace means the absence of war and other forms of direct violence. It is achieved when a war or crime that might have happened is prevented.

Positive peace is a condition where nonviolence, social justice, economic and ecological sustainability remove the causes of violence. It is achieved when social institutions of peace that

make the idea of using war or other violence unlikely to occur are in place. On one hand, direct violence involves intentionally harmful actions carried out by individuals. They may choose to do them alone, under someone else's authority, or they may be the authority commanding that the actions be taken. On the other hand, structural violence is carried out by social organisations. It does not target individuals, but leaves them in poverty or otherwise puts them in harm's way, such as unsafe working conditions, dangerous products or disease. Physical violence connotes behaviours intended or threatening to inflict bodily injury or death. It is the most straightforward and visible (Macnair 2003:80).

1.3.5. Examining and evaluating peace building

Culbertson in Philpott and Powers (2010:66) writes that although some in the peace building community have resisted evaluation, arguing that peace work will not show results in the short run or cannot be measured, the mood does seem to be changing. The peace building community is increasingly recognising that evaluation can be an important tool for improving and legitimating the field.

Tschirgi (2004:9) paraphrasing Menkhaus (2003) observes that rigorous systematic and comparative peacebuilding evaluations at the country level remain an underdeveloped area. Furthermore, Tschirgi writes that there are good reasons why it is difficult to evaluate peace building, which is a long-term process that does not readily lend itself to causal analysis.

Druckman (2005:295) argues that practitioners and applied researchers [in a variety of interventions spanning from peacekeeping, peace-making, and peace building] are being encouraged to incorporate evaluation protocols in their designs, hence the distinction between summative and formative evaluation. Summative evaluations are intended to assess the effects or

effectiveness of an intervention. A comprehensive evaluation examines as many types of outcomes and consequences as is possible. Formative evaluations are designed to foster the development of the intervention or program. They focus on process rather than outcomes (Druckman 2005: 296).

This study will be guided by both the formative and summative aspects of evaluation. Additionally, Doyle and Sambanis (2000:781) contend that all peace strategies should address the local sources of hostility, the local capacity for change and the net specific degree of international commitment available to assist change. The research will investigate whether the grass-roots, local majority of Kenyan's citizens are aware of the peacebuilding process in Kenya, whether they are involved, and their views regarding the success or failure of the peacebuilding on ground. Paradigmatically, Culbertson in Philpott and Powers (2010:66) write that peace building can be understood in terms of two broad paradigms: accountability and learning. The end result of the accountability evaluation is typically a judgement about the worth, merit or value of an initiative while the learning paradigm is oriented toward improving future actions of the organisation that undertook the initiative or other related constituencies. Learning approaches give greater weight to the interests of organisational staff, practitioners in the field and even the broader public. The study will be based on both the learning and accountability model (Culbertson in Philpott and Powers 2010:66-68).

Lederach in Lederach and Jenner (2002:263) and in Druckman and Diehl (2006:321) maintains that a comprehensive framework for peace builds from a vision for both long-term transformation and pragmatic short-term steps. Furthermore, Lederach supports his ideas by saying that when we hold the long-and short-term views together, we begin to frame questions differently. Rather than focusing exclusively on how to initiate a peace process, we raise to equal prominence the question of how to sustain it. One of the gaps in the research is concerning whether the peace building process in Kenya was implemented and practiced as a long, or a short-term process.

1.4. Statement of the problem

According to the 2008 Amnesty International Report ‘the violent struggle for power, even in states which do not descend into armed conflict, still remains an important component of political life in Africa’ (Biegon 2009:1). Credence to the latter statement by Amnesty International, Biegon notes that violence has accompanied elections in Nigeria in 2003 and 2007, Lesotho in 1998 and 2007, Kenya in 2007, and Zimbabwe in 2008. The study examines conflict management and Peacebuilding measures relating to electoral conflicts in Kenya from 2002 to 2012. Focusing on the 2007 general elections, Abdi (2008:1), Biegon (2009:1), Murithi (2008:1617), Murithi (2012:103) and Litscher (2008:48) note that in the 2007 electoral conflict, the ensuing electoral conflicts and violence between supporters of the opposing protagonists went on for several weeks causing over 1000 deaths and displacing over 300,000 persons. According to Elklit in Khadiagala et al. (2010:128) and Murithi (2012:103) the simultaneous presidential, parliamentary and civic elections held in Kenya on 27th December 2007 were disastrous in terms of serious election-related violence; in some places, the violence erupted even before the results. Elklit says that estimates of the number of people who died in the violence

oscillated between 1000 and 1500, the number of rapes and other forms of harassment is unknown, and the number of internally displaced persons was somewhere between 300,000 and 500,000. Doyle and Sambanis (2000:779) observe that peacebuilding can improve the prospects that a civil war will be transformed or resolved.

The research will also examine the peace building process in Kenya; its achievements, challenges, failures and the way forward in relation to the election-related conflicts. Thus, the research problem revolves around electoral conflicts in Kenya as from 2002-2013, and associated conflict management measures and peace building processes. The research outcomes would be of importance in reformulating peace building policies and could be applied in other developing countries facing similar electoral conflict challenges for instance; Zimbabwe, Somalia, Egypt, Tunisia, Uganda and Libya.

1.4.1. Research question, aim, objective, and sub-questions

1.4.2. Research question

The main research question is: how are conflict management measures and peace building processes succeeding or failing in transforming the electoral conflicts in Kenya in the period 2002-2013?

1.4.3. Research aim and objectives

The research aim states the overall purpose of the study and it is the research question reformulated as a statement. On the other hand, the study objectives are the research sub-questions reformulated as statements. The objectives are the steps that will be undertaken to achieve the aim. This study will be guided by the following aim:

1.4.4. Research aim

The aim of the study is to find out how conflict management measures and peace building processes are succeeding or failing in transforming the Kenyan election-related conflicts from 2002-2013.

1.4.5. Research objectives

The specific objectives of this research are to measure:

1. To measure the outcomes of conflict management with respect to Kenyan elections
2. To measure the outcomes of peacebuilding with respect to Kenyan elections
3. To assess whether peacebuilding principles have reached a wide audience and resulted in attitude change.

1.4.6. Significance of the study

First, the study will identify the core causes and consequences of electoral and post-election violence in Kenya. Such causes could also be linked to be the same that have resulted in electoral conflicts in other countries such as Zimbabwe, Libya, Mozambique, Sudan and South Sudan, Egypt, and Somalia. In addition, they could be used as an indicator of any possible electoral conflict in any other country in which they occur.

Next, the research will suggest measures that can be adopted to transform the electoral conflicts in Kenya. These measures could also be used to transform and resolve electoral conflicts in other countries with similar electoral conflicts to those of Kenya. The study adopts a conflict management approach. In the same vein, Posthuma's (2011:110) study illustrates that conflict management research is in fact relevant and important for assessing and influencing actual outcomes that are important to organizations across the globe.

Moreover, the study will propose that electoral and post-electoral peace building should adopt a comprehensive framework with a vision for long-term transformation and pragmatic short-term steps to de-escalate violence (Lederach in Lederach & Jenner 2002:263), consequently fostering economic development. Lastly, the methodology uses an evaluation approach to electoral conflicts and peace building, a qualitative approach and the theoretical approach of Institutionalisation Before liberalisation (IBL) which could be used by other researchers to research conflicts of similar nature.

1.4.7. Research design and methodology

This section provides a summary of the evaluation process in the study and how and why qualitative research will be used. Sub-sections that will be discussed include: the evaluation process, qualitative research methodology, sampling methodology, research potential and limitations, data collection and analysis methodologies.

1.4.8. Qualitative dominant mixed method method

This study and the methodological framework of the research is qualitative. Qualitative research is based upon the observations and interpretations of people's perception of different events and it takes the snapshot of the people's perception in a natural setting (Guba, 1990; Guba& Lincoln, 1994; Newman, 1994). Qualitative research is an interpretive and naturalistic approach (Guba and Lincoln 1994 & Denzin and Lincoln 2003). According to Creswell (1998:15 & 2007:14-20), qualitative research is an inquiry process of understanding, based on distinct methodological traditions of inquiry that explore a social or human problem. In this context the research focus is on electoral conflict management and peace building. Moreover, Creswell

notes that in qualitative research, researchers build a complex, holistic picture, analyse words, report details of informants, and conduct the study in a natural setting.

Research findings have been analysed by the constructivist grounded theory by Charmaz (2000 & 2003) that is an improvement of the grounded theory by (Glaser and Strauss 1967 & Strauss and Corbin 1998). Charmaz (2000:524 & 2003:272-273) defines constructivist grounded theory in more detail and tried to differentiate between the true and real in grounded theory perspective. Khan (2014:228) quotes Charmaz (2003:272-273) noting that ‘a constructivist grounded theory distinguishes between the real and the true. The constructivist approach does not seek truth – single, universal, and lasting. Still, it remains realist because it addresses human realities and assumes the existence of real worlds...the constructivist approach assumes what we take as real, as objective knowledge and truth, is based upon our perspective...thus the grounded theorist constructs an image of reality, not the reality – that is, objective, true, and external’.

Thus, in this study, based on qualitative research questions and objectives the researcher will collect qualitative data and then perform a qualitative constructivist grounded theory analysis guided by liberal peace, Institutionalisation before liberalisation (IBL) theory and the Institute for Democracy and Electoral Assistance approaches to electoral conflicts and peace building. The figure below presents the research procedures.

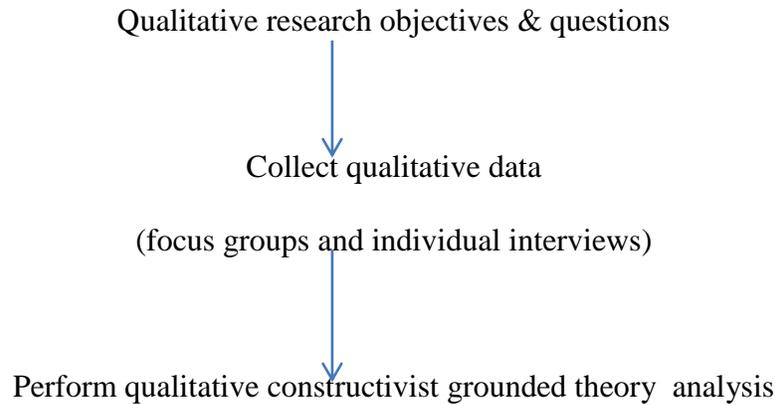


Figure 1: Research process

1.4.9. Data Collection

Tillet and French (2006:40-41) note that investigation or information gathering is crucial for appropriate and effective analysis and evaluation. This section discusses the data collection process that will be followed during the research. According to Frost (1996:32-33) and Hoffman (2004:13), people often hold sets of beliefs about how international and national politics work (together with beliefs which specify where they themselves fit into the politics) and these beliefs systematically mask from them the ways in which they are manipulated by power structures which disadvantage them. In the same vain Posthuma (2011:108) maintains that too often, research is criticized as being irrelevant with little or no application to the real world. Thus, the researcher will collect data by conducting focus group interviews among the majority dominant ethnic groups in Kenya; Kikuyu, Luo, Luhya and Kallenjin (Posner 2007:1317). Open-ended questions whereby the respondents are asked to provide their own answers Babbie & Mouton (2001:133) will be used. An example of such questions will be ‘what in your opinion do you think are the causes of the post-election conflicts?’

As in Madu's (2010:193) research and Druckman's (2005:152) views, the researcher will also carry out individual interviews. Carefully formulated and sequenced questions based on the study aim and objectives will be used to elicit a wide range of responses from specific individual participants, focus group participants and key informants, including political party leaders, members of parliament or their representatives, Electoral Commission of Kenya (ECK) members, and Electoral Institute of Southern Africa (EISA) members. Additionally, selected members from the following commissions will be interviewed: Kenya Commission on Human Rights, Constitutional Implementation Committee (CIC), Truth Justice and Reconciliation Commission (TJRC), National Cohesion and Integration Commission (NCIC), National Police Service Commission (NPSC), Commission of Administrative Justice (CAJ), Commission for Investigation of post election Violence (CIPEV), Commission on Revenue Allocation (CRA), as well as political science scholars, academicians and police officials. This set of data will help to complement as well as to confirm the reliability of the data from focus groups.

In addition, as the researcher will be conducting focus group interviews and individual interviews, he will adopt participant observation as a method of collecting data. Mugisa (2010:83) states that participant observation occurs when the researcher is part of the study and involves him/her self by observing, participating, interrogating, listening and communicating.

Apart from focus group interviews, individual interviews and participant observation, this study will also draw part of its data from reviews of literature surrounding conflict management, peacebuilding, and the liberal approach. Scholarly journals featuring debates about peace processes will also be consulted. They will include: the Journal of Conflict Resolution, Journal of

Peace and Conflict Studies, the Journal of African Elections, African Affairs and the International Journal of Peace Studies.

1.4.10. Population and Sampling strategies

According to Babbie (1989:207), the population for a study is that group (usually of people) about whom we want to be able to draw conclusions. In this study, the population included Kenyan citizens both male and female and above the age of eighteen years old for the focus group interviews and individual interviews. Individual interviews covered the following population: members of the ECK, EISA, CIC, TJRC, NCIC, NPSC, CAJ, CIPEV, CRA, academicians and scholars specialising in electoral conflicts, peace building and conflict management. Political party leaders or their representatives, Muslim and Catholic clergy and members of nongovernmental bodies dealing with peace building in Kenya were also included.

According to Druckman (2005:151), in-depth interviews involve purposefully selected individuals to explore key concepts for a survey to represent a range of perspectives, while focus groups are conducted with small numbers of participants selected by non-probability samples. The study population comprised at least eighty individuals. Focus groups targeted at least fifty participants. Five focus groups were identified. Each group consisted of six to ten adult Kenyan citizens from the major Kenyan ethnic groups: Kikuyu, Luhya, Luo and Kalenjin. The researcher also conducted at least three meetings with each focus group. As this study is a grounded theoretical approach, follow up sessions for both the focus groups and individual interviews were conducted.

1.4.11. Data analysis

Qualitative data collected in this study will be analysed qualitatively by the constructivist grounded theory method (Charmaz 2000; 2003; 2014 & Mills, Bonner and Francis 2006:1-10). According to Charmaz, constructivism denies the existence of an objective reality, assessing instead that realities are social constructions of the mind. According to Guba and Lincoln (1989:430), individuals who deny the existence of an objective reality assume a relativist ontological position. Relativists claim that concepts such as rationality, truth, right, good, or norms must be understood as relative to a specific conceptual scheme, theoretical framework, paradigm, form of life, society, or culture. Epistemologically, constructivism emphasises the subjective interrelationship between the researcher and participant, and the co-construction of meaning (Charmaz 2008a & Charmaz 2008b).

Thus, qualitative data collected in this study was analysed predominantly qualitatively by the constructivist grounded theory as expressed by Corbin & Strauss (1990:5); Mills, Bonner & Francis (2006:1-10); Strauss (1987:22-23) and Charmaz in Denzin & Lincoln (2003:249) respectively.

The researcher adopted Srnka and Koeszegi's (2007:53) proposal for a blueprint for a deductive-inductive procedure of content analysis, which on one hand provided a newly constructed, adapted, or extended theory and on the other hand allowed transformation of qualitative data into categorical (coded) data. The most significant procedures in the analysis process comprised the separation of unitisation, categorisation, coding as well as proposing appropriate quality checks for each of these stages to provide for valid and reliable results. Systematically, coded data was categorised into core categories following Sandole's (2007:28) three-pillar framework for analysing and resolving conflicts at any level.

Moreover, as in any other research, common processes of data analysis were observed and followed. For instance, the researcher familiarised himself with the data through review, reading, organization and indexing of the data for easy retrieval and identification. Also, the researcher identified and recorded themes that were directly related to aims and objectives of the research. For example, themes that answered the question ‘what, in your opinion do you think are the causes of electoral conflicts in Kenya?’

1.4.12. Ethical considerations

Ethics and evaluation are intertwined (Babbie 1989:341). According to Porter, Gillian, Smith, Schnabel and Osaghae (2005:3) the nature of recent conflicts and interventions to manage, transform or resolve them has made ethical considerations a key methodological issue. Thus, researchers involved in or doing participatory and action research, participant observation, peacebuilding, conflict resolution, and humanitarian assistance, are normally required to observe rules of confidentiality; especially with regard to disclosures. In this study, Alderson’s 1996 guidelines of ethics in research were adapted. This was done by first, developing a relationship with the targeted participants on basis of equality, trust and partnership. In this regard, participant’s social, physical, and psychological wellbeing were not affected.

Second, as according to Paluck in Sriram, King, Mertus, Martin-Ortega and Herman (2009:44) the investigator had an ethical obligation of identifying the research project with enough clarity and detail for the participants to make a fully informed decision about whether or not they would like to participate. Participants were informed that their involvement was purely voluntary and that they had the right to withdraw from participation whenever they felt like it. Identifying

yourself as a researcher is an ethical issue (Gillham 2005:11). Consequently, the researcher always identified himself with the participants as a researcher before commencing interviews.

Sriram in Sriram et al. (2009:58) asserts that the participation of research subjects is to be voluntary, with informed consent, confidential, anonymity is to be respected and that harm to participants must be avoided. Thirdly, the researcher maintained the anonymity of the participants by keeping the research information confidential. Confidentiality encouraged both cognitive and emotional trust between the researcher and participants. Confidentiality was maintained both during and after the research. To maintain the dignity of the participants, the researcher reported research findings accurately, and truthfully, and ensured that at the end of the research, feedback sessions would be provided to the participants by presentation of the research findings in a meeting to which all participants were invited.

1.4.13. Structure of the study

The thesis is composed of eight chapters; the first chapter gives a general introduction of the study, clarification of terms as used in the study and a brief explanation of the methodology. The second chapter explains the history of Kenya from pre-colonial, times, through to the colonial and post-colonial eras. Also, the chapter assess the history of electoral conflict in Kenya. The third chapter consists of the literature review, gaps that the study fills and an explanation of the liberal peace and Institutionalisation before Liberalisation (IBL) ideas. The fourth chapter deals with perspectives on electoral conflict analysis. Chapter five consists of the methodology adopted in the study. Sampling, data collection, and analysis are among the core themes discussed. Chapter six presents the research findings according to the respondents to the study

questions. Analysis of the research findings has been dealt with in chapter seven and the last chapter provides recommendations, the ways forward and conclusions.

CHAPTER TWO: HISTORY OF KENYA

2.0. Introduction

It is essential to understand the historical background before analysis of the research data and drawing of conclusions and solutions to a conflict process. According to Fench and Tillett (2006:82-83), in analysing a conflict, it is necessary to consider the past, or rather, the pasts (Fench & Tillett 2006:82-83). In this regard, Mayer; (2000:13) contends that “conflict cannot be understood independently of its historical context.” In addition, Fench & Tillett (2006:82-83) and Kriesberg & Thorson (1991:10), note that the past exists in, and impacts on the present [and the future]. The past includes: the past of the present disputes; the past of the relationships between the disputants; the past of each of the disputants; learned (or habituated) behaviour deriving from the disputants’ past; and the contextual past (that is the past of the circumstances within which the conflict exists (Fench & Tillett 2006:83). The analysis of dyadic time series is an important advance on the strategies of analysing international relations, conflict management and hence, peace building at either the global or the state level (Oneal 2001:2).

Pettigrew, Woodman and Cameron (2001:699) have written about time, history, process, and Action. They argue that in modernist social science, theories are universal and free from the specifics of time and place. Moreover, Pettigrew, Woodman and Cameron note that process is often used in three ways in the literature: first, as a logic used to explain a causal relationship in a variance theory. Second, process is used as a category of concepts that refer to individuals or organisation. And third, process could co notate a sequence of events that describe how things change over time. Of these three approaches, only the third permits explicit and direct observation of the process in action and, thereby, allows describing and accounting for how some

entity or issue develops and changes over time. For this reason it is vital to describe the historical development of Kenya so as to get an in-depth understanding of the conflict. In Shay's (2009:2) three pillar model, the history of a conflict consists of a continuum of relationships that revolve around; cooperation, competition, tension, conflict, crisis, past relationship between parties, and significant events that triggered psychological trauma.

In an effort to manage a conflict and its reconciliation, Bar-Tal (2000:351) argues that the new beliefs about the relations of the protagonists in a conflict should concern the past period of intractable conflict. Bar-Tal notes that the reconstruction of the past is an important part of reconciliation, because the collective memory of the past underlies much of the animosity, hatred, and mistrust between the parties. Moreover, the collective memory of each party views the past selectively in a one-sided manner, focusing mostly on the misdeeds of the other group and its responsibility for the conflict as well as the glorification and the victimhood of the in group. Bar-Tal (2000:359) observes that the new beliefs formed in the reconciliation process should present the past in a balanced way and in a more objective manner. This process requires a critical examination of the history of the intergroup relations, especially the history of the intractable conflict, a new look at the actions of one's own group and those of the other group (Bar-Tal 2000:359). According to Dersso (2012:22) efforts for resolving conflicts in Africa have but little chance of success unless they are informed by the socio-cultural, historical, political and economic realities of affected societies. Thus, it is important to revisit the historical background of Kenya and its conflict. Such analysis will help in pointing out and tracing the historical root causes of the Kenyan electoral conflict.

2.1. Pre-colonial to colonial period

The name Kenya is derived from the highest mountain in the country, Mt. Kenya (Nyanchama 2008:5-6). According to Nyanchama, traditionally, the gods of the ethnic groups that live around the mountain, lived high up the mountain and it was usual for religious leaders to make pilgrimages up the mountain to offer sacrifices to these gods. Mt. Kenya was known as Kirinyaga locally. It is said that the White people that heard it pronounced as “Kinyaa” rather than “Kirinyaga” and from then, they called it *Kinyaa* which later became *Kenya*.

There was no Kenya before colonial times (Nyanchama 2008:5-6). Nyanchama further notes that the country came into being following the 1884 Berlin conference. It was first administered by the British East Africa Company, then as the British East African Protectorate and, starting from the 1920s, as a British colony. Pre-colonial Kenya was a land of different nations, at least 41 of them, that occupied the current territory of that name. They had their own diverse governance structures, cultural norms and identities. They were portrayed as egalitarian societies with their management and internal control. The ethnic groups clashed from time to time in competition for resources. This was especially so with respect to land and livestock with the latter being a measure of wealth and source of food. Many Kenyan nations were pastoralists while others did subsistence farming. No matter what they did, land remained central to their livelihood; it remained central to conflicts; and remains thus more than one century later (Nyanchama 2008:5-6).

The World Culture Encyclopaedia (2013) and Nyanchama (2008:5-6) note that Political authority in pre-colonial Kenya was decentralized. No kings, chiefs, or bureaucratic institutions existed. For the most part, political authority was collective at every level, and decisions were

generally reached by the oldest males of kin groups or political units in council. Although the councils made some important decisions for the group as a whole, their primary role was judicial-the settlement of disputes between kin groups. The collective prestige of the elders in council, as the representatives of tradition and the ancestors, gave weight to their words, decisions and authority. Women also had a council, the function of which was to deal with domestic concerns, matters of the farms, and the discipline of female social and ritual life. Women were excluded from politics and were usually prevented from holding rights in land (The World Culture Encyclopaedia 2013, and Nyanchama 2008:5-6).

During colonialism, the imposition of foreign rule on Kenyan's ethnic groups drastically altered their social and political structures and disrupted their traditional ways of life. European settlement policies had an even more drastic effect on the Kikuyu as land was virtually taken away from thousands of resident Kikuyu without adequate compensation. With respect to land, the concept of the landless was hardly known during pre-colonial times. Landlessness was rare in any of the nationalities because anyone was entitled to use the land that was available; and no one would be denied use of land. This was despite the fact that in some communities, groups of elders controlled access to the land which was for communal use. Even where there was a concept of land ownership, those that could be termed landless were allowed access to the land for cultivation and animal grazing (The World Culture Encyclopaedia 2013 and Nyanchama 2008:5-6).

A chronology of key events in Kenya's history has been outlined in the BBC online news as on 17th March 2013 13:05 GMT. Nangulu (2012:1-10) and Nyanchama (2008:1-18) note that the history of Kenya is divided into three main parts: the pre-colonial period, colonial period and the

post-colonial or independent period. According to BBC, some of the earliest human settlements were found in Kenya. This suggests that Kenya was the cradle of humanity from which descendents moved out to populate the world. By the year 600, Arabs began settling in the Kenyan coastal areas. They developed trading stations which facilitated contact with the Arab world, Persia and India over centuries. In the 16th century, the Portuguese tried to establish a foothold on the Kenyan coast but were driven off by Swahili states and Omani Arabs by the late 17th century. Consequently, in 1830s Omani Arabs consolidated control of the Kenyan coast. The British East African Protectorate was formed by 1895 and in Early 1900s the British settlers moved into Kenyan highlands and built a railway from Mombasa to Lake Victoria. By 1920, the East African Protectorate had become a crown colony of Kenya administered by a British governor (BBC online news 2013 & Nyanchama 2008:5-16).

According to Nangulu (2010:1-10) Kenya was colonized in 1895. It became part of the British Empire. Kenya was maintained as a Protectorate (a British sphere of influence), and in 1920 it officially became a British colony. Nangulu notes that Kenya attained its independence in 1963. British and European encroachment on Kenya took two forms: Commercial penetration, which is an imperial motive and Political colonization. As such, there is an association between imperialism and colonization (Nangulu 2010:1-10).

Nangulu says that Britain established a colony in Kenya for the following reasons: search for raw materials (for example ivory), and for economic potential (temperate climate and fertile land in the Kenya highlands was an attraction for European settlement). The industrial revolution in Britain, a search for raw materials and market for finished goods partly explains why Kenya was

colonized. The issue of prestige and competition for colonies with other European powers (France, Germany and Portugal) also help explain why the British colonized Kenya.

2.1.2. Struggle for independence in Kenya

This section covers the historical process Kenya underwent to achieve its independence. It includes; discussions about the early political associations up to 1939 like the Young Kavirondo Association (YKA), The Kikuyu Central Association (KCA), The Legislative Council (LEGCO), the role of the Second World War in the attainment of independence, the political associations and movements after 1945. Moreover, the attainment of independence and events that lead to independence is discussed. This includes the first Lancaster House conference, the second Lancaster House conference, the third Lancaster House conference, attainment of 'Madaraka, attainment of independence, and how Kenya became a republic.

2.1.3. Early Political Association up to 1939

According to Singh (1989:205) and Omwoyo (2008:225), the first African political association was the Kikuyu Association formed in 1920 by chiefs from Kiambu under Koinange wa Mbiyu. Their ultimate goal was to cooperate with the whites so as to protect their land from settlers. In 1921, a more militant group under Harry Thuku, the Young Kikuyu Association (YKA) was formed to fight for the welfare of the community. They demanded the withdrawal of the *kipande* (Identification card) system, asked for better working conditions, return of their land and a reduction in the poll tax. In 1922, Harry Thuku with other leaders from Malawi, Uganda, Tanzania and Kenya formed the East African Association. They wanted Kenya to be free, holding of free elections to the Legco of African land, education for Africans and abolition of forced labour. They received support from the Asians, but in the same year Harry Thuku was

arrested and deported to Somalia, where he was detained for 9 years. The East African Association after leading several demonstrations and strikes was banned in 1923.

2.1.4. Young Kavirondo Association (YKA)

The Young Kavirondo Association (YKA) was formed in 1922, by former students of Maseno School. It was being supported by Luo and Luyia members of the Church Mission Society (CMS) in Western Kenya. They had developed a fear that their land may be taken away by the settlers. They were also against the *Kipande* system and income taxes imposed on the Africans. The leaders of YKA included Jonathan Okwiri as Chairman, Benjamin Gumba as Secretary and Simeon Nyende as Treasurer (Omwoyo 2008:225, Singh 1989:205).

Omwoyo (2008) and Singh (1989) further note, that the name of the Young Kavirondo Association was changed in 1923, by Archdeacon Walter Owen of Maseno CMC to the Kavirondo Taxpayers Welfare Association. The change of its name also reflected a change in its objectives, as it became a welfare organisation that cooperated with the colonial government. Its demands included better education, hygiene and better wages. It used peaceful means to press for its demands. This weakened the organisation as it used moderate and peaceful means in making demands for African rights. The organisation was later weakened by tribal and religious divisions resulting in its collapse. The officials were appointed into government services as chiefs and members of the Local Native council.

2.1.5. Kikuyu Central Associations (KCA)

The Kikuyu Central Association (KCA) was formed in 1929, with Joseph Kang'ethe as its president and Johnston Kamau its Secretary (Omwoyo 2008:225 & Kivuitu and Chege

2011:107). The KCA demanded the return of Agikuyu land, the end of the *Kipande* system, the end of forced labour, the election of the Agukuyu paramount chief, and for the Agikuyu to be allowed to grow coffee and cotton, an issuance of title deeds for their land, the release of Harry Thuku and African representation in the Legco. They were also opposed to the type of colonial education that was being offered to the Africans. They were additionally unhappy with the missionaries agitating for the end of female circumcision. They were also opposed to low wages, long working hours, poor working conditions and racial discrimination among the Africans. The mission began a campaign whereby its members would stop female circumcision and also stop being members of KCA. KCA under its Secretary Johnston Kamau protested that, the whites were interfering with the Agikuyu way of life. This led to the start of independent schools and churches where the Africans could carry out their activities without interference. They started a magazine called *Muiguithania* (unit reconciler), where they wrote articles critical of the Scottish missionaries. Johnston Kamau was later made its editor. In 1930, Johnstone was sent to London to present the problems of the Agikuyu to the secretary for Colonies. Even though KCA had its great impact in Central Province by the 1930s, it had opened branches in Nairobi and Nakuru and was well known among the squatters and workers in the white highlands.

Furthermore, Kiruthu, Kapiyo and Kimori (2004:107); Omwoyo (2008:226) and Kivuitu and Chege (2011:107) observes that between 1931 and 1938, there were rivalries among members, which nearly weakened it. The spirit of the KCA led to the formation of political associations in other parts of Kenya such as the Ukamba Members Association, Taita Hills Association and Trade Unions in Mombasa. The Ukamba Members Association was making demand for grazing rights, while the Taita Hill Association wanted the return of their land. The Trade Unions in Mombasa demanded labour rights among the African workers. The agitation by the KCA and

the rise of the other associations did not please the colonial government. This eventually led to the banning of KCA and all other groups in May, 1940.

2.1.6. The Legislative Council (LEGCO)

The Legislative Council was the forerunner of the present day National Assembly. It was formed in 1906 but had its first meeting in 1907. Its members were European settlers and colonial administrators who were not elected but nominated to those positions. The Africans and Asians were not represented. The Legco led by Lord Delamere promoted the interests of the settlers, including the acquisition of more land in the highlands, receiving free labour from the Africans and the ban of Africans from growing cash crops. The settler's discouraged African cultivation of cash crops because they thought it would lower the quality of the crops, create competition and also reduce the African labour on European farms (Kiruthu, Kapiyo & Kimori 2004:127; Omwoyo 2008:226; Kivuitu & Chenge 2011:117;).

The exclusion of Asians and Africans from the Legco encouraged them to demand political representation. The first Asian representative to the legco, Alibbai Mulla Jeevanje was appointed in 1909. The first African to be nominated to the Legco was Eliud Mathu, who was appointed in 1944. The appointment of Mathu was as a result of a series of campaigns to have the rights of the African recognised.

As time went by, the African nationalists demanded more seats in the Legco. They used trade unions to press for their demands. In response to the Africans' demand, the Colonial Office made some changes in the constitution to allow the nomination of more Africans into the council, and in 1946, B.A. Ohanga was nominated as the second African to the Legco. In 1948, the number increased bringing it to 11 Europeans, 5 Indians, 4 Africans and 2 Arabs. Europeans

and Indians were elected, while the Africans and Arabs were nominated. One more African member was nominated in 1951, which increased the number of Africans in the Council to 5.

Further, constitutional changes were made introducing a cabinet system within the Legco, by selecting some of the members to ministerial positions, to assist in the administration of the colony. In response, a multi-racial council of ministers was formed in 1954, and B.A. Ohanga became the first African Minister for Community Development and African Affairs. One more African was nominated to the Legco in 1956, to make up the number of Africans to the council. By this time the ban on political parties and activities had been lifted, resulting in regular meetings by the nationalists, who agitated for the election of more Africans to the Legco. In March 1957, a list of 127,000 voters was prepared to elect African representatives to the Legco, resulting in the first democratic elections to be held in 8 constituencies.

The 8 elected members to the Legco under the leadership of Oginga Odinga and Tom Mboya formed the African Elected Members Organisation (AEMO) to demand for more rights for the Africans. They demanded more seats for the Africans, who were to be elected. Further changes in the constitution were made to allow for more seats for the Africans, and in March 1958, six more constituencies were created to bring the number of elected African members in the Legco to 14(Omwoyo 2008:227 & Kivuitu and Chege 2011:107).

2.1.7. The Role of the Second World War

According to Omwoyo (2008:227) and Singh (1989:115-118), by the end of the Second World War in 1945, political associations had been banned in Kenya. However, this did not stop the Africans from continuing to demand their rights. The Africans who had fought for Britain

during the war had been promised better living conditions, which were not given to them when they returned. During the war they found out that the whites were not as superior as had been believed. They were killed or injured just like any race. Their interaction with other colonised groups made them accept the fact that independence was possible and could only be achieved by the Africans demanding it.

Furthermore, Omwoyo (2008:227 and Sigh (1989:11) notes that the ex-servicemen of the war in 1946 formed the Forty Group to press for their demands. They demanded a share in the government, return of African land, better working conditions, better schools for the Africans and an end to racial discrimination. On their return they were faced with unemployment, there was great poverty among the Africans, they were experiencing a lower standard of living than they had had during the war and their taking part in the war had not been rewarded.

The Forty Group which at the beginning tried to negotiate with the Colonial office to have their demands met found that the colonial government was not in a hurry to change its policies toward the Africans. The group later transformed itself into a Freedom Fighters Organisation and became militant and used force to press their demands. They raided shops and government offices to get guns and declared war against Africans who collaborated with the colonial government. They took oaths to unite and keep them in the struggle for their rights, and demanded that Kenya be granted immediate independence. In 1952, the group transformed itself into the Kenya Land and Freedom Army with its headquarters around Mt. Kenya, and branches in different part of the country (Omwoyo 2008:227).

2.1.8. Political Association and Movements after 1945

According to Kiruthu, Kapiyo and Kimori (2004:107); Kivuitu and Chege (2011:109) and Omwoyo (2008:227), after the ban of political associations in 1940, African interests were channelled through the workers and trade union movements that operated in the urban centres and in the highlands. They played a major role in creating nationalistic feelings among the Kenyans instead of the early community based associations that championed the interests of the communities. The Kikuyu Central Association continued to function even after it had been banned and its officials petitioned the government to lift the ban. The nomination of Eliud Mathu to the Legco encouraged the Africans to demand their rights resulting in the formation of national organisations. The ban on political associations was lifted in 1944, but the Africans were only allowed to form community-based welfare bodies; not national associations.

The Kenya African Study Union (KASU) was initially formed as the Kenya African Union (KAU) (Omwoyo 2008:228; Gichema et al. 2011:104; Kivuitu & Chenge 2011:107). In October 1944, about 33 leaders met in Nairobi with an aim of forming an association that would work closely with Eliud Mathu to champion the interests of the Africans in the Legco. The members then formed the Kenya African Union, with Harry Thuku as President, Francis Khamisi as Secretary and Albert Owino as treasurer. The following were some of the aims of KAU:

- i. To assist Eliud Mathu in championing African interests in the Legco
- ii. To coordinate African nationalist activities.
- iii. To demand additional constitutional changes for the benefit of Africans.
- iv. To demand an improvement in the working conditions for the African workers.

Even though KAU was not political in its aims and activities, the Colonial Office viewed it with the suspicion of it being militant and political (Omwoyo 2008:228 Kivuitu & Chenge 2011:106). The Colonial Office insisted that it changed its name to KASU, because its members included civil servants and the aim of the Union was that of educating the public on the efforts being made by the Colonial Office to improve their welfare. The change of its name and aims caused KASU to lack a national following. It also brought about differences between the moderates and militants. The moderates wanted peaceful negotiations, where as the militants promoted the use of force to meet the demands of the Africans. This forced Harry Thuku to resign in January 1945, and the chairmanship of KASU was taken over by James Gichuru.

In February 1946, KASU dropped its aim of being a study union and reverted to the title Kenya African Union, under the leadership of Gichuru. In a meeting with the Minister of Colonies, KAU demanded free education among the Africans, the return of their land by the whites, an increased number of Africans in the Legco, abolition of the *Kipande* system and better living and working conditions for the Africans. During the KAU conference and elections of 1947, Kenyatta who had returned from England the previous year was elected its president (Omwoyo 2008:228).

Later, there emerged two distinct groups among the leaders and members, resulting in a split of KAU. The moderates who were mainly non-Kikuyus supported peaceful means of pressing for Kenyans' rights, and the younger union militants who wanted to use force to achieve freedom. Kenyatta continued to lead KAU as he was seen as the only one who could unite all the leaders and because he was seen as the only one who could unite all the leaders as he was not associated

with Kikuyu politics(Omwoyo 2008:228; Kiruthu, Kapiyo and Kimori 2004:107; Kivuitu and Chenge2011:107).

The more radical group worked closely with the Kenya Land and Federation Army, which had transferred itself into the Mau Mau. Kenyatta and the moderate members spent time addressing gatherings throughout Kenya. These activities caused the Colonial Office to be afraid of KAU; hence all its meetings outside Nairobi were banned. On October 20th 1952, the Governor, Sir Evelyn Baring declared a State of Emergency in Kenya after Mau Mau members raided villages and killed colonial collaborators. Kenyatta and all KAU leaders were arrested and detained as they were seen to be supporting Mau Mau activities. All political associations were banned. The members of KAU elected new leaders to spearhead its activities and demanded the release of its arrested leaders. Jomo Kenyatta, Paul Ngei, Kung'u Karumba, Bildad Kaggia, Achieng Oneko and Fred Kubai were charged for organising the Mau Mau. After their trial at Kapenguria, they were imprisoned for seven years at Lokitaung. KAU was later banned by the colonial government (Omwoyo 2008:229 and Kivuitu & Chenge 2011:107).

2.1.9. The Mau Mau Movement

The Mau Mau movement may have begun in 1946, when the former servicemen united with militant members of KCA, to form the Fourty Group. They believed that the demands of the Africans could not be achieved through negotiations with the Colonial Office (Omwoyo 2008:229; Kiruthu, Kapiyo and Kimori 2004:110; Kivuitu & Chenge 2011:108). They began acts of violence and raids on European settlers and their African collaborators. The members took an oath in order to maintain their secrecy. The organisation later became known as the Mau Mau. This was translated to mean Mzungu Arudi Ulaya Mwafrika Apate Uhuru. The movement

caused fear among the settlers as some of them were killed and their homes burnt. Government officials were raided and their arms taken away, prompting the government to declare the movement illegal in 1951. This forced the Mau Mau leaders to move away from Nairobi into the forests in Mt. Kenya, the Aberdares and in the highlands from where they carried out their activities using guerrilla tactics of hit-and-run. In October 1952, the freedom fighters killed Chief Waruhiu of Kiambu and his family, for being a collaborator, in what was called the Lari Massacre. This led the Governor to declare a State of Emergency and arrest all African political leaders; particularly the Agikuyu. The members of the community were rounded up and herded into villages to control their movement and support for the Mau Mau. The Mau Mau leaders were hunted down and arrested. General China was arrested in 1954 while Dedan Kimathi was arrested in 1956. Kimathi was charged for leading the organisation and was hanged by the colonial government. The arrest of the leaders created divisions and rivalry among the members of the movement resulting into its break-up in 1960 (Omwoyo 2008:229). According to Gichema et al. (2011:108) and Kivuitu & Chenge (2011:108) the following are some of the effects of the Mau Mau Uprising:

- i. There was loss of life and damage to property.
- ii. It led to the detention of African nationalists.
- iii. It led to the settlement of Africans in African reserves where their rights were abused.
- iv. It interfered with economic activities, as farms were not attended to.
- v. It created divisions between loyalists and freedom fighters, among Africans.
- vi. It led the Colonial Office to start negotiating independence with the nationalists.

The defeat of the Mau Mau movement caused the colonial government to lift the ban on political associations in 1955. The government became more accommodating and began discussing the need for Kenya to become independent with African leaders (Omwoyo 2008:229). On 27th March, 1960, African members of the Legco, met to form an umbrella body to champion African interests and work towards independence. They met at Limuru, Kiambu and agreed to form one party, the Kenya African National Union (KANU) (Kiruthu, Kapiyo and Kimori 2004:117 and Gichema et al. 2011:110-113). Moderate members from the Rift Valley, Coast, and Luyialand, refused to take the positions they were given in KANU, and moved out to form another party that would take care of the interests of smaller communities. They called for a meeting in Ngong, Kajiado in June 1960 and formed the Kenya African Democratic Union (KADU), to press for a regional (*Majimbo*) type of government. KADU became an official opposition party until 1964, when it was dissolved after its members joined the government. Paul Ngei who had been imprisoned with Kenyatta was not happy that he was not made an official of the African People's Party (APP). He later dissolved the APP in 1964 and joined the government (Omwoyo 2008:230 and Nyanchama 2008:5-17).

According to Atieno-Odhiambo (1991:300) for four decades, Mau Mau has been the main theme around which Kenya's pasts and Kenya's possible futures have been debated, contested and fought over. Moreover, Sabar-Friedman (1995:101-102) notes that the government, whether Kenyatta's, Moi's, Kibaki's and most recently, Uhuru Kenyatta's, has had the power at its disposal to determine how to perceive the Mau Mau theme. The power is mandated to determine the ways in which Kenyan history and specifically the collective memory of the Mau Mau was reconstructed. Sabar-Friedman (1995:101-103) however, observes that this power was partially

limited to the ethnic and regional bases of the ruling elite. Consequently, various elements within the Kenyan society have clashed over conflicting interpretations of the Mau Mau. According to Sabar-Friedman, main participants in this contest have been Kenyan intellectuals, opposition political figures, the Kikuyu people and government personnel, into which were drawn some aging ex-Mau Mau fighters as well.

Also, Sabar-Friedman (1995:101-103), discussing the Mau Mau theme, observes that the historical and fictional writings on the Mau Mau by Kenya's leading intellectual dissidents was a major factor in their detention, trials and exile; thus, indicating that the whole issue of the Mau Mau was part of a political debate over the questions of ideology and power in Kenya. Thus, it can be said that in Kenya the Mau Mau myth has engendered a multiplicity of interpretations. Information from the BBC news reveals that as the Mau Mau insurgency persisted, in 1953 Jomo Kenyatta was charged with management of Mau Mau and jailed. KAU was then banned and in 1956 Mau Mau rebellion was put down after thousands of Africans were killed. Nonetheless, in 1959 Kenyatta was released from jail but remained under house arrest. By 1960, the State of emergency ended and Britain announced plans to prepare Kenya for majority African rule. As a result, the Kenya African National Union (KANU) party was formed by Tom Mboya and Oginga Odinga.

2.2.0. Attainment of Independence: Events leading to the Attainment of Independence

Several events aimed at the achievement of freedom from the British took place in Kenya. African leaders formed political parties and organisations whose objectives were to pressurise the colonial government to grant independence to Kenya (Omwoyo 2008:230 Nyanchama 2008:5-17). The African members in the Legco demanded for more freedom and the holding of

free elections to the Legco. They demanded the change of the constitution to address the needs of the Africans. By 1960, the colonial government had softened up and accepted the holding of discussions with the African leaders on the future of Kenya. This led to the holding of the Lancaster House Conferences.

2.2.1. The First Lancaster House Conference

According to Omwoyo (2008:230); Kivuitu & Chenge (2011:119); Kiruthu, Kapiya and Kimori (2004:129) the First Lancaster House Conference was held in 1960, when the leaders of KANU and KADU and African members in the Legco agreed to travel to Britain to discuss the political situation in Kenya with the colonial office. During the conference the African representatives presented their demands, which included the need to hold free elections under the new constitution, where African interests were to be addressed. They also demanded that the Africans should be allowed to form the government. The KANU and KADU leaders differed on the type of government that would suite Kenya. KANU leaders were for a unitary government but those from KADU wanted a regional (*Majimbo*) government.

As a result of the conference, a new constitution was written which allowed Africans to have majority seats in the Legco. The number of Africans in the Council of Ministers was increased to four and elections were to be held in 1961, which were won by KANU. KANU refused to form the government unless its leaders were set free. KADU was asked to form the government, but they did not get the support of KANU, European settlers and Asians. This forced the Colonial Office to call for another conference to help solve the problem. Thus, the Second Lancaster House Conference was called for.

2.2.2. The Second Lancaster House Conference

In order to solve the political crisis caused by KANU's refusal to form the government, the second Lancaster Conference was held in 1962 (Kiruthu, Kapiyo & Kimori 2004:129; Kivuitu and Chenge 2011:119-120; Gichema et al. 2011:122). A strong KANU delegation led by Kenyatta attended the conference. The conference agreed that a regional type of government be introduced in Kenya, and the election to the Legco of the regional representatives. The Legco was transformed into a parliament of two houses, the Lower House and the Upper House. In order to please the two parties, the Colonial Office decided to appoint Jomo Kenyatta from KANU and Ronald Ngala of KADU as Ministers of State in the Governor's office. Elections were held in May 1963, which KANU won. KANU refused to form the government because they were not happy with a regional type of government. This led to the holding of another conference.

2.2.3. The Third Lancaster House Conference

According to Omwoyo (2008:231,) the Third Lancaster House conference following the refusal of KANU to form the government, was held in 1963. The conference agreed among other issues to the independence dates, and for Kenya to use the *Majimbo* constitution.

2.2.4. Attainment of Madaraka

After the general elections of May 1963, which KANU won, they were asked to form the government. During the elections KANU won 66 seats in the Lower House and 19 seats in the Upper House. KADU had 31 seats in the Lower House and 16 in the Upper House, while the other parties had 7 seats in the Lower House and 1 in the Upper House (Omwoyo 2008:231; Kiruthu Kapiyo & Kimori 2004:131). The last Governor of Kenya, Sir M. J. Macdonald invited

Kenyatta and his party to form the first independence government by lowering the British flag known as the Union Jack and raising the Kenyan flag. On the 1st of June 1963, Kenya gained internal self government, with Kenyatta as Prime Minister. This day is celebrated in Kenya as Madaraka Day.

2.2.5. Attainment of Independence

On 12th December 1963, Kenya became an independent nation, and the country celebrated its *uhuru* (independence), which marked the end of colonial rule. Kenyatta formed the government consisting of KANU leaders, as KADU and APP became opposition parties (Omwoyo 2008:231; Kivuitu & Chenge 2011:121).

2.2.6. Independence

In reference to the chronology of historical events in Kenya, the BBC online news notes that it was after the formation of KANU, that Jomo Kenyatta was freed and assumed the presidency of KANU. Thereafter, in 1963 Kenya gained independence with Kenyatta as the prime minister. Thus, Jomo Kenyatta became Kenya's first post-independence leader in 1963. In 1964, the Republic of Kenya was formed and Kenyatta became the president while Jaramogi Odinga the vice-president. With the passing of time, in 1966 Jaramogi Odinga, a Luo, left KANU after an ideological split and formed a rival party named the Kenya People's Union (KPU). As the strength of the KPU grew, Tom Mboya, a government minister affiliated to KPU was assassinated in 1969. It was a big blow to KPU and sparked ethnic unrest. As a result, the KPU was banned and Jaramogi Odinga was arrested. This left KANU as the only party to contest the 1974 election where Jomo Kenyatta was re-elected (Nyanchama 2008:5-16 & BBC online news as on 17th March 2013 13:05 GMT).

2.2.7. Kenya becomes a Republic

During the first anniversary of Kenya's independence on 12th December 1964, Jomo Kenyatta declared Kenya a republic with the President as Head of State and government (Omwoyo 2008:231; Kivuitu & Chenge 2011:121). Kenyatta became the first President of Kenya with Oginga Odinga as the Vice – President. Thereafter, 12th December is celebrated each year as *Jamhuri* (independence) Day.

2.3. Moi era begins

Furthermore, in the online BBC news, it is observed that Daniel arap Moi succeeded Jomo Kenyatta in 1978 as the president and stayed in office until 2002. This was as a result of Kenyatta's death in 1978 while he was still in office. Thus, he was succeeded by Vice-President Daniel arap Moi. In June 1982, President Moi officially declared Kenya a one-party state by National Assembly. As a result, in August 1982, the Kenyan Army concealed an air force coup attempt. In the Process, Private Hezekiah Ochuka ruled Kenya for about six hours. After the fall of the coup, in 1987 Opposition groups were suppressed resulting in international criticism of political arrests and human rights abuses. However, in 1989 Political prisoners were freed. During the year 1990 the foreign minister, Robert Ouko, died in suspicious circumstances that led to increased dissent against government (BBC online news as on 17th March 2013 13:05 GMT).

2.3.1. Multi-party elections

After the freeing of political prisoners and the international criticism of political arrests and human rights abuses, in August 1991, the Forum for the Restoration of Democracy (Ford) party was formed by six opposition leaders, including Oginga Odinga. However, the Party was

outlawed and its members arrested. As a result, creditors suspended aid to Kenya amid fierce international condemnation (Nyanchama 2008:5-16). Due to the economic pressure prevailing at this moment, in December 1991 a Special conference of KANU agreed to introduce a multi-party political system.

In 1992 approximately 2,000 people were killed in a tribal conflict in the west of Kenya. Due to internal political party differences, the Ford party split into two factions in August 1992. Separate parties Ford-Asili (led by ex-government minister Kenneth Matiba) and Ford-Kenya (led by Odinga) were created. A general election was held in December 1992 and President Moi was re-elected in the first multi-party elections. KANU thus emerged the winner with a strong majority.

Moreover, it is observed that Oginga Odinga died in 1994, and in the same year, the opposition groups formed a coalition. Consequently, the United National Democratic Alliance was formed, but it was later plagued by disagreements. Also, in 1995 a new opposition party named Safina was launched by paleontologist Richard Leakey. The party was denied official registration until November 1997. Still in 1997, demonstrations were called in pursuit of democratic reform. As a result, the World Bank withheld the disbursement of \$5bn in structural adjustment credit. A second multiparty election was held in December 1997 and President Moi won a further term in widely criticised elections. His main opponents were former vice-president Mwai Kibaki and Raila Odinga, the son of Oginga Odinga.

2.3.2. Embassy bomb

Besides the above multiparty political developments in Kenyan history, other historical events worth mentioning have taken place. For instance, in August of 1998, Al-Qaeda operatives

bombed the US embassy in Nairobi, killing 224 people and injuring thousands. Around this period, corruption had also taken root in Kenya and in 1999, President Moi appointed Richard Leakey to head a government drive against corruption. However, in April 2001 Leakey appeared in court to face charges of abuse of power and perverting the course of justice. Also, in the same year June, Parliament passed a law allowing the import and manufacture of cheap copies of anti-Aids drugs. Aids had become a national calamity.

Additionally, in 2001 Ethnic tensions culminated in several violent clashes. In December of the same year, thousands fled and several people were killed in rent battles involving Nubian and Luo communities in Nairobi's Kibera slum district. Considering the relationship of Kenya and its former colony (Britain), in 2002 July some 200 Maasai and Samburu tribal people accepted more than \$7m in compensation from the British Ministry of Defence. The tribespeople had been bereaved or maimed by British Army explosives left on their land over the previous 50 years. Additionally, in July 2012 Britain acknowledged that its colonial administration tortured detainees during the Mau Mau uprising. Thus, Veterans were claiming damages in the High Court in London (BBC online news2013, 10:17 GMT).

2.3.1. President Kibaki victory

According to Nyanchama (2008:14) a hotly contested election was held in December 2002. President Mwai Kibaki emerged the victor with a landslide victory, ending Daniel Arap Moi's 24-year rule and KANU's four decades in power. President Kibaki's government was faced with challenging levels of corruption and consequently, in January 2003 a Government bill proposed the establishment of an anticorruption commission. Former President Moi's critic, John Githongo, was appointed as the anti-graft senior officer. As a result of corruption mitigation

efforts, in November 2003 the International Monetary Fund (IMF) resumed lending after a three-year gap, citing implementation of anti-corruption measures. Nonetheless, in December 2003, the Government decided to grant former president Daniel arap Moi immunity from prosecution on corruption charges. Concurrently with corruption mitigation, a draft new constitution was being written and in March-July 2004, the long awaited draft of the new constitution was completed; although it still required parliament's approval. The new draft constitution proposed the curbing of the president's powers and the creating of a post of prime minister. However, the deadline for its enactment was not included. Kenya also encountered a food crisis in July-August of 2004. The crisis was caused by crop failures and drought, and thus dubbed a "national disaster" by President Kibaki. The United Nations (UN) intervened by launching an aid appeal for vulnerable rural Kenyans. A similar calamity also struck Kenya in August of 2009. This time, it was reported that at least 10 million people, or one third of the population, were in need of food aid. In response, the government mobilised the military to distribute food, water and medicines to areas hit hardest by drought.

In January 2005, clashes over land and water rights left more than 40 people dead. In the following month, corruption took centre stage when it was claimed that graft had cost Kenya \$1bn under Kibaki's regime. For this reason, the leading anti-graft official, John Githongo resigned. International donors also voiced unease with the trend of corruption. However, in July, 2005 Parliament approved the draft constitution despite the fact that violent protests in Nairobi had taken place over aspects of the draft constitution which placed too much power in the hands of the president.

2.3.3. Draft constitution spurned

The approved draft constitution was however, rejected by voters in November-December 2005. Due to the anomalies in the draft, voters rejected the proposed new constitution in what was seen as a protest against President Kibaki's administration. In response, the president replaced his cabinet in a move where some nominees who were against the draft constitution and Kibaki's regime rejected their appointments (BBC online 2013,10:17 GMT Nyanchama 2008:5-16). Nevertheless, a new constitution was designed and approved in a referendum in August, 2010. It limited the powers of the president and devolved power to the regions. Around the same time, there was a controversy over a release of national census figures that included tribal affiliations.

In January 2006 the Government said that four million people in the northern part of Kenya needed food aid because of persistent drought that had been termed a national disaster by the president. In addition, in January to February of the same year, government ministers were linked to a corruption scandal that involved contracts for a phantom company, Anglo Leasing. One of the ministers, Finance Minister David Mwiraria, resigned and argued that the allegations against him were false. As a result of escalated corruption, in December 2008 the Kenya Anti-Corruption Commission (KACC) accused seven current and former MPs of taking illegal allowances worth \$250,000. Moreover, in January 2010 the US suspended \$7m of funding for free primary schools in Kenya until fraud allegations were to be investigated. Also, in February of the year 2010, President Kibaki overturned a decision by Prime Minister Odinga Oginga to suspend the country's agriculture and education ministers over alleged corruption. The row threatened the coalition government. In an effort to combat corruption, during March 2011, the Governments of Kenya and the Democratic Republic of Congo agreed to investigate the illegal gold trade, in which Kenyans allegedly played a key role.

In a move that seemed to constitute intimidation of the media, armed police acting on government orders, raided the offices and presses of the Standard media group (one of Kenya's leading media companies) in March 2006. And in the same year in April, visiting Chinese President Hu Jintao signed a contract allowing China to prospect for oil off the Kenyan coast. Hu Jintao's African tour focused on trying to satisfy China's hunger for energy and raw materials. To improve foreign trade, in July 2010, Kenya joined its neighbors in forming a new East African Common Market. The intension was to integrate the region's economy. Oil was discovered in Kenya in March 2012. President Kibaki hailed that discovery as a "major breakthrough", with great future economic prospects. As a result, the Lamu port project was then launched which was to become South Sudan's oil export outlet (BBC online 2013,10:17 GMT & Nyanchama 2008:5-16).

Historically, Kenya has also hosted refugees from Somalia. For instance, in 2006 October the UN said that some 35,000 Somalis who had escaped drought, Islamist rule and looming conflict arrived in Kenyan camps since early 2006. In addition, during November-December 2006 regional flooding rendered thousands homeless. In the commotion, 100,000 Somali refugees were cut off by floodwaters in the north-east and the UN supplied them with air drops.

2.3.4. 2007-2008 Election violence

The most escalated electoral conflict and violence in Kenya was evident when hundreds were killed in the unrest that followed the disputed 2007 polls. Ngari (2012:1) and Mara (2009:2) state that the violence that erupted in Kenya in late December 2007 and January 2008 following the disputed 2007 presidential election results, was one of the most violent and destructive periods in the country's history. It is estimated that 1,300 lives were lost as a direct result of the

violence and conservative figures estimated that 350,000 people were internally displaced and 3000 women raped.

Furthermore, there are still some Kenyans living outside the country as a direct result of the post-election violence (PEV) and others remain in exile for fear of persecution (Ngari 2012:1). However, after negotiation and mediation interventions the government and opposition arrived at a power-sharing agreement in February 2008 and a coalition cabinet consisting of a Party of National Unity (PNU) and the Orange Democratic Movement (ODM) was agreed upon in April. Responding to the 2007/2008 post electoral violence, in October 2007 a Report into post-election clashes called for an international tribunal to try those implicated in the violence. However, many political leaders were reluctant to implement the commission of inquiry's recommendations. Some argued that prosecutions could trigger further clashes between communities. In August 2009, visiting US Secretary of State Hillary Clinton criticised Kenya for failing to investigate the deadly violence after the 2007 election. Responding to the US Secretary of State's allegations, the government of Kenya stated in October 2009 that it would co-operate with the International Criminal Court (ICC) to try key suspects in post-election violence. As a result, in 2011, six politicians appeared before the International Criminal Court in The Hague, accused of links to the post-election violence of 2007/8. By January 2012, the ICC ruled that several prominent Kenyans had to stand trial over the 2007 post-election violence. Also, the Truth commission commenced a public probe into 3,000 killings at Wagalla airstrip during a 1984 crackdown on ethnic Somalis; a largely hidden chapter in Kenya's history.

A few months towards the general elections, in December 2012, Deputy PM Uhuru Kenyatta and former minister William Ruto, bitter political rivals who were facing trial at the International

Criminal Court over the 2007 post-election violence, confirmed that they were forming an alliance for the 2013 election. Consequently, in March 2013, Uhuru Kenyatta, the son of Kenya's first president won the presidential election with just over 50% of the vote (ushering a patrimonial leadership in Kenya's presidency). However, Uhuru Kenyatta's main rival, former Prime Minister Raila Odinga challenged the presidential results without success. The ICC also, dropped charges against Francis Muthaura, who was the co-accused with President Uhuru Kenyatta, over the 2007 election violence. Regardless of the dropping of charges against Muthaura, charges against President Kenyatta and his running mate William Ruto (vice-President) were still in place.

2.3.5. Kenya launched a military operation inside Somalia

It is also observed that in November 2002, a terror attack took place on an Israeli-owned hotel near Mombasa killing 10 Kenyans and injuring three Israelis. Simultaneously, it was reported that a rocket attack on an Israeli airliner had failed. A statement, purportedly from al-Qaeda, claimed responsibility for the attacks. Moreover, in August to September 2011, suspected Somali militants raided the Kenyan coastal resorts and a refugee camp, targeting foreigners. As a result, Kenya launched a military operation inside Somalia to curb Al-Shabab Islamist militants. By October 2011, Kenyan troops entered Somalia to attack rebels whom they accused of being behind several kidnappings of foreigners on Kenyan soil. In due course, Kenya suffered several apparent reprisal attacks. In connection with counterterrorism, in November 2011 the High court ordered the arrest of Sudanese President Omar al-Bashir if ever he visited Kenya. In retribution, Sudan ordered Kenya's ambassador to leave their country. Terror attacks prevailed in Nairobi in May, 2012 and More than 30 people were injured in an attack on a Nairobi shopping centre. The act was allegedly reported to have been committed by Somalia's al-Shabab

Islamist militia. In the preceding month; June 2012, Internal Security Minister George Saitoti was killed in a helicopter crash. Another terror attack struck Kenya in July 2012 when fifteen people were killed in an attack on two churches in Garissa, near the Somali border. Al-Shabab was again the prime suspect. Also, in November 2012, troops rampaged in the town of Garissa, near the Somali border, after gunmen shot and killed three Kenyan soldiers who were serving in the African Union mission in Somalia.

2.3.6. Outbreak of 2013 Election violence

As the March 4th 2013 general elections neared, in August-September 2012, more than 100 people were killed in communal clashes over land and resources in the Coast Province. Junior minister Dhadho Godhana was charged with incitement. However, he denied the charge. In addition, five people died in riots by Muslim protesters in Mombasa after the shooting of preacher Aboud Rogo Mohammed who had been accused by the UN of recruiting and funding al-Shabab Islamist fighters in Somalia. In connection with the incident, Muslim cleric Abubaker Ahmed was charged with inciting the protests. In Nairobi, in September 2012, junior minister Ferdinand Waititu was charged with hate speech and incitement to violence over anti-Maasai remarks caught on video tape. The remarks were made in response to the reported killing of a child by a Maasai security guard (BBC online 2013, 10:17 GMT).

2.3.7. Conclusion

To understand research and analyse a specific conflict, researchers must understand the history of that conflict. This chapter discussed the history of Kenya. The researcher chronologically divided the history into three main parts; the pre-colonial period, the colonial period and the post-colonial period. Historically, the researcher observes that during the pre-colonial period,

land was communal; conflicts existed though they were not persistent, and were solved by village elders. During the colonial period, large land parcels were owned by British settlers, and conflict existed between the different Kenyan ethnic groupings and their colonisers. The British introduced a government, colonial constitution, individual land ownership certification (land title-deeds) and colonial institutions, policies and regulations. At independence, the Kenyan government virtually inherited the colonial structure; politically, economically and socially. Thus, it has been almost impossible to dismantle the colonial state. For this reason, Kenya has experienced neo-colonialism since 1963 and it is still tied, particularly economically, to the British and Western World in general. This chapter is a link to the next chapter (literature review) which focuses on Kenya electoral conflict in post-colonial era; specifically from 2002 to 2013. Neoliberal peace building and the Institutionalisation before liberalisation (IBL) theoretical approaches are among the key issues of discussion.

CHAPTER THREE: LITERATURE REVIEW

3.0. Introduction

This chapter discusses the scholarly debate on the research topic of conflict management in Kenya's electoral conflict. The chapter is meant to allow the reader and the author to: better understand the research topic, recognise gaps and unanswered questions in previous research, and provide a strong foundation for interpretation of the research findings. Also, the chapter seeks to prevent duplication of previous research since the author will explain the value of his original work in the context of already published materials. The focus is on the central themes of electoral conflict in Kenya, conflict management, Peacebuilding, Institutionalisation before Liberalisation (IBL), Liberal peace and connections among the latter, central themes.

3.1.0. Theories of Conflict

It is appropriate to begin our literature review with an overview of the general theories of social conflict, as they provide an underpinning for much of the more specific theory, relating to conflict and its management in the electoral context. Conflict is a ubiquitous social phenomenon. Although it often has negative connotations, recent scholars are in general agreement, that conflict is not necessarily problematic in society. Authors such as John Burton regard conflict as a necessary aspect of social life. Louis Coser (1956), taking the notions of earlier sociologists, such as Georges Simmel further, writes on the ‘functions of social conflict’, which he interprets to be mainly positive roles, such as binding groups together, facilitating understanding and solving problems. Obviously, when conflict is poorly managed, it becomes destructive, to the point where its usefulness is outweighed by the damage that it causes.

Conflict should not be confused with its behavioral manifestations, such as argument, fighting, killing, and so forth (Burton 1969 & Burton and Dukes 1990). Conflict is essentially, the “... perceived divergence of interest, or a belief that the parties' current aspirations cannot be achieved simultaneously” (Rubin, Pruitt and Kim, 1994). Sandole (1987:289) further explains the distinction between what he calls the phenotypic (actions) and genotypic (underlying conditions) conflict phenomena:

“What most of us think when we observe conflict situations are phenotypic phenomena: the claims and demands of the parties, their behaviour, (of an attack by one side on the other); the results of their behaviour (casualties) and the level of their interaction (interpersonal, intergroup, interorganizational and international). It is also on the phenotypic plane when we observe differences among the specific manifestations of these

abstract levels; family, community, environmental, labour management, and interstate conflict and conflict management.”

The complexity of social conflict is further elaborated by prominent conflict scholar, Johan Galtung (1969, 1975 & 1996), who proposes a tri-fold model of conflict often illustrated by medium of a triangle diagram, that typifies conflict as having three major aspects. According to him (1979:72) conflict consists of attitudes, behavior, and context, often portrayed in his ‘ABC triangle of conflict’ (See also Mitchell 1981:16 & Ramsbotham and Woodhouse 1999:14). The figure below presents the basic conflict structure in a triangle:

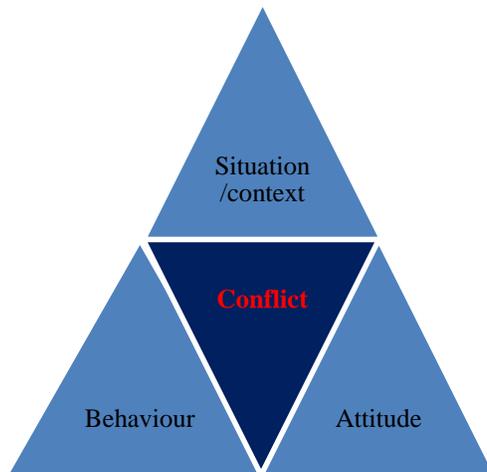


Figure 2. The basic conflict triangle (adapted from Mitchell 1981:16 and modified by the author).

John Burton and colleagues including Azar, Mitchell and others, have argued that conflict that involves ethnic differences, and frustrated human needs, among other aspects, is particularly difficult to resolve (See also Burton & Azar 1986:17-23). For this reason some scholars, such as Azar, call it Protracted Social Conflict (Azar, 1990). Others have termed it ‘intractable’(Kriesberg et al, 1989). For Burton (1990), and his colleagues, the difficulty in dealing with this type of conflict, is that it is not amenable to the compromise solutions that are

generally expected in the more traditional conflict management approaches of mediation and negotiation.

Kenya presents us with an example of protracted social conflict, particularly, as it is characterized by ethnic tension, frustrated basic human needs, and examples of skewed government delivery of services based on ethnic affiliation. This conflict is therefore likely to demand special attention if its management is to prove successful. It is therefore not at all surprising that, at moments when the system is under stress, such as during election periods, conflict becomes destructive, and special measures are required to manage it. To a large extent, this thesis is an evaluation of the special measures used to manage electoral conflicts since the inception of multipartyism in Kenyan political life.

3.1.1. Research gaps and background of the study

The study emanated from gaps identified by Khadiagala, Matlosa and Shale (2010:1) who argued that it was worth noting that the 14th Session of the Human Rights Council of the United Nations General Assembly, held on 21st May 2010, focused its attention on election-related conflict. Paraphrasing the UN General Assembly (2010:6), Khadiagala et al. noted that the report of Philip Alston, the special reporter on extra-judicial, summary or arbitrary executions, which was tabled during this meeting, noted that: Until recently, there had been little academic research on the specific subject of election conflicts and violence. While there had been a tremendous amount of writing on elections generally and on political violence generally, there had been little on the intersection of these two fields: election-related conflict and its management. Research gaps that were identified included; work on causes and effects of election violence, cross-national studies, and efforts to understand the specific forms or variations of electoral conflicts; work that is both theoretical and case-oriented, as well as research on the scope, gravity and

timing of election conflicts (Khadiagala et al. 2010:1 paraphrasing UN General Assembly 2010:6).

This research focuses on conflict management measures and peacebuilding in relation to electoral conflicts in Kenya from 2002-2013. As in the report by Philip Alston, the gaps that the research will address include: the intersection of elections and political conflict, the causes and effects of election conflict, the specific forms or variations of electoral conflict, and the aspect of a theoretical (Institutionalisation Before Liberalisation IBL & Liberal Peace) and case-oriented study (Kenya context) to address electoral conflict. The study focuses on the period after the 2002 general elections, the escalated controversial presidential dispute during the 2007 general elections and the 2013 general election.

3.1.2. Sources of electoral conflict in Kenya

Deng (1996:119), citing the then UN Secretary General, Boutros Boutros Ghali, observes that poverty, diseases, famine, political instability, oppression and despair abound in intrastate and electoral conflict. Esteban and Debraj (2008:163) argue that the onset of electoral conflict critically depends on the political system in place. Litscher (2008:48); Nasongo, Achoka and Wamocha (2009: XXX) and Kwaja (2009:41) acknowledge that the main trigger of the Kenyan 2007/08 violent electoral conflict and previous electoral conflicts was the disputed presidential election plus the quest for political power of political parties. However, other vital peripheral issues have also been traced and linked to electoral conflicts in Kenya. Amongst them were included: Firstly, the colonial leadership legacy that encroached onto the post-colonial government through leadership policies that influenced constitutional rules and land ownership (See also Bogaards 2006:120). Secondly, the international financial institutions and economic

conditionality's that were imposed on Kenya in the 1990s and the abuse of ethnicity by the political leadership. Thirdly, failures of the National Rainbow Coalition (NARC) government to resolve problems such as high unemployment rates and inequitable resource distribution. Further information from the legal fraternity and scholars interviewed by the author of this study revealed that the 2007 post-electoral violence was as a result of the incompetence and bungling of the group of individuals who presided over the most important functions in the Kenyan transition to democracy.

Ajulu (2007:33) suggests that the spiral of violence that erupted in response to Kibaki's alleged theft of the 2007 election was a symptom of a much deeper crisis in Kenya's political economy, reflecting, as it were, deep-seated frustrations rooted in the socio-economic injustices of landlessness, joblessness and poverty that had beset the country since its independence. Furthermore, according to Ajulu (2007:34), ethnic clashes which have characterised much of the period of multiparty politics are not tribal conflicts in the real sense; rather, they are politically organised conflicts orchestrated to achieve short- and long-term political and ultimately economic advantages. However, we note that Kokole (1996:126) maintains that while ethnicity by itself need not generate ethnic conflicts, it is evident that ethnicity can be exploited and manipulated sufficiently to generate social conflict, especially in the developing world. Okoth (2012:10) observes that other electoral vices included: selling of votes to whoever paid the highest price, multiple voter card registration and holding, and the use of the youth by some political aspirants to intimidate opposing candidates and cause violence. Adar (2001:6) also observes that apart from ethnic-centred elections, other endemic problems that continue to undermine democratization in Kenya include *inter alia*, an authoritarian state system, intra-party differences, inter-party polarization, the multiplicity of political parties, personal ambition, and

differences, vote buying, corruption, lack of an independent judiciary, constituencies gerrymandered in favour of the ruling party; for example (KANU in 1992-2002) and PNU (during the 2007/08) elections, lack of a constitutional framework consistent with a multi-party system, and lack of political will within the administration to allow democratization. Moreover, according to the Kenya Draft National Policy on peacebuilding and conflict management (2011:5), whether responding to humanitarian needs or root causes of conflicts, a fundamental problem in Kenya has been a lack of policy guidelines for a co-ordinated approach to peacebuilding and conflict management. As a result, most actors engage on an ad hoc basis and with interventions that are reactionary in nature. Lack of norms, values, and principals to guide interventions, has in certain situations exacerbated conflicts. In addition, sufficient resources have not been attained to balance the societal inequalities.

3.1.3. Ethnicity, and ethnic conflict

Cocodia (2008:10) notes that defining ethnic groups is quite a difficult task. Furthermore, Cocodia says that to some, the term refers to a subjective perception of common origins, historical memories, ties and aspirations. Paraphrasing Quaker-Dokubo (2001:44), Cocodia states that the term 'ethnic group' pertains to organised activities by persons linked by a consciousness of a special identity, who jointly seek to maximize their corporate political, economic and social interest. In reference to Heeger (in Willigenburg 1995:13), Cocodia (2008:10) explains ethnic groups as cultural nations which are bound together in the first place by a common culture and which lack the internationally recognized organization of a sovereign state. Citing Gurr (1993:17), Cocodia argues that ethnic affiliations can be classified into three, namely: Ethno-Nationals, Indigenous Peoples and Communal Contenders. Ethno-Nationals are historically autonomous, and often large and regionally concentrated groups that are committed

to achieving or regaining independent statehood. Examples here include Eritreans and East Timorese, formerly under Ethiopia and Indonesia respectively, the Kurds in Iraq and Western Saharans under Morocco. Indigenous peoples are politically conquered, culturally isolated, ecologically endangered and economically vulnerable descendants of the original inhabitants of a region. The Khoi-San (Bushmen) of South Africa, Botswana and Namibia are examples of indigenous peoples. Communal Contenders are culturally distinct groups in heterogeneous societies in which no single group constitutes a demographic majority of the population. In societies dominated by communal contenders, there is a general acceptance of the moral equivalence of all groups. Political power at the centre is based on fluid or unstable inter-ethnic coalitions. Most African countries are dominated by communal contenders (Cocodia 2008:11-12). Also Cocodia, in reference to Thomson (2000:58), defines an ethnic group as ‘a community of people who have the conviction that they have a common identity and common fate based on issues of origin, kinship, ties, traditions, cultural uniqueness, a shared history and possibly a shared language. Thus, ethnicity becomes more pronounced when it is used to distinguish one social group from another within a specific territory’. Furthermore, Cocodia, states that Thomson posits that, ‘all individuals have ethnic allegiances irrespective of whether they are from the minority of a state’s population or the majority, with the result that ethnicity as a sentiment is expressed by both majority and minority populations. Obviously, this social pluralism will lead to differences of interests, and this is where the possibility of ethnic conflict starts to emerge’.

Describing how Kenyans view each other, Bratton and Kimenyi (2008:6-7) note that although Kenyans downplay ethnicity when portraying themselves, they are less charitable in their assessments of fellow citizens. In a survey by Bratton and Kimenyi (2008), it is revealed that

Kenyans do not easily trust co-nationals who hail from ethnic groups other than their own; they also think that political conflict is all too common among people of different ethnic backgrounds, especially in the national political arena. Finally, they worry that their co-nationals are prone to organize themselves politically along exclusive ethnic lines and to govern in discriminatory fashion. According to Chelanga, Ndege, and Singo (2009:9) there is no doubt that in Kenya, as in other countries in Africa, ethnicity constitutes an integral part of political, economic, and social life. It is played out in virtually all aspects of public and private life. Moreover, Chelanga, Ndege, and Singo (2009:9) argue that ethnicity manifests itself peacefully in debates but violently in ethnic clashes alongside, or in tandem with issues related to land, agriculture, gender, poverty, and democracy among other related issues.

According to Posner (2007:1302), multipartysim in the postcolonial era has caused ethnic conflict to be carried out in the name of different kinds of identities, and political competition in multiparty settings creates incentives for individuals to see themselves in terms of ethnic identities that define them as members of large blocks-usually based on religious, linguistic, or regional distinctions. Although political liberalization in Kenya in the early nineties came with its positive aspects such as freedom of speech, liberalization of the media and multipartyism in the political arena, political liberalization has also strengthened ethnic differences with most of the dominant Kenyan ethnic groupings associating themselves with specific electronic and print media. Posner (2007:1306) is therefore quite right to note that Kenya is a place where ethnicity matters, where people view their political representatives as sources of patronage and where citizens assume that having a member of their ethnic group in a position of political power will increase their access to state resources.

Adar (2001:6) argues that elite manipulation of ethnicity as the focal point for political power is a common phenomenon in Kenya's post-independence history, with the 1992 and 1997 multiparty elections clearly demonstrating this pattern. At the core of this trend of electoral process is the issue of the control of the state; the locus of political power and wealth accumulation. This behaviour by the élites not only encourages political patronage and undermines democratization but also perpetuates ethnic polarization and differences. Ethnic conflicts in the Rift Valley, Nyanza, Coast and Western Provinces which continued prior to, and after, the 1992 and 1997 elections can be understood in this context. Specifically, ethnic cleansing is a consequence of élite manipulation (Adar 2001:6).

According to Bratton and Kimenyi (2008:1), post-election violence in Kenya paints a picture of a country severely fractured by ethnic cleavages. The conflicts following the disputed December 2007 presidential election in many respects mirror the character of violence that preceded the 1992 and 1997 general elections. The cycle of violence around elections in Kenya appears to support views expressed by the first generation of independent African leaders, who argued that Africa was best suited for single party systems of governance because multipartyism would result in increased tribalism. Yet it would be unwise to jump to the conclusion that Africans are not ready for democratic competition (Bratton and Kimenyi 2008:1). This is because Africa is faced with challenges such as neo-colonialism, tribalism, socio economic disparities and security issues that all call for democratisation. Thus, Chelanga, Ndege and Singo (2009:194) maintain that what is important is how a country such as Kenya understands, harnesses, integrates or accommodates ethnicity into its body politic by constitutional and legal processes. The table below illustrates causes, issues, actors and triggers of electoral conflicts.

Table 2. Causes, issues, actors and triggers of electoral conflicts.

Structural, causes/ enabling conditions	Political stakes	Suppliers of violence	Triggers
<ul style="list-style-type: none"> • Social/economic inequalities • Poverty • An electoral system privileging the rich • Competition for natural resources and agricultural land • Lack of education • Culture of protest • Lack of trust among factions • Social or geographic cleavages • Religious and cultural cleavages • Political dynasties • Corruption • Party rivalry • Opportunities for personal gains with public office (corruption) • Exclusion of political parties • Inequality, poverty, corruption • Biased media • Availability of weapons • High cost of living 	<ul style="list-style-type: none"> • Future political agenda (e.g., constitutional amendments) • Powerful executive (i.e., president appoints ministers, CEOs of state-owned companies and agencies) • Winner-takes-all syndrome leads to campaigns, elections viewed as “life and death” • Patronage and corruption • Politicisation of security sector and traditional authorities • Control of resources through public office • Exclusion of opposition and civil society in decision making • Results may impact future of the country (whether it breaks apart or becomes stable) • Long process of transition from former fighters to political actors • Opposition seen as enemy • Lack of agreement about constitutional reform • Lack of consensus about methods of (or need for) land redistribution • Disarmament and reintegration not completed 	<p>Groups not completely disarmed</p> <ul style="list-style-type: none"> • Unemployed youth who can be mobilised by parties • Security forces not sufficiently trained • Dynamics of social media leading to intimidation • Unemployed/ uneducated youths (“lost generation”) • Fighters/mercenaries/ warlords • Possible regional spoilers) • Partisan ethnic groups/ state-based militias • Temporary poll workers work for ruling party candidate • Local administration work for ruling party candidate • Non-disarmed former guerrillas • External armed groups mobilised by political parties • Conflict victims/families against candidates • Martial arts groups • Media • Neighbouring countries funding militias or other armed actors • Criminals at large 	<ul style="list-style-type: none"> • Campaigns: rumours, character assassinations, religious affiliation • Problems with voter registration • Perception of fraud or mismanagement of elections • Behaviour of leaders or candidates • Election results, including for specific geographic areas • Decision of political actors to use suppliers of violence

	<ul style="list-style-type: none"> • Pressure to end transition • Politicisation of state institutions • Unresolved land issue • Absence of political party funding for losers • Opposition does not participate in governance • Lack of participation in the drafting of a new constitution • Positioning of new and old political forces (after a revolution) 		
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Adopted from International Institute for Democracy and Electoral Assistance 2013 and modified by the author

3.1.4. Conflict management and reduction

Kristen (2004:190) responding to the theme of conflict management and reduction, paraphrases Oliver P. Richmond’s (2002), writing in *‘Maintaining Order, Making Peace’*. Kristen says that Richmond has provided a useful introduction and critique of the extensive literature on peace and order in an effort to mitigate conflict. Richmond (2008:4) writes that ‘indeed, in the contemporary context it is also clear that any discussion of peace as opposed to war and conflict must also connect with research and policy on development, justice and environmental sustainability.’ According to Kristen, Richmond, an international relations scholar based at St. Andrews University in Scotland, conducted fieldwork in conflict areas. In his study, Richmond began with a discussion of first (conflict management) and second generation (conflict reduction) approaches, and demonstrated, using examples of post-Cold War conflicts, the failure of both (Kristen 2004:191). Kristen observes that in Richmond’s study it was argued that the challenges

of making peace arise, not just from the deep-rooted nature of conflict and the difficult issues that have been involved over many generations, but also from the general failure of the Westphalian international system itself . In this regard, perpetuation of the existing state system in attempting to establish order and peace in intractable conflicts is bound to fail in the long run. Thus, Kristen (2004:191) in reference to Richmond, contends that following the discussion of the critique of the first and second generation approaches to peacebuilding and conflict management, Richmond introduced the third generation approach to encounter the order that emerged in the post-Cold War period. The move was a multidimensional and multilevel response where local, regional, and global actors were involved in the establishing of peace and order.

In the same vein, Gross, Hogler and Henle (2013:4) argue that the objectives of conflict management should shift from efficiency and productivity to effectiveness and legitimacy. They propose an approach to managing conflict that is based on Weber's insight and shows how effectiveness and legitimacy can be built into an effective technique for creating trust, concern, and empathy in institutional structures. Their aim is to remove any concern for productivity from the management of conflict. Instead, they propose and advocate important goals such as organisational (institutional) justice, and legitimacy. In their view (2012:5), justice arises from the presence of ascertainable, universal, and determinate rules while legitimacy is grounded on the willingness to accept institutional systems as fair and just in their application, allowing exceptions to rules as need arises. Thus, according to their assumptions, conflict should be managed with respect to its consequences rather than its causes. They term this a normative model of conflict. In the normative perspective, conflict management primarily considers the consequences of conflict, and makes decisions or policy on the potentiality of conflict consequences rather than considering source (s) of conflict within the organisational or

institutional bureaucracy. Moreover, Kristen (2004:190-192) maintains that Richmond argued that even this approach was insufficient, although it encompasses issues of human needs and security (ignored by first generation approaches and touched upon by second generation approaches). The approach also involves academicians, peacekeepers, NGO's and governmental organizations. However, the approach continues to be concerned mainly with the integrity of the state, territory and a contribution to the international society - which revolves around the interests of its dominant actors.

As a result, Richmond concludes with a discussion of possible solutions. Hence, he proposes a fourth generation approach where a normative consensus emerges about how to make peace. Thus, Richmond contends that the challenge for today and for the future is for local, regional, and global actors to provide the necessary resources; political, social, and economic, to enable peace to come about. Moreover, the establishment of the appropriate institutions and norms must be accepted by those who will be affected by them (Kristen (2004:190-192)).

3.2. Conflict management and peace building perspectives

Conflict management is the most important conflict maintenance process because it is the one most integral to the physical and legal protection of displaced people and in this context works to prevent the escalation of refugee flows and IDPs (Levitt, 2001:46). Levitt adds that the political objective of conflict management is to promote trust and confidence, and with respect to displaced persons, ensure peace, security, and stability to allow for voluntary repatriation and internal replacement. The aim in respect of displacement should be to minimize the escalation of conflict and provide humanitarian assistance and other case-specific solutions.

Symphorien (2010:48), paraphrasing Thania Paffenholz (2009:2-6) writes that one can outline four main positions on the international discourse on peacebuilding: the conflict management, conflict resolution, complementary discipline, and transformation-oriented schools of thought. Symphorien (2010:48) also states that the management school is the oldest approach to peacebuilding, and is historically linked to the cold war period. It emphasizes the use of diplomatic and military interventions and the role of international (outside) actors, rather than local actors and domestic peace initiatives. Its primary aim is to identify the leaders of the conflicting parties at the macro level and bring them together to negotiate a cease-fire and peace agreement based on the belief that ‘when a peace agreement is reached between the warring parties, it will automatically be trickled down to the entire population, because these top-leaders own their constituencies and the power to use or not to use force behind them’

3.3. Criticism of conflict management and peacebuilding

Symphorien (2010:48), paraphrasing Thania Paffenholz (2009:2-6) notes that whereas the management approach has the benefit of engaging those in power who have the ability to conduct large-scale violence or end it and bring about peace, it is criticized primarily for its neglect of local problems and issues and the assumption noted above that once an agreement is reached, peace will ‘trickle down’ through the population. Furthermore, the approach overlooks the roots of conflict and insists on concentrating on apparent political problems.

The conflict resolution school is a critical reaction to the management school. Its proponents advocate community-based dimensions of peacebuilding and are sceptical about the effectiveness of diplomatic and military interventions to deal with intra-state conflicts. The conflict resolution approach seeks to address the root causes of conflict and reconstruct broken

relationships between parties (Symphorien 2010:49). Moreover, Symphorien states that for this school, the peace builders are mainly (western-based) NGOs, who lead workshops with non-official actors close to the conflicting parties, especially elite-based civil society and grassroots associations (the so-called 'second-track' approach). This includes J.W. Burton, and his followers, and their emphasis on the frustration of basic human needs, and the resolution of conflict via 'problem-solving workshops, in combination with second track diplomacy (Burton, 1984, Bradshaw, 2008). Although this school has contributed significantly to the development of the peacebuilding discourse, it has been criticized from a conflict management perspective on the ground that improving communication and building relationships between conflicting parties do not necessarily lead to an agreement to end war (Symphorien 2010:49 in reference to Bercovitch 1984). Symphorien additionally notes that the approach is also criticized for its assumption that work with civil society and at the grassroots will naturally have an effect at the national level.

The complementary school is built upon the critical nexus of the conflict management and conflict resolution schools. Given the strengths and limitations of these two schools, complementary discipline evolved as the next logical approach, assuming that peacebuilding requires simultaneous efforts based on top-down and bottom-up approaches (Symphorien 2010:48, paraphrasing Wolfgang Heinrich). The main criticism against this school is that the issue of coordination is not seriously addressed.

In reference to Rupesinghe (1995, 2003), and Lederach (2009), Symphorien (2010:48) says that the transformation-oriented school promotes targeting the root causes of armed conflicts by replacing conflict management and conflict resolution with conflict transformation. Building on the complementary school's position, it tries to fill the gap between short-term conflict

management and long-term relationship building, as well as the transformation of the underlying causes of conflict. The ultimate goal is to establish and construct long-term infrastructures for peacebuilding by supporting the reconciliation potential of the society. Like the conflict resolution approach, the transformation-oriented model recognises the need to rebuild destroyed relationships by focusing on reconciliation. Assuming a tripartite conception of society—consisting of a top level (leadership), middle range (civil society leaders), and grassroots—the transformation-oriented school differs from the conflict resolution approach in that it considers the workings at the leadership level and the society as a whole, rather than only those at the grassroots and middle range. The approach therefore acknowledges the complex, and multi-dimensional nature of peacebuilding, or conflict transformation (Miall, 2004). From the transformation perspective, third-party (outside) intervention should concentrate on supporting internal actors and coordinating external peace efforts. Attention should be paid to local tensions and culture, which requires acceptance of a long-term time frame.

The transformation-oriented approach therefore combines such activities as mediation or negotiation at the state level (Track I); problem-solving workshops and peace missions at the middle level (Track II); and a range of peace initiatives, for example; peace education, peace and human rights advocacy, local peace commissions, community dialogue projects, and trauma healing at the grassroots level (Track III) (Symphorien 2010:50 in reference to Lederach 2009). The major innovation of the transformation-oriented school is its shift of focus from international to local actors, emphasizing civil society and ordinary citizens more so than do the resolution and complementary schools of thought (Symphorien, 2010:50).

3.4. Selected mechanisms for managing the Kenyan post-election conflict

After the realization that concentrating on a power-sharing arrangement between the Orange Democratic Movement (ODM) and Party of National Unity (PNU) would not be enough to resolve the escalated 2007/08 electoral conflict in Kenya, the Crisis Group African Report (2008:ii) made the following recommendations to the Annan Mediation Team of Eminent African Personalities:

- i. to open three additional areas to be addressed immediately and urgently as detailed negotiations on the structure and composition of a power-sharing arrangement continue that would involve: constitutional and legal reforms, including a complete overhaul of the electoral framework; economic policies, including immediate land acquisition and redistribution and major job creation programs; and abide by the framework and process for implementing commitments for ending the violence and resolving the humanitarian crisis, including institutions, timetables and international guarantees
- ii. to involve additional stakeholders from civil society in the talks on legal and constitutional reforms and also from the business community on economic policies
- iii. to engage constructively in the power-sharing negotiations and take the opportunity of discussions on constitutional reforms and economic policies to negotiate guarantees for the continuation of reforms started by the Kibaki administration
- iv. to restore security in the IDP camps and suspend all resettlement and relocation policies until a framework has been agreed by the parties
- v. to ensure equal access and distribution of humanitarian and reconstruction resources to all victims of the violence

- vi. To arrest and prosecute the leaders of the Mungiki sect, as well as politicians supporting its activities, so as to redress concerns about possible state support for its resurgence
- vii. To immediately suspend all police officers in charge of the areas where extrajudicial killings have occurred, including Nairobi, Kisumu, Kakamega, Nakuru, Naivasha, Sotik and Kericho.

The Crisis Group African Report (2008: ii) further recommended to the ODM Leadership, to the U.S., the EU and its Member States, Canada, South Africa and Other International Partners and to the Prosecutor of the International Criminal Court (ICC) to:

- i. engage constructively in the negotiations and support the immediate opening of detailed talks on constitutional reforms and the economic policies, to be carried out during the transition, with a view to reassuring PNU hardliners over its economic policies as well as addressing the grievances of its own hard-line constituencies
- ii. Condemn publicly and threaten with sanctions any ODM leader inciting ethnic hatred, and express sympathy for the Kikuyu victims of the violence.
- iii. Moreover, it was recommended to the U.S., the EU and its member states, Canada, South Africa and other international partners that they should make aid conditional upon the satisfactory conclusion of all the above-mentioned elements of the negotiation.
- iv. Implement and expand the travel bans already announced by the U.S., Canada, the UK and Switzerland by freezing the financial assets of individuals directly involved in, or supporting violence or otherwise blocking the negotiation process and publicly blacklist their companies on financial markets.
- v. Lastly, it was recommended to the prosecutor of the International Criminal Court (ICC) that he/she should open a preliminary examination of alleged atrocity crimes committed

in Kenya and take into account the findings and recommendations of the fact-finding mission of the Office of the UN High Commissioner for Human Rights (OHCHR) once issued.

As for the Kriegler and Waki Reports (2008:71) on the post-election conflict in Kenya, they noted that:

- i. All persons holding public office and public servants charged with criminal offences related to post-election violence are suspended from duty until the matter is fully adjudicated upon. Upon conviction of any person charged with a post-election violence offence of any nature, such persons shall be barred from holding any public office or contesting any electoral position.
- ii. That a list containing names of and relevant information on those suspected of bearing the greatest responsibility for crimes falling within the jurisdiction of the proposed Special Tribunal shall be forwarded to the Special Prosecutor of the International Criminal Court. The Special Prosecutor shall be requested to analyze the seriousness of the information received with a view to proceeding with an investigation and prosecuting such suspected persons. The Bill establishing the Special Tribunal shall ensure that the Special Tribunal is insulated against objections on constitutionality and to that end, it shall be anchored in the constitution of Kenya (Kriegler and Waki Reports 2008:70).
- iii. The Kriegler and Waki Reports (2008:71) also recommended that as a matter of urgency, the development and application of the National Security Policy, as articulated in the Kenya National Dialogue and Reconciliation Agenda Item 4 and the First Medium Term Plan 2008-2012 should be developed and the Conflict and Disaster Early Warning and Response systems should be implemented as a matter of priority.

iv. It was also recommended that the State Security Agencies develop under the oversight of a National Security Advisory Committee (NSAC) joint operational preparedness arrangements (to be conducted at least once every two years) including desk-top scenarios and full operational exercises to assist in readiness for dealing with high level security and emergency situations. This should comprise all key participants including; in the case of elections, the ECK, the Ministry of Health, and the Ministry of State for Special Programmes (Disaster Management). The NSAC should take a greater leadership role in determining security priorities, focusing on preventive strategies and actions, and providing clear direction to state security agencies.

In line with the Crisis Group African Report (2008: ii) and the Kriegler and Waki Reports (2008:71), we therefore observe that electoral conflict management in Kenya is faced with a number of challenges that among others include: the application and management of democracy as a form of governance; devolution and equitable resource distribution; IEBC funding challenges; and the strengthening of the institutions of the judicial system and the police force.

Ngari (2012:8-9) in his research paper on reconciliation notes that ultimately, effective reconciliation in Kenya as in many other states in transition, will have to take more than one generation and must include all the country's people. Ngari says that a practical step towards reconciliation initiatives has to involve institutions such as the National Cohesion and Integration Committee (NCIC), working with civil society. Activities that are ongoing include the following: Firstly, the creation of platforms that foster and coordinate engagement and contribution from all levels of society. For instance, the national reconciliation agenda is promoted through the facilitation of reconciliation dialogues in all regions of Kenya and capacity-building training for

key stakeholders working in the fields of peace-building and reconciliation. Secondly, focus should be on the transformation audit that measure inclusivity of all ethnic groups in the management of state resources and their equal participation in public life. Thirdly, Ngari (2012:8-9) says that policies should be developed to promote reconciliation, including a reparations policy that effectively and inclusively addresses the needs of victims of violations of human rights. Such policies should address gross human rights violations, land issues, economic, social and political marginalisation, acts of state repression, and ethnic conflict and tensions. Fourthly, there should be national consultations with communities on reconciliation issues, for instance recognition of work on addressing human rights violations, recognition and even supplementing of efforts to map human rights violations as well as conflict in the country with a view to understanding the origins of violence. Programs aimed at conflict prevention, promoting, protecting and ensuring respect of human rights for all should be implemented.

Ngari (2012:8-9) also argues that there should be a historical clarification exercises in the country, in the form of new curricula in educational institutions, publication of books, and rebuilding of national archives and museums, to bring out the suppressed narratives of the many ethnic groups, especially the marginalized communities, who contributed to nation-building. The understanding being that such narratives should be included in the national historical narratives. Furthermore, Ngari (2012:8-9) proposed the following recommendations to the government of Kenya, the faith based institutions and the civil society.

3.5 Recommendations to the Government of Kenya

According to Ngari's (2012:9) report on the promotion of peace and reconciliation in Kenya, it was recommended that the government should empower an existing permanent institution, such

as the NCIC, with the specific mandate of fostering, protecting and enforcing reconciliation nationally and within the different regions in Kenya. Such an institution should firstly:

- i. create platforms for engagement and dialogue between government structures and the people, thereby fostering accountability;
- ii. coordinate transitional justice interventions in Kenya to contribute to national cohesion and reconciliation;
- iii. recognise and promote community-level truth-telling processes. In this context, government should promote inter-community dialogues on truth with the assistance of civil society organisations and with the provision of psycho-social support for truth telling;
- iv. Partner with civil society in engaging victims and affected communities in consultations around policies that will affect them; and entrench restorative justice policies to contribute to reconciliation.

Secondly, Ngari (2012:9) notes that in support of national healing and recognition of abuses by state and non-state actors alike, the government should symbolically apologise for the harm caused by past and current governments, as a basis for initiating reconciliation dialogues. Furthermore, the government should fully implement the Truth, Justice and Reconciliation Committee (TJRC) report recommendations as well as other unimplemented recommendations from commissions of inquiry relating to reconciliation (See also Okoth 2012).

Thirdly, Ngari proposes that the government should implement programmes that would educate the electorate on the importance of free, fair and peaceful elections, and take necessary measures to dispel fears of the recurrence of violence. In this vein, it should guarantee free, fair and

peaceful elections, to counteract violence stemming from flawed electioneering procedures and practices. Fourthly, Ngari (2012:9) argues that the government should ensure that the full implementation of the constitution does not exceed the five-year target from its promulgation, and expedite ongoing judicial and institutional reforms while maintaining their adherence to the constitution's progressive spirit. Furthermore, Ngari recommends that the government should engage Kenyans in the Diaspora, positioned in strategic locations in their host countries, to raise awareness of reconciliation in Kenya. With the proliferation of social media and the ease of connecting globally via the internet, the Diaspora should be encouraged to support and positively contribute to transitional justice processes in Kenya. In addition, it is necessary for constructive dialogue to be facilitated by the state through proper channels, in order to receive input from disputants on existing or future reconciliation processes.

Lastly, Okoth (2012) and Ngari (2012:9) contend that the government should capacitate the judiciary, members of the bar and investigative offices to adopt and invoke the language and concepts of reconciliation in the administration of justice. In the same vein, it should operationalise reconciliation policies through legislation. Placing reconciliation on the legislative agenda would generate the necessary attention and public debate, which would foster the reconciliation process.

3.6.1 Recommendations to faith-based institutions

Ngari (2012:9) and Okoth (2012:12) recommended the faith-based institutions to act as agents of social reconciliation by fostering reconciliation between individuals and communities in conflict. Ngari says that reconciliation must be approached at all levels and faith-based institutions should take concrete steps towards engaging their constituents in social reconciliation. According to

Zelege (2010:63) the role of religious institutions in peacebuilding is not limited to performing their spiritual mission, but it goes beyond that to other domains such as conflict resolution through religious actors, individual religious people, denominational structures, ad hoc commissions and delegations, interdenominational collaboration and cooperation in multi-religious bodies. Furthermore, Ngari urges the faith-based institutions to foster inter-faith reconciliation, first among the different faith-based institutions, in order to ensure credibility as agents of social reconciliation, and then with the people, particularly in regions in the country where conflicts and tensions exist based on religious differences. He also recommends that the faith-based institutions should undertake clear engagement with politicians, with the aim of ensuring non-politicisation of faith issues.

3.6.2 Recommendations to the civil society

Kanyako (2012:1) states that sustainable post-conflict peacebuilding is not feasible without the involvement of a broad spectrum of the affected society, because peacebuilding is about empowering groups and individuals who have been seriously impacted by more powerful forces. An understanding of the demands and constraints of larger social forces is therefore critical to one's appreciation of both the deep-rooted sources of conflict, and the challenges of sustainable peacebuilding. Ngari (2012:9) recommended civil society to link up with the national reconciliation agenda and coordinate these activities with education and training programmes, in order to create public awareness of, support for and advancement of reconciliatory and cohesive practices. He also advised civil society to engage with the community level truth-telling exercises. Moreover, the civil society should fully digest the outcomes of reconciliation workshops involving government representatives, civil society and other relevant stakeholders, with the aim of generating educational materials relating to national cohesion and reconciliation

for the Kenyan context, and of providing platforms for deconstructing ethnic divisions through dialogues. While maintaining that government has the primary responsibility for restorative justice, and policies that promote reconciliation, civil society should also contribute to the process of consultations with victims and affected communities.

Hoglund and Jarstand's (2010:1) main conclusion in a policy brief pointed to re-evaluation of conflict management and preventive strategies and highlighted five recommendations to mitigate electoral conflicts. The following recommendations were made:

- i. Victims need to be better taken into account and cared for;
- ii. Monitoring and education are activities that need to be carried out on a long-term basis;
- iii. Conflict-mitigation measures should be included in the electoral process design;
- iv. To ensure security, a balance between deterrence and confidence building has to be found; and
- v. To improve peacebuilding around election times, the multiple actors involved need to coordinate activities to avoid overlap and to identify policy gaps.

3.6.3 Recommendations for the management of ethnic conflict

Lake and Rothchild (1996:56-57) discuss ethnic conflict management. According to Lake and Rothchild, effective management of ethnic conflicts by local elites, governments, external states and organizations must reassure minority groups of their physical and cultural safety. Furthermore, to foster stability and constructive ethnic relations, the rights and position of the minority must be secured. Confidence-building measures undertaken by local elites are the most effective instrument to this end (Lake and Rothchild (1996:56-57)). Moreover, these authors argue that in light of group fears and individual ambitions, international intervention may be

necessary and appropriate; either to support local leaders in their confidence-building efforts or to enforce new, externally imposed ethnic contracts. However, it is important to note that occasionally, confidence-building measures and international interventions are sometimes inadequate. Lake and Rothchild (1996:56-57) conclude by saying that there are no permanent resolutions to ethnic conflicts but only temporal fixes. The only hope is to contain ethnic fears, but not to permanently eliminate them.

3.7 Defining peace and challenges of peacebuilding

Most people think they know what peace means, but, in fact, different people often have very different understandings of this seemingly simple word (Galtung 1985:141-158, see also Richmond 2008:7). Peace like many theoretical terms, is difficult to define. Like happiness, harmony, justice, and freedom, peace is something we often recognise by its absence. Thus, Galtung the founder of peace studies and peace research, proposed the importance of the distinction between ‘positive’ and ‘negative’ peace. Methodologically measuring successful peace is a complicated, substantive and methodological issue, and much debated in the literature (Doyle and Sambanis 2006:7). According to Doyle and Sambanis, many use the correlates of war (COW) definition of peace (fewer than 1,000 battle death per annum). They have consequently, adopted a similar standard as one measure of peace, which they call ‘negative’ or ‘sovereign’ peace, reflecting the fact that a single sovereignty, a Hobbesian Leviathan, has been re-established and exercises a legitimate monopoly of violence. Subsequently, Doyle and Sambanis add to that standard measure a second definition of peace. The second definition of peace is ‘positive’ or ‘participatory’ peace, which discounts the ‘peace of the grave’ (the former enemy is all dead or in prison) in favour of a peace that includes wider participation. Doyle and Sambanis prefer the second definition for two reasons. One is to tap into the ordinary

association of 'peace' with a condition of agreement and acceptance. The other is to identify peace with participation as the beginning of what can be a much more lasting and stable peace.

Doyle and Sambanis (2006:7) add that the statistical association between peace and democracy may be U-shaped; both tough autocracies and well-established (usually wealthy) democracies maintain civil peace. While, semi-democracies (ornocracies) tend to be most prone to civil war. Participatory peace is thus a difficult status, one designed to measure whether the post-war state has entered a path toward democratic, civil peace. Doyle and Sambanis further note that stable participatory polities usually reflect and rely upon a shared national identity, well-functioning state institutions, a wide middle class, and a growing economy. Both in part and often in whole, these are just what are missing in the typical post-civil war environment where there is often more than one ethnic identity, national identity is weak or contested, state institutions have been corrupted or destroyed altogether, the middle class is small (or has fled), and the economy has been geared to military production and the civilian economy (what there was in the first place), has been looted.

Doyle and Sambanis (2006:7) maintain that participatory peace is, however, worth striving for (hence measuring) because it offers the prospect of peace as a self-sustaining conflict management mechanism; the promise that future disputes will be negotiated, or resolved according to constitutionally agreed procedures. Moreover, the likely alternative seems worse. These authors thus state that on one hand, the destructiveness of civil anarchy is unacceptable both to all who suffer and also to the international community if forced to observe the suffering. Weak as the second sentiment is, it seems to be enough to launch peace operations when the destructiveness becomes overwhelming as it did in Somalia in 1992 and in Rwanda (after the

genocide in 1994), or when the parties at last agree upon peace. On the other hand, the humiliations and costs of international hierarchy make neo-colonialism also unacceptable in the current age. Too many postcolonial people who have been subjected to its indignities are determined to rule themselves. As a result, Doyle and Sambanis (2006:18-19) argue that while summarising and expanding their results on determinants of peacebuilding, a more finely textured discussion that reflects other aspects of success include the quality of public liberties, degrees of social integration, or the rates of economic growth, and these vary. Consequently, Doyle and Sambanis presented a systematic comparison of the quality of the peace in their case studies. According to the Institute for Economics and Peace (2012:6) a holistic approach to measuring peace and conflict, institutional domains known as the pillars of peace are: well-functioning government, sound business environment, equitable distribution of resources, acceptance of the rights of others, good relations with neighbours, free flow of information, high levels of education and low levels of corruption.

Doyle and Sambanis' (2006:20) research distinguished strategies and outcomes as a methodological challenge. According to them, in the real world peacebuilding strategies and outcomes are never completely separable. For instance, they note that political strategies rely on expectations about outcomes. They also argue that there is a controversy in peacebuilding strategies about how coercion should be implemented. Beleaguered peacekeepers and harried UN civil servants naturally want their performance to be measured by whether or not they fulfilled the mandate (to monitor a truce, deliver humanitarian supplies, hold an election, etc.) that they were given by the Security Council (Doyle and Sambanis 2006:20). In conclusion, they maintain that peacebuilding when comprehensively planned and executed, achieves a sustainable peace.

3.7.1. Peacebuilding

Explaining peace and the peacebuilding concept, Henderson and De-Coning (2007:12) argue that, as in so many other fields, the changing world order has fundamentally altered perceptions towards peace and conflict (see also Jeong, Ho-Won 1999; Lederach 1997; Lederach 2000; Lederach and Jenner 2002). During the Cold War era, the understanding of peace and conflict used to focus on the absence of war in the context of the nation state. However, the end of the Cold War allowed a more positive understanding of peace as an individual-centred presence of social justice to reclaim the stage. Henderson and De-Coning also observe that most peace researchers are more comfortable with studying conflict than peace. As a result, the study of peace has been intrinsically linked to how violence is understood. In addition, they state that for most, peace is still simply defined as the absence of violence, but with deeper insight, our understanding of violence has considerably developed and broadened over the years. Citing Johan Galtung, Henderson and De-Coning write that violence does not only mean direct physical violence, but also structural violence, cultural violence and environmental violence. Moreover, they (2007:12) observe that Galtung, (1985: 141-158) has broadened the concept of violence beyond direct physical violence to include institutional or systemic violence caused by an unjust system such as apartheid, the cultural legitimisation of violence against others, and violence to the environment. Peace should, therefore be understood holistically as a state free of violence in all these spheres. Henderson and De-Coning (2007:14) explain the peace process to entail; preventive diplomacy, peacemaking, peacekeeping, and peacebuilding as illustrated in the diagram below.

STAGES IN THE PEACE PROCESS

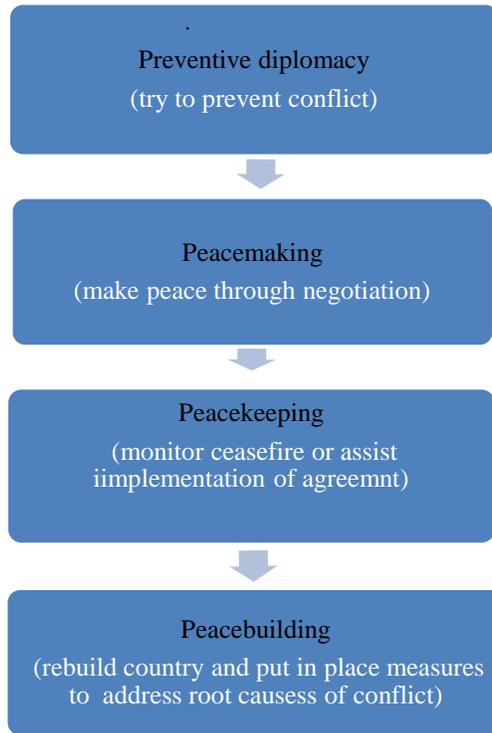


Figure 3. Stages in peace process. Adapted from (Henderson and De-Coning 2007:14)

Teran (2007:3) states that the concept of peace building was introduced in 1992 by Boutros Boutros-Ghali, then Secretary-General of the United Nations, in his "An Agenda for Peace". Boutros-Ghali, building on the work of Johan Galtung, conceived the concept of "post-conflict peacebuilding" as "action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict." This was to encompass rebuilding the institutions and infrastructures of nations torn apart by civil war and strife. Moreover, according to Boutros-Ghali, peace building was also intended to build bonds of peaceful mutual benefit among nations formerly at war as well as in the largest sense, to address the deepest causes of conflict: economic despair, social injustice and political oppression. In this regard, Tait (2001:9); Kuhne (2001:383) and Reyhler (2001:12) are in agreement that peace building is the

activity that seeks to prevent violent conflict from re-emerging and the efforts to rebuild the capabilities of a society to resolve conflict without fighting. It is the constructive transformation of conflict and the creation of a sustainable peace environment.

In addition, according to Boutros-Ghali in his 1995 Supplement to an Agenda for Peace, the centrality of institution building was strengthened, and the goal of peace building, which was no longer limited to the post-conflict stage, but could take place before, during or after a conflict, was defined as “the creation of structures for the institutionalization of peace. Henderson and De-Coning (2007:12) maintain that most UN peace operations since 1989 have, in effect, been peace building operations in that their focus was on supporting the implementation of comprehensive peace processes, which included classic peace building tasks such as Disarmament, Demobilisation and Reintegration (DDR), justice sector reform, organising elections, training and restructuring new police forces and facilitating the transition from interim to transitional, and eventually to democratically elected, governments.

Throughout the 1990s, the concept of peace building continued to gain more prominence in the academic discourse as well as in practice (Teran 2007:3). Teran argues that the academic debate on the concept, goals, and definition of success and legitimacy of peace building became lively during the 1990s and has continued to the present day. The views have been divergent, from those claiming that the goals of peace building should be to prevent a relapse into conflict and its success measured by the absence of war; to those setting more ambitious standards, such as the resolution of the root causes of conflict and the establishment of the “positive peace”; to others again taking the middle way (Teran 2007:3). In this regard, Lederach (1995; 1997; 2000 & Lederach, Newfeldt and Culberston: 2007) note that peace building calls for transformation of

attitudes, flexible practices, consultations and collaborations operating from a contextual understanding of the root causes of the conflict. Thus peace building should be transformative and based on eradicating something that is undesired and building something that is desired through transformation of relationships and construction of conditions for peace.

Hoglund and Jarstand (2010:2) argue that the notion of supporting peace building in tandem with democratisation developed as a consequence of the recognition that political repression and discrimination often is the very reason groups took to arms in the first place (See also Richmond 2008). Hence, democratisation does not only open up for manifestations of political rights, but is also seen as a response to addressing the root causes of conflict. Support to strengthen institutional capacity to promote democratic norms and to ensure democratic rule of law is now seen as crucial for peace building. Harris and Reilly (1998:16) note that ‘democratic structures can offer an effective means for the peaceful handling of deep-rooted conflict through inclusive, just and accountable frameworks.’ Elections and democracy promotion have thus become central strategies to build peace in countries shattered by violent conflict.

3.7.2. Sustainable Peacebuilding triangle

Doyle (1997) and Sambanis (2006:4) argue that sustainable peace is the measure of successful peace building. Their central claim is that successful and unsuccessful efforts to resolve civil wars are influenced by three key factors that characterise the environment of the post-war civil peace. First, is the degree of hostility of the factions (measured in terms of human cost-deaths and displacements, the type of war, and the number of factions); second, is the extent of local capacities remaining after the war (measured, for example, in per capita GDP or energy consumption); and third, the amount of international assistance (measured in terms of economic

assistance or the type of mandate given to a UN peace operation and the number of troops committed to the peace effort). Together, these three constitute the interdependent logic of a peace building triangle: the deeper the hostility, the more the destruction of local capacities, and the more one needs international assistance to succeed in establishing a stable peace (Doyle & Sambanis 2006:4;) see also Lederach (1997). This interaction can be illustrated as in the diagram below.

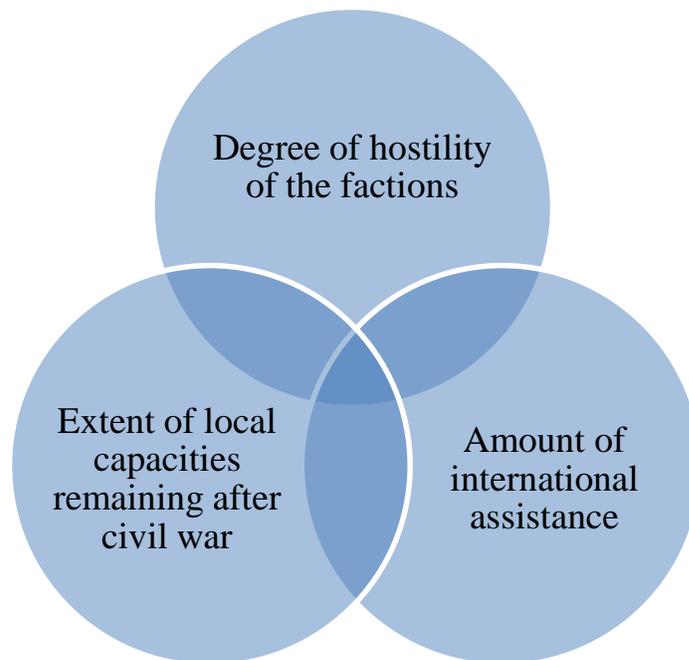


Figure 4. Sustainable Peacebuilding triangle (By the author)

Doyle and Sambanis (2006:4-5) found that support for the peacebuilding triangle hypothesis both in their case studies and in their statistical analysis of all civil wars since 1945. Moreover, to be able to control levels of hostility and local capacities, They found that the international capacities of UN missions with a mandate and resources to build peace increases the chance for peace after civil war. In the research findings of Doyle and Sambanis (2006:5), peace operations must be designed to fit the context of the conflict with the kind and degree of international authority to shape the transition from war to peace. They also argue that peace operations supplemented by

extensive programs to rebuild economies have a particularly prominent role in promoting long-run peace. Peace building requires the provision of temporary security, the building of new institutions capable of resolving future conflicts peaceably [for example police and Judiciary reforms], and an economy capable of offering civilian employment and material progress to future citizens (Doyle and Sambanis 2006:5).

Significantly, Doyle and Sambanis (2006:5) state that peacebuilding does not require that the United States, or another great power, take the lead. However, when residual violence is plentiful, such leadership may be necessary. In less violent circumstances, multilateralism works well by delivering the legitimacy, staying power, experienced UN peacekeepers, and multiple sources of modest national commitment that it promises. Controversially, in their research, they found that peace building trumps military victories. Most Civil wars since World War Two have been settled by military victory, and these victories can deliver a stable peace by eliminating the organised military opposition that truces leave in place to stir up future trouble. But a comprehensive peace agreement implemented through a peace operation has an even better success rate (Doyle and Sambanis 2006:4-5). Their policy message is therefore: while the UN is very poor at 'war', imposing a settlement by force, it can be very good at 'peace', mediating and implementing a comprehensively negotiated peace. They maintain that the UN, as a multilateral organisation, cannot manage force as rationally as is necessary but it is well suited to mediate, mobilise, and manage legitimate international assistance.

Furthermore, according to Doyle and Sambanis, these institutional capacities reflect wider views on the illegitimacy of colonialism and the growing acceptability of peacekeeping and peace building. UN intervention into peace building is justified by the arguing that the activities of the

Security Council in preventive diplomacy and sanctions, the Secretariat's role in election monitoring, and above all, the massive growth in peacekeeping and peace enforcement all testify to the newly appreciated role the international community wanted the UN to implement (Doyle and Sambanis 2006:7).

3.7.3. Institutionalisation before Liberalisation (IBL) and Liberal Internationalism

Lyons in Dayton et al. (2009:91) in reference to Mac Ginty (2006) and Paris (2004) argues that the liberal internationalist paradigm posits that peace, both between and within states, is based on market democracy and that constructing democratic political structures is a key to sustainable peace. Thus, theoretically the research will be guided by an improvement to liberalisation theory, as proposed by Paris (2004:187). In this regard, see also Keating and Knight (2004: XXXIX-XL). Initially, Paris (1997:56) was of the opinion that a single paradigm;-liberal internationalism;-appears to guide the work of most international agencies engaged in peace building. The central tenet of this paradigm is the assumption that the surest foundation for peace, both within and between states, is market democracy; that is, a liberal democratic polity and a market-oriented economy. Paris (2004:187) suggests an alternative, improved approach; the concept of Institutionalisation before Liberalisation (IBL). Paris asserts that the peace building strategy that he proposes would preserve the Wilsonian goal of transforming war-shattered states into liberal market democracies in the long run, while minimizing the destabilizing effects of the liberalisation process in the short run. The central recommendation of IBL is that peace builders should concentrate on constructing a framework of effective institutions prior to promoting political and economic competition.

Bar-Siman-Tov (1994:78) defined institutionalization as the informal or formal attempts to put conflict relations between the parties on a more stable basis and predictable footing in order to reduce the magnitude, scope, and possibility of armed confrontation. Bar-Siman-Tov (1994:78) quoting Hampson and Mandell, (1990:196) outlines five functions of institutionalization: (1) Preventing crises; (2) blocking or reducing incentives for escalation; (3) promoting and facilitating de-escalatory measures; (4) establishing new patterns of behaviour leading to the development of more durable norms of conflict management and (5) encouraging expectations toward resolution of the conflict.

According to Paris, what is needed in the immediate post conflict period will not be democratic ferment and economic upheaval, but rather political stability and the establishment of an effective administration over the territory. Paris further clarifies this statement by saying that only when a working governmental authority has been re-established, should peace builders initiate a series of gradual democratic and market-oriented reforms. Paris (2004:188) believes that “peace-builders should delay liberalisation and limit political and economic freedoms in the short run, in order to create conditions for smoother and less hazardous transitions to market democracy and durable peace in the long run.”

The main elements of IBL according to Paris include: (1) postponing elections until moderate political parties have been created, and mechanisms to ensure that compliance with the results of the elections have been established. In the same vein, Crocker and Hampson (1996:63) argue that experience shows that deferring elections in societies not yet prepared to hold them and likely to become more polarised and fragile as a result, is usually desirable; (2) designing electoral rules that reward moderation instead of extremism; (3) encouraging the development of

civil-society organizations that cut across lines of societal conflicts, and proscribing those that advocate violence; (4) regulating incendiary “hate speech” (5) promoting economic reforms that moderate rather than exacerbate societal tensions; and (6) developing effective security institutions and a professional, neutral bureaucracy (Paris, 2004:188).

3.8.1. Liberal Peace and Strands of thinking within liberal peace

Doyle (2005:463) argues that the logic underlying the core of liberal peace theory and its three pillars includes republication representation, an ideological commitment to fundamental human rights, and transnational interdependency. Moreover, Doyle notes that the logic underlying the peace among liberal states rests on a simple and straight forward proposition that connects the latter three pillars of liberal peace as they operate only together but not separately. In describing what liberal peace is (Chandler 2004:60) states that the attempt to institutionalise a new international security framework which emphasises the development of international norms and the promotion of democracy and human rights, by interventionist means if necessary is often promoted under the rubric of liberal peace. Richmond (2005:12) notes that the liberal peace discourse focuses on constitutional democracy, human rights, development, and international relations with institutions, as well as a civil peace; these providing the general framework through which the liberal peace can be achieved. Construction of the liberal peace requires methodology, tools, epistemic communities which have expertise, a coalition of organisations, states, institutions, and NGOs, and a conditional relationship between them and actors upon whom Liberal Peace is being visited (Richmond 2005:4). Liberal peace theorists stress that international peace and individual rights are best advanced through cosmopolitan frameworks whereby, democratic and peaceful states take a leading responsibility for ensuring the interests of common humanity (Chandler 2004:60). Chandler also says that the central question posed by

the liberal peace thesis, and highlighted in international discussions of the right of humanitarian intervention, is that of matching moral authority with legal and political legitimacy. This question is particularly acute in today's circumstances, when the legal framework of international security is that of state-based collective security concerns rather than the individual rights posited in the liberal peace thesis (Chandler 2004:60).

The liberal peace's main components include: democratisation, the rule of law, human rights, free and globalised markets, and neo-liberal development (Richmond 2005:1). Also, Richmond notes that the emergence of the liberal peace reflects Augustinian thinking on 'tranquillity of order', the contradiction of Hobbesian thinking on containing the state of nature, and the project outlined by Quincy Wright, that peace is represented by a community in which law and order prevails, both internally and externally. Richmond (2005:1) in reference to the motto of UNESCO also notes that war is made in the 'minds of men' and that it is therefore in the minds of men, that peace must be established.

According to Richmond (2005:1), there appear to be four main strands of thinking within the liberal peace framework. These include the victor's peace, the institutional peace, the constitutional peace and the civil peace. Firstly, the victor's peace has evolved from the age old argument that a peace that rests on a military victory, and upon the hegemony or domination of that victor is more likely to survive. Secondly, is the institutional peace which rests upon attempts to anchor states within a normative and legal context in which states multilaterally agree on how to behave and how to enforce or determine their behaviour. Thirdly, Richmond (2005:1) states that the constitutional peace is the one that rests upon the Kantian argument that peace rests upon democracy, trade, and a set of cosmopolitan values that stem from the notion that

individuals are ends in themselves, rather than means to an end. Fourthly, Richmond notes that the civil peace is derived from the phenomenon of direct action, of citizen advocacy and mobilisation, in the attainment or defence of basic human rights and values.

Furthermore, Richmond (2005:1) argues that the latter four aspects of the liberal peace are both contradictory and complementary, and each brings with it a certain intellectual and empirical baggage. For instance, on one hand the victor's peace framework has been subject to the *hamartia* of territorial and strategic over-extension, greed, and an inability to control unruly subjects despite its imposition qualities. While on the other hand, the civil peace discourse often struggles to be heard, even though it may be propagated by non-state actors motivated by human security and social justice, who blame the state for war, or liberal states for pursuing self-interest. According to Richmond, the institutional peace discourse struggles to cope with many discordant voices and the enormity of its systemic project, which requires the consent of a broad range of actors. Its development and implementation and has drawn the UN system, IFIs, and agencies into the quagmire of multilateral governance. It struggles to overcome the simple binaries it depends upon the territorial inside, outside, and the identity of friend or enemy (Richmond 2005:1; Fischer & Rittberger 2008). As a result, a state such as Kenya has found itself in conflict with multilateral governance, and has threatened to withdraw its membership from the Rome statutes due the controversial International Criminal Court (ICC) cases that face the Deputy Vice President.

Moreover, Richmond (2005:1) says that the liberal peace is a discourse, framework and structure, with a specific ontology and methodology. Its projected reform of governance entails a communicative strategy on which its viability and legitimacy with its recipients depends. This operates both at a social and state level. It cannot be achieved without significant resources. The

allocation of those resources, the power to do so, and their control, is often the new site of power and domination in post conflict societies. Richmond (2005:1) also emphasises that the NGO and agency personnel, those in the UN, and World Bank, diplomats and officials, generally show great commitment to the countries they are working in (often in difficult, uncomfortable, and dangerous conditions), and are to a large degree implicitly, if not explicitly, aware of the problems of the liberal peace model.

In addition, Richmond says that many are committed to avoiding the creation of dependency, sensitive to the needs of local ownership, and careful not to tread on the toes of local, district or central officials and governments, even where they may also feel that interests and politics are blocking their progress. They may be sensitive to such problems, while also recognising that their professional roles or the projects they are part of are in many ways inadequate. What little is done is normally better than nothing (Richmond 2005:2). They can adhere to the injunction to 'do no harm', recently written into the mandates of UNDP, and the World Bank, for example, because they have an implicit, if somewhat vague, understanding that the liberal peace is what requires protecting from harm at the most basic level.

Chandler (2004:60) maintains that the central question posed by the liberal peace thesis, and highlighted in international discussions of the right of humanitarian intervention, is that of matching moral authority with legal and political legitimacy. He furthermore says that this question is particularly acute in today's circumstances, when the legal framework of international society is that of state-based collective security concerns rather than the individual rights posited in the liberal peace thesis.

3.4.2. Importance of liberal peace in peacebuilding

Richmond (2005:1) notes that the liberal peace is assumed to be unproblematic in its internal structure, and in its acceptance in the post-conflict zone, though its methodological application may be far from smooth. Understanding liberal peace offers a better awareness of what the objectives of multiple interventions engendered in the contemporary ‘peace building consensus’ construct, and what different decisions, actions, and thinking, imply about the achievement of these objectives. To know peace provides a clear understanding of what must be done, and what must be avoided, if it is to be achieved (Richmond 2005:2). Furthermore, Richmond observes that the liberal peace is subject to four gradations, which carry important implications for intervention, peace operations, and peacebuilding, for the sustainability of the peace to be constructed, and for the exit strategies of internationals and other interveners. As a result, Richmond (2008:99) has categorised the four generations of theory relating to peace and conflict studies as follows: the first generation derived from conflict management approaches that attempt to produce order without open violence by preserving the state and its relations. This reflects a realist view of peace. The second generation focuses on removing violence, structural violence and injustice, mainly for individuals. This combines elements of idealism, structuralism and liberalism. The third generation focuses on large-scale, multidimensional approaches to creating peace and reflects the liberal peace. It also incorporates liberal-realism, structuralism, and aspires to provide emancipation from conflict. While, the fourth generation seeks ways of dealing with conflict that would not result in its replication in various forms, leading to a consensual, legitimate and discursive form of emancipation.

3.8.3. Liberal peace, trade development, peace and resource distribution

Nunez (2002:8) paraphrasing the Rio Treaty of the Organization of American States (OAS), notes that much emphasis has been placed on economic cooperation (free trade agreement), but little thought has been given to security cooperation. According to Nunez, such an approach is a relic of the Cold War and not sufficient for the challenges and threats of today. Nunez (2002:10) emphasises that unless concerns over matters such as sovereignty, distribution of gains, and fulfilling promises are addressed effectively within the hemisphere, security cooperation will not be realised. Paraphrasing Klare (2001), Christie (2001:376-377) writes that resources will dominate the security agenda in the 21st century. Furthermore, there will be a worldwide shift in the means of pursuing security, from the formation of ideological alliances to economic competitiveness. Demand for resources will increase dramatically, driven by population growth and the spread of industrialisation. Therefore, a proliferation of resource ownership contests will arise (Christie 2001:376-377).

Realists overemphasise power and liberals de-emphasise it. However, leadership based on soft power engenders constructive cooperation as opposed to that based on hard power (Nunez 2002:13). Furthermore, Nunez argues that the most prominent scholar of soft power, Joseph Nye, understands well that the key to success is getting other countries not so much to do things they oppose, but rather, to find things they can cooperate on, and that that is the essence of soft power. Significantly, this approach should be applied both in the realm of democracy; for instance solving election conflicts in the case of Kenya, trade cooperation with European Union (EU), United Nations (UN) and African Union (AU), as well as security cooperation internally, regionally and internationally. Such an approach comprises domestic collaboration, recognising

the virtues and values of regional partners, and reflects the interconnectedness of political, military and economic issues. Nunez (2002:14) adds that the components of this strategy: democracy, free trade, and security cooperation, are linked through overlapping concerns over human rights, poverty, justice, development, crime and insurgency.

According to Hegre (2000:5), the relationship between trade conflicts is contingent on the level of development. In his research, Hegre (2000:5) indicates that there is a clear negative relationship between trade and conflict, and that development itself is strongly associated with peaceful behaviour. In addition, Hegre's results also suggest that the democratic peace requires a minimum level of development to be efficient. If economic programs fail to bring widespread development, poor people may be willing to risk their lives to bring revolutionary change or engage in criminal activity, thus creating a security dilemma for the state (Nunez 2002:14). Thus, economic and security considerations are discussed concurrently and symbiotically. Hegre (2000:7) paraphrases Montesquieu, and states that the natural effect of commerce is to bring about peace. Moreover, Hegre adds that a series of large-N empirical studies at the dyadic level by Kim (1998, 1999), Oneal & Russett (1997, 1999), Oneal et al. (1998) have found a positive relationship between trade and peace. According to Kim and Rousseau (2005:523), classical liberals such as Kant argued that expanding political participation and increasing economic interdependence would promote peace among states. More recently, focus has shifted to the long-neglected second pillar of the liberal peace: economic interdependence. Study reveals that international conflict reduces economic interdependence rather than interdependence reducing conflict (Kim and Rousseau 2005:523). Additionally, Kim and Rousseau (2005:523), using a logit or probit method also argue that the trade and peace approach to peacebuilding can lead to erroneous conclusions because it does not control for the reciprocal relationship between the use

of force dependent variable and the economic interdependence independent variable. Declining interdependence does not cause conflict; rather, conflict caused a decline in interdependence (Kim and Rousseau 2005:526). Kim and Rousseau hold that the use of force by a state decreases a state's economic interdependence with its adversary in a dispute. Consequently, the relationship between regime type and interdependency is complex. However, the more democratic a state, the less interdependent it is with its adversary. If the opponent in the dispute is a democracy, then the relationship is reversed and interdependence increases. If states are allies or non-communist, interdependence increases (Kim and Rousseau 2005:540).

3.8.4. Three pillars of liberal peace

Oneal (2001:2) says that the benefits of democracy, of course, do not exhaust the theoretical insights of the classical liberal. Citing Immanuel Kant's (1795 [1784]) script titled *Perpetual Peace: a philosophical proposal*, Oneal (2001:2) writes that international peace could be established on a foundation of three elements: republication constitutions, cosmopolitan law embodied in free trade and economic interdependence, and international law and organisations. According to Oneal (2001:2), though Kant presented his ideas over 200 years ago, it has only recently become possible to evaluate his "philosophical proposal" scientifically because the triangle of institutions he emphasised has come into existence in substantial parts of the world. Relevant data has been collected, appropriate statistical techniques have been developed, and the computing capacity necessary for the analysis has become available to justify Kant's proposal. Consequently, there is strong support for the pacific benefits of democracy, interdependence, and international organizations over the years 1886-1992 [up to present moment] (Oneal 2001:2, Russett and Oneal 2002:3). Oneal (2001:8) maintains that in contrast to Barbieri's (1996) findings that trade concentration during 1870-1938, was associated with higher levels of conflict,

the finding only indicated that the total trade to Gross Domestic Product (GDP) ratio, as well as the bilateral ratio, constrained states from using force.

In the liberal view, it is the fear that conflict will disrupt beneficial commerce that leads states to refrain from using military force against others. Thus, the relationship between interdependence and peace is expected to be reciprocal and justifying the three pillars of the Kantian tripod (Oneal 2001:8). This is evident in the case of 2007/2008 post-election conflict in Kenya that led to escalation of goods and service prices both in Kenya and neighbouring countries. Oneal (2001) observes that studies have found that trade reduces the incidence of conflict, independent of past levels of violence. Furthermore, Oneal (2001:11) in reference to Kim concludes that the effect of trade on conflict is stronger than the effect of conflict on trade. In addition, Oneal (2001:9-10) argues that in his findings, Military Conflict does affect states' commercial relations, but economically important trade is a powerful force for peace, even when the history of dyadic conflict is taken into account. Oneal concludes that it is certainly important to clarify the limits of the liberal peace and to determine if they are contingent upon particular characteristics of the international system, the nature of states' political regimes, or their level of economic development. In the meantime, there are very good reasons for believing that the classical liberals were right (2001:9 - 10).

In the same vein, Mousseau, Hegre and Oneal (2003:277) maintain that over the past decade of the liberal peace, the finding that democracy and economic interdependence contribute to peace among nations has emerged as one of the strongest and most important results in the scientific study of international relations, conflict management and consequently peace building. Nonetheless, from a critical perspective, Mousseau, Hegre and Oneal (2003:277) note that recent

research indicates that the pacific benefits of democracy and interdependence may not be unconditional, but contingent upon the wealth of nations. Economically important trade has an independent, substantively important pacifying effect, but the conflict-reducing effect of democracy depends on the level of economic development. Consequently, if the less developed state in a dyad has a per capita GDP below 1400 USD, joint democracy is not a significant force for peace. According to Mousseau, Hegre and Oneal (2003:277), more recently, evidence has mounted that economically important trade also significantly increases the prospects for peace. These authors, in reference to Mousseau's (2000) research findings, argue that the strength of the democratic peace is conditional on economic development. However, if the democratic peace depends upon states having developed economies, simply encouraging democracy in poor countries will fail to secure the peace; instead, efforts must also be made to promote economic development (Mousseau, Hegre and Oneal 2003:278).

Mousseau, Hegre and Oneal also state that classical liberals have long held that democratic nations will be more peaceful than autocracies, due to the rational preference of voters, the system of checks and balances that limit the prerogatives of the executive and a political culture that extols the non-violent resolution of conflict. Paraphrasing Polachek (1980) and Rummel (1979) these authors note that in seminal articles Polachek showed in dyadic analyses that trade and conflict were inversely related and Rummel (1979) reported that democratic states were less likely to fight one another than were other pairs of states.

Mousseau, Hegre and Oneal (2003:281) observe also that Mousseau (2000) found that the independent effect of joint development, controlling for interdependence, is to increase the likelihood of dyadic conflict. Interstate trade, democracy and development are linked in classical

liberal theories; and these linkages have become even more pronounced as a result of contemporary research. It has thus become well established that democracies tend to have developed economies. However, because of the empirical linkages connecting democracy, trade and development, a number of scholars have brought development into their explanation for the pacifying impacts of trade and democracy (Mousseau, Hegre and Oneal 2003:281). As a result, democracy causes peace by encouraging interdependence.

Citing Doyle's (1986 &1997) interpretations of Schumpeter's, argument that capitalism is a force for peace, Mousseau, Hegre and Oneal believe that capitalism leads to democracy, free trade and consequently peace. In addition, trade, democracy and development are so closely associated that the presence or absence of one strongly predicts the presence or absence of the others. Regardless of the latter assumption of the relationship of trade, democracy and development, Mousseau, Hegre and Oneal (2003:281) argue that this implicit assumption, while common, is misleading. Trade, democracy and development are theoretically distinct concepts; and none is a sufficient cause of another. Mousseau, Hegre and Oneal elaborate that there are for example, poor democracies that do not trade very much (India), wealthy states that are not democratic (the oil-rich kingdoms) and wealthy states with limited trade (the COMECON nations). Confusion is most pronounced with trade and development. Trade is a dyadic relation, while development is fundamentally an attribute of individual nations.

3.8.5. Liberal Pacifism, Liberal imperialism and Liberal Internationalism

Peace and democracy are just two sides of the same coin (Doyle 2004:1). According to Doyle, liberal states, founded on such individual rights as equality before the law, free speech and other civil liberties, private property, and elected representation are fundamentally against war. When

citizens who bear the burdens of war elect their governments, wars become impossible. Furthermore, citizens appreciate that the benefits of trade can be enjoyed only under conditions of peace. Building on a growing literature in international political science, Doyle (2004:1-5) has questioned the pacific liberal claim by identifying three distinct theoretical traditions of liberalism: liberal pacifism, liberal imperialism, and a liberal internationalism that combines elements of both the previous two (See also Doyle 1997 & Doyle, Johnston and Orr 1997).

Despite the contradictions of liberal pacifism and liberal imperialism, Doyle 2004 concurs with Immanuel Kant and other liberal republicans that liberalism does leave a coherent legacy on foreign affairs. However, Doyle also maintains that Liberal states are different and that they are indeed peaceful but are also prone to make war. Doyle (2004:1) concludes by arguing that the differences among liberal pacifism, liberal imperialism, and Kant's liberal internationalism are not arbitrary. They are rooted in differing conceptions of the citizen and of societies and states.

3.8.6. Liberal Pacifism

There is no canonical description of liberalism. What we tend to call liberal resembles a family portrait of principles and institutions, recognizable by certain characteristics for example, a commitment to individual freedom, government through democratic representation, rights of private property, and equality of opportunity that most liberal states share, although none has perfected them all (Doyle 2004:1). Doyle in reference to Schumpeter's "Sociology of Imperialisms," which was published in 1919, made a coherent and sustained argument concerning the pacifying (in the sense of non-aggressive) effects of liberal institutions and principles. Unlike some of the earlier liberal theorists, who focused on a single feature, such as trade, and failed to examine critically the arguments they were advancing, Schumpeter saw the

interaction of capitalism and democracy as the foundation of liberal pacifism (Doyle 1997 & Doyle 2004:2).

Doyle argues that democratic capitalism leads to peace. As evidence, Doyle (2004:1-3) paraphrases Schumpeter's claims that throughout the capitalist world an opposition has arisen to war, expansion and cabinet diplomacy; Furthermore, contemporary capitalism is associated with peace parties; and the industrial worker of capitalism is "vigorously anti-imperialist." In addition, Doyle (2004:1-3) contends that the capitalist world has developed the means of preventing war, such as the Hague Court, and the least feudal, most capitalist society. In conclusion, Doyle says that Schumpeter's explanation for liberal pacifism was simple. Only war profiteers and military aristocrats gain from wars. And no democracy would pursue a minority interest and tolerate the high costs of imperialism (See also Doyle, Johnston and Orr 1997).

3.8.7. Liberal Imperialism

In contradistinction to the pacific view of popular government, Thucydides and later Niccolò Machiavelli argued that not only are free republics not pacifistic, they are the best form of state for imperial expansion (Doyle (2004:1-3). Thus, establishing a republic fit for imperial expansion is, moreover, the best way to guarantee the survival of a state. Machiavelli's republic is a classical, mixed republic. It is not a democracy, which he thought would quickly degenerate into a tyranny; nor is it founded on the modern liberal view of fundamental human rights. But it is characterized by popular liberty and political participation. The consuls serve as "kings;" the senate as an aristocracy managing the state, the people in the assembly as the source of strength (Doyle 2004:1- 3).

Furthermore, Doyle contends that in the liberal imperialism perspective, liberty results from the "disunion", the competition and necessity for compromise required by the division of powers among senate, consuls and tribunes (the last representing the common people). Also, Doyle notes that liberty results from the popular veto. The powerful few, Machiavelli says, threaten tyranny because they seek to dominate; the mass demands not to be dominated. Their veto thus preserves the liberties of the state. But since the people and the rulers have different social characters, the people need to be "managed" by the few, to avoid having their recklessness overturn or their fecklessness undermine the ability of the state to expand. Thus the senate and the consuls plan expansion, consult oracles, and employ religion to manage the resources that the energy of the people supplies (Doyle 2004:1-3).

Thus, Doyle notes that if a country seeks the honour of having its state expand, Machiavelli advises that it should be organized as a free and popular republic like Rome, rather than as an aristocratic republic like Sparta or Venice. Expansion thus calls for a free republic. "Necessity" and political survival calls for expansion. If a stable aristocratic republic is forced by foreign conflict "to extend her territory, in such a case we shall see her foundations give way and herself quickly brought to ruin." If domestic security, on the other hand, prevails, "the continued tranquillity would enervate her, or provoke internal dissensions, which together, or either of them separately, will apt to prove her ruin."

Machiavelli therefore believed that it is necessary to take the constitution of Rome, rather than that of Sparta or Venice, as a ruling model. Hence, Doyle says that liberal imperialists are lovers of glory as Machiavelli announced. They seek to rule, or at least to avoid being oppressed. In either case, they want more for their selves and their states than just material welfare

(materialistic monism). Because other states with similar aims thereby threaten us, we prepare ourselves for expansion. Because our fellow citizens threaten us if we do not allow them either to satisfy their ambition or to release their political energies through imperial expansion, we expand (Doyle 2004:1-3).

Consequently, Doyle attempts to conclude that either liberal pacifism has at last taken over with the further development of capitalist democracy, as Schumpeter predicted it would; or the mixed record of liberalism, pacifism and imperialism indicates that some liberal states are Schumpeterian democracies while others are Machiavellian republics. But before we accept either conclusion, Doyle argues that we must consider a third apparent regularity of modern world politics Liberal Internationalism.

3.8.8. Liberal Internationalism

According to (Doyle 2004:1-3) modern liberalism carries with it two legacies. They affect liberal states, not separately, according to whether they are pacifistic or imperialistic, but simultaneously. The first of these legacies is the pacification of foreign relations among liberal states. And, as the number of liberal states increases, it announces the possibility of global peace this side of the grave or world conquest (See also Richmond 2008:93).

Peceny (1997:415) and Doyle (2004:3) are in agreement that the apparent absence of war between liberal states, whether adjacent or not, for almost two hundred years may therefore have significance. Similar claims cannot be made for feudal, "fascist," communist, authoritarian or totalitarian forms of rule; nor for pluralistic, or merely similar societies (see also Doyle and Sambanis 2006:3-4). More significant perhaps, is that when states are forced to decide on which side of an impending world war they will fight, liberal states wind up all on the same side,

despite the complexity of the paths that take them there. In this regard, Richmond (2008:9) notes that ‘... liberal peace has often emerged as the main blueprint approach. What is most important about this treatment is that as an objective point of reference, it is possible for the diplomat, politician, official of international organisations, regional organisations or international agencies, to judge what is right and wrong in terms of aspirations, processes, institutions and methods, in their particular areas of concern’ (in this regard see also Paris 1997:56-57). However, Doyle maintains that these characteristics do not prove that the peace among liberals is statistically significant, nor that liberalism is the peace's sole valid explanation. But they do suggest that we consider the possibility that liberals have indeed established a separate peace; but only among themselves. In a contradictory point of view, Paris (1997) and (2004) argues that ‘at best, [the] liberal internationalism approach to peacebuilding has generated unforeseen problems. At worst, peacebuilding missions have had the ‘perverse effect’ of undermining the very peace they were meant to buttress.’ In his perspective, war-shattered states are typically ill equipped to manage societal competition induced by political and economic liberalisation, not only because these states have a recent history of violence, but because they typically lack the institutional structures capable of peacefully transforming, managing and resolving internal conflicts.

Thus according to Doyle (2004:3), on one hand Liberal states have been attacked and threatened by non-liberal states that do not exercise any special restraint in their dealings with liberal states, while on the other hand, authoritarian rulers both stimulate and respond to an international political environment in which conflicts of prestige, of interest, and of pure fear of what other states might do, all lead states toward war (See also Peceny 1997 Hegre 2000). As a result, war and conquest have thus characterized the careers of many authoritarian rulers and ruling parties. Doyle also argues that liberal states invade weak non-liberal states and display striking distrust in

dealings with powerful non-liberal states (See also Nunez 2002:VII). Kant's theory of liberal internationalism helps us understand liberalism well (Doyle 2004:3). For instance, the importance of Immanuel Kant as a theorist of international ethics has been well appreciated. Kant has an important analytical theory of international politics; *Perpetual Peace*, written in 1795. The theory helps us understand the interactive nature of international relations (Doyle 1983; Doyle 1997; & Doyle, Johnston and Orr 1997). Methodologically, the theory tries to teach us that we cannot study either the systemic relations of states or the varieties of state behaviour in isolation from each other. In this regard, Huntley (1996:45-46) notes that substantively, Kant's theory anticipated for us the ever-widening pacification of a liberal pacific union and at the same time suggests why liberal states are not pacific in their relations with non-liberal states.

Kant (1991:110-119) argues that perpetual peace will be guaranteed by the ever-widening acceptance of three "definitive articles" of peace. Firstly, Kant argued that republican governments tame the aggressive interests of absolutist monarchies and ingrain the habit of respect for individual rights. Thus, wars appear as direct charges on the people's welfare. Moreover, Kant noted that these domestic republican restraints do not end war. And if they did, liberal states would not be warlike. Liberal wars are only fought for popular, liberal purposes. The historical liberal legacy is laden with popular wars fought to promote freedom, protect private property or support liberal allies against non-liberal enemies (Kant 1991; Huntley 1996 & Peceny 1997:415). This view of Kant substantiates the fact that liberal peace is for the benefits of the liberal states and might fail in non-liberal societies.

Secondly, in order to see how the pacific union removes the occasion of wars among liberal states and not wars between liberal and non-liberal states, Kant (1991) suggests that we need to shift our attention from constitutional law to international law. Consequently, complementing the constitutional guarantee of caution, international law adds a second source; a guarantee of respect (see Oneal, Oneal, Maoz and Russett 1996:11-14 & Oneal and Russet 1999:423-442). Kant observed that the separation of nations is reinforced by the development of separate languages and religions. These further guarantee a world of separate states, an essential condition needed to avoid a "global soul-less despotism" Yet, at the same time, they also morally integrate liberal states "as culture grows and men gradually move towards greater agreement over their principles, they lead to mutual understanding and peace (Hegre 2000: 5-6 & Doyle 2004:4).

According to Oneal and Russet (1999), Hegre (2000), and Doyle (2004) as republics emerge and as culture progresses, the established practice of recognized legal rights resting on an understanding of the legitimate rights of all citizens and of all republics comes into play. And this characterises policy, setting up the institutional and moral foundations for the liberal peace. Correspondingly, international law highlights the importance of Kantian publicity. Hence, on one hand domestically publicity helps ensure that the officials of republics act according to the principles they profess to hold just and according to the interests of the electors they claim to represent. On the other hand internationally, free speech and the effective communication of accurate conceptions of the political life of foreign peoples is essential to establish and preserve the understanding on which the guarantee of respect depends.

Furthermore, domestically, just republics which rest on consent presume that foreign republics will also be consensual, just, and therefore deserving accommodation. The recognition of

legitimate rights and the experience of cooperation help engender further cooperative behaviour when the consequences of state policy are unclear but (potentially) mutually beneficial (in this regard see Huntley 1996). At the same time, liberal states assume that non-liberal states, which do not rest on free consent, are not just. Because non-liberal governments are perceived to be in a state of aggression with their own people, their foreign relations become for liberal governments deeply suspect. In short, fellow liberals benefit from a presumption of amity; non-liberals suffer from a presumption of enmity. Both presumptions may be accurate. Each, however, may also be self-fulfilling (Hegre 2000 & Doyle 2004).

Third and lastly, Kant (1991) argues that cosmopolitan law adds material incentives to moral commitments. The cosmopolitan right to hospitality permits the "spirit of commerce" sooner or later to take hold of every nation, thus creating incentives for states to promote peace and to try to avert war. Liberal economic theory holds that these cosmopolitan ties derive from a cooperative international division of labour and free trade according to comparative advantage (Doyle 2004:5). Each economy is said to be better off than it would have been under autarky; each thus acquires an incentive to avoid policies that would lead the other to break these economic ties (see also Hegre 2000 & Oneal, Oneal, Maoz and Russett 1996). Hence, Doyle concludes that since keeping open markets rests upon the assumption that the next set of transactions will also be determined by legal rights and agreed upon prices rather than coercion, a sense of mutual security is vital to avoid security-motivated searches for economic autarky. Thus avoiding a challenge to another liberal state's security or even enhancing each other's security by means of alliance naturally follows economic interdependence.

Doyle (2004:4) states that a further cosmopolitan source of liberal peace is that the international market removes difficult decisions of production and distribution from the direct sphere of state policy. The interdependence of commerce and the international contacts of state officials help create crosscutting transnational ties that serve as lobbies for mutual accommodation (See also Doyle 2005:463-466). According to modern liberal scholars, international financiers and transnational and trans-governmental organizations create interests in favour of accommodation. Moreover, trust, property rights and mutual expectation of the rule of law make economic and other disputes easier to settle. Conversely, a sense of suspicion, such as those characterizing relations between liberal and non-liberal governments, can exacerbate disputes and lead to restrictions on the range of contacts between societies and this can increase the prospect that a single conflict will determine an entire relationship.

In conclusion, Doyle argues that a single constitutional, international or cosmopolitan source alone is sufficient and that Kantian theory is neither solely institutional nor solely ideological, nor solely economic. But together *and only together* do the three specific strands of liberal institutions, liberal ideas, and the transnational ties that follow from them plausibly connect the characteristics of liberal politics and economies with sustained liberal peace (see also Spiro 1994:50-86 & Goenner 2004:589-605). However, Doyle also observes that in their relations with non-liberal states, liberal states have not escaped from the insecurity caused by anarchy in the world political system considered as a whole. Moreover, the very constitutional restraint, international respect for individual rights, and shared commercial interests that establish grounds for peace among liberal states establish grounds for additional conflict in relations between liberal and non-liberal societies.

3.8.9. Imposing the liberal peace

From a different perspective, Chandler (2004:66-67) has approached liberal peace in reference to the concept of a continuum of intervention which inevitably blurs the line between domestic and the international spheres. Chandler argues that the international community not only has ‘a responsibility to react’ but also has a ‘responsibility to prevent’ and a ‘responsibility to rebuild. Moreover, Chandler argues that external intervention should be more legitimate. It should extend the rights of a ‘continuum’ of mechanisms of less and more coercive international interference from imposed human rights monitoring, aid conditionality, the use of sanctions, arms embargoes, war crimes tribunals, preventive deployment of peacekeeping forces and the threat of force.

Moreover, Chandler (2004:66- 67) advocates for a focus on ‘root cause prevention’ as a guide to the additional ‘responsibilities’ of preventive and post-conflict intervention. Chandler argues that this form of preventive intervention institutes comprehensive Western regulation under the threat of military intervention if non-Western states were ‘unwilling or unable to cooperate’. Consequently, Chandler (2004:66-67) highlights four areas where preventive intervention would be legitimate: in the political, economic, legal and military spheres. In the political field, Chandler states that the needs and deficiencies that the international community would be responsible for addressing ‘might involve democratic institution and capacity building, constitutional power-sharing, power-alternating and redistribution arrangements; confidence building measures.; support for press freedom and the rule of law; the promotion of civil society; and other types of similar initiatives’. In the economic field, Chandler says that the ‘root cause prevention may also mean tackling economic deprivation and the lack of economic opportunities’ through development assistance and cooperation or encouraging economic and

structural reform. However, in the legal sphere, preventive international intervention might mean international assistance in legal reform, law enforcement, or enhancing protections for vulnerable groups. While in the military sphere, international assistance might be necessary for example to train military forces, promote disarmament, or prohibit land mines (Chandler 2004:66- 67).

3.8.10. Criticism of liberal peace

Goenner (2004:589) observes that in the past several years, researchers have been increasingly interested in whether the empirical existence of the democratic peace extends to that of a liberal peace in which trade interdependence, in addition to democracy, inhibits conflict. The reason for such interest is policymakers' desire to know whether engaging in trade with foreign nations is constructive in the sense that it reduces conflict. Moreover, Goenner (2004:589) states that theoretically, the effects of trade on conflict are uncertain. For instance, Liberals theorise a negative relationship between trade and conflict, Marxists theorise a positive relationship, and realists theorise that there is no relationship. However, Empirical researchers have been unable to settle this debate. Consequently, Goenner argues that most researchers (Oneal & Ray, 1997; Oneal & Russett, 1997,1999, 2001; Russett, Oneal & Davis, 1998; Russett & Oneal, 2001) have found that trade reduces conflict. Contrary, there also exists sufficient evidence to question the empirical effects of trade (Barbieri, 1996, 1998, 2002; Beck, Katz & Tucker, 1998, Goenner 2004:589 and Spiro 1994). Gelpi, C and Grieco M. J. (2001:1) in their research argue that while Oneal and Russett contend that the economic interdependence promotes peace; Barbieri suggests that it can actually promote conflict. Moreover, Teran (2007:3) argues that some have questioned the very concept of peacebuilding built on the premise of “liberal peace” which presupposes that democracy and free market economy necessarily promote peace. This, they have argued, is tantamount to interventionism as it implies the promotion and imposition of

Western values and institutions in vulnerable war-torn societies, and can, apart from the fact that it is morally questionable, lead to the opposite result (See Paris 1997, 2004 and Spiro 1994).

Gelpi, C and Grieco, M. J. (2001:1) contend that economic interdependence may reduce the risk of war between democracies, but exacerbate the risk of such conflicts between non-democracies. Thus, along with Oneal and Russett Gelpi and Grieco suggest that the classic liberals may indeed have been right, but in a manner more complex than had been anticipated by many modern scholars. Moreover, Gelpi and Grieco observe that rather than acting independently, the combined influence of democracy and interdependence may create a powerful web of constraint that reinforces the zone of peace among increasingly interdependent democracies.

However, the absence of mutual democracy may vitiate the pacifying effect of economic interdependence between nations. Thus, Gelpi and Grieco contend that economic interdependence may reduce the risk of war between democracies, but exacerbate the risk of such conflicts between non-democracies. Thus, along with Oneal and Russett, Gelpi and Grieco (2001:1) suggest that the classic liberals may indeed have been right, but in a manner more complex than had been anticipated by many modern scholars. For instance they argue that, rather than acting independently, the combined influence of democracy and interdependence may create a powerful web of constraint that reinforces the zone of peace among increasingly interdependent democracies. However, the absence of mutual democracy may vitiate the pacifying effect of economic interdependence between nations.

3.9. Conclusion

In this chapter the author discussed scholarly conversations about conflict management in Kenyan electoral conflicts. The focus was on the main study problem and emerging research

gaps in the literature. This included: the causes and course of electoral conflicts in Kenya, the transformation and management of the electoral conflicts in Kenya, the themes of conflict management and peacebuilding as an interventionist approach to electoral conflicts, selected mechanisms for transforming and managing Kenyan electoral conflicts including recommendations to the government of Kenya, to the various institutions, and the civil society. Moreover, the chapter gives deep insight into; sustainable peace (Doyle and Sambanis 2006 Peacebuilding triangle), and Paris' (2004:187) Institutionalisation Before Liberalisation (IBL) approach to peacebuilding in electorally conflict-torn societies. Also, liberal peace and strands of thinking within the liberal peace approach were covered including; liberal peace, trade and development, three pillars of the liberal peace (liberal pacifism, liberal imperialism and liberal internationalism). Criticism of conflict management and Peacebuilding has also been covered. Discussions in this chapter link to the next chapter (methodology) that addresses methods and approaches on how to collect, record, analyse and interpret data from questions that emanate from the research gaps for instance 'what do you think are the causes and courses of electoral conflicts in Kenya ? ' Methodologically, IBL and liberal peace approaches will be the interpretive approaches in discussing the research findings, conclusions and the way forward.

CHAPTER 4:

ANALYTICAL APPROACHES TO ELECTORAL CONFLICT

Whether responding to humanitarian needs or the root causes of conflict, a fundamental problem in Kenya has been lack of policy guidelines for a co-ordinated approach to Peacebuilding and conflict management. As a result, most actors engage on ad hoc basis and with intentions that are reactionary in nature. Lack of norms, values, and principals to guide interventions, has in certain situations exacerbated conflicts. In addition, sufficient resources have not been mobilised to prevent latent conflicts and enable rapid response when conflicts occur. The need for a policy framework that articulates the country's vision, and strategy in this regard is, therefore, urgent (The draft National Policy on Peacebuilding and Conflict Management 2011:5).

4.1. Introduction

This chapter provides an overview of the various analytical approaches proposed by the conflict management and peace building community for engaging with electoral conflict. In the Civil Affairs Handbook (2009:103-104), understanding and analysing the conflict is not a goal in itself, but instead a means to defining a strategy that can address the dynamics of the conflict and help to set the peace and stabilization process on solid ground. As a result, civil affairs activities (institutionalisation and policy reviews and reforms), like any activity, should be planned in such a way that feasible objectives are set out in advance, based on clear analysis. If the basic facts and interpretation of local conflict dynamics are inaccurate, the overarching strategy of conflict

management and peace building missions are likely to be misdirected, and will not fulfil their mandate. According to Scognamillo and Bernard (2011:31), there is not one single methodology for conflict analysis. Dudouet; Schmelzle and Bloomfield (2005:6) paraphrase Christopher Mitchell and caution, particularly against trying to take account of all possible conflict causes in analysis. Instead, they argue that involving all possible conflict causes in analysis could potentially prolong the stage of analysis indefinitely. Thus, Dudouet et al; (2005:6) recommend that conflict transformation and analysis should focus on straightforward questions of: How did the conflict start? What keeps the conflict going? What are changeable and tractable causes and factors in the short, medium and long term? Moreover, Dudouet et al (2005:7) hold that conflict analysts should acknowledge that they are dealing with a great number of ‘multi-cause conflicts’ that call for multi-cause conflict analysis. As a result, researchers should analyse data by integrating several conflict analysing ideas. In this research, an integrative analysis approach is adopted as called for by Dudouet et al, and as also used in the Civil Affairs Handbook (2009:105-106) that outlines the appropriate approaches of conflict analysis of the Peace Practice Projects (PPP) The Civil Affairs Handbook (2009:105-106) notes that RPP has developed an approach to conflict analysis that is integrative and builds on other models and systems of examining conflict. This study also integrates ideas of Sandole’s (2007:28) three-pillar framework for analysing and resolving conflicts at any level, the grounded theory of (Corbin & Strauss 1990:5 ; Mills et al. 2006:1-10), and the constructivist grounded theory (Strauss1987:22-23, Charmaz in Denzin & Lincoln 2003:250). The researcher follows steps of analysis as used in the Civil Affairs Handbook (2009:105-106) and Sandole’s (2007:28) ideas.

In reference to the United Nations (UN), Scognamillo and Bernard (2011:31) note that the UN approach to analysis of sensitive, protracted conflicts looks beyond core conflict issues like livelihood and inequality, links between proximate and structural causes, and the coherence between electoral assistance and conflict prevention programming. In this study, the researcher also assesses themes of inequality, proximate and structural electoral causes, electoral process reforms and peace building initiatives. To transform the Kenyan electoral conflict, the research integrated approaches to electoral conflicts to include themes such as; resource distribution, security, legal and constitutional reforms amongst other factors.

In conformity with the analysis approach in this study, Marshall (1998:29) also argues that peace studies involves three areas of substantial focus: the analysis of the causes and consequences of the conflict, the study of theories and techniques of managing, transforming, reducing, and resolving conflict and the examination of those norms, values, rules, and institutions that are necessary for constructing peace. The analysis focuses on the main research question, research sub-questions, aim and objectives of the study. Paris' 2004 Institutionalisation before liberalisation (IBL) theoretical paradigm and the liberal peace theory guides the interpretation and analysis of the research findings. Moreover, the analysis is based on the constructivist, grounded theory approach. Grounded theory involves the use of multiple stages of data collection, data refinement and interrelationship of categories of information (Creswell 2003:14; Strauss & Corbin, 1990,1998). Two primary characteristics of the grounded theory in this analysis involve: constant comparison of data with emerging categories and theoretical sampling of different categories and groups to maximise similarities and interrelationships. Thus, in the

analysis the researcher examines the interaction of the presented data, the emerging categories, IBL and Liberal Peace. Analysis components are as illustrated in the table below.

Research question & sub-questions	Research aim and objectives	Institutionalisation before liberalisation (IBL) Approach	The liberal peace theory
<p>The main research question is: how do conflict management measures and Peacebuilding processes succeed or fail in transforming the electoral conflicts in Kenya in the period 2002-2013?</p>	<p>The research aim states the overall purpose of the study and it is the research question reformulated as a statement. The study is guided by the following aim:</p> <ol style="list-style-type: none"> 1) to discover how conflict management measures and Peacebuilding processes are succeeding or failing in transforming the Kenyan election-related conflicts from 2002-2013. <p>2. Research objectives to discover:</p> <ol style="list-style-type: none"> 1. Consequences of conflict management measures in relation to election-related conflicts in Kenya. 2. the successes or failures of Peacebuilding in transforming and resolving the Kenyan conflict. 3. if Peacebuilding principles have 	<p>IBL main elements mirrors Kenyan post-conflict electoral process management. They include:</p> <ol style="list-style-type: none"> (1) Postponing elections until moderate political parties have been created, and mechanisms to ensure compliance with the results of the elections have been established; (2) Designing electoral rules that reward moderation instead of extremism; (3) Encouraging the development of civil-society organizations that cut across lines of societal conflicts, and (4) proscribing those that advocate violence; (5) Regulating incendiary “hate speech” (6) Promoting economic reforms that moderate rather than exacerbate societal tensions; and (7) Developing effective security institutions and a professional, neutral bureaucracy 	<p>This theory has been employed in the study to help understand the connectivity between electoral conflict management and liberal peace. The logical pillars underlying the Liberal Peace theory include:</p> <ol style="list-style-type: none"> (1) constitutional democracy; (2) commitment to fundamental human rights ; (3) transactional interdependency and neo liberal development. (4) the ultimate goal of the theory is the achievement of peace and socio economic development. <p>basic liberal principles and characteristics include:</p> <ol style="list-style-type: none"> (1) individual freedom, (2) political participation, (3) private property, and (4) equality of opportunity (5) a belief in importance of moral freedom of the right to be treated and a duty to treat others as ethical subjects and not objects or means only. (6) Citizens possess juridical equality (8) Economy rests on a recognition of the rights of private property, including the ownership of means of production. And economic decisions are predominantly shaped by the forces of supply and demand, domestically and internationally, and are free from strict control by bureaucracies.

	reached a larger audience (grassroots population) and if the attitudes and behaviour of the protagonists have changed as a result		<p style="text-align: right;">Table :</p>
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Table 3: Research analysis components

According to the Civil Affairs Handbook (2009:105-106), Dudouet; Schmelzle and Bloomfield (2005:6) and Hoffman (2004:4), a good conflict analysis is one that helps practitioners to develop programmes that do not avoid asking certain vital questions. In this study, vital questions have been related and interpreted according to the research findings in chapter six. Amongst the questions are as outlined below:

- i. Of all the causes of the conflict, what are the key driving factors (both issues and people), and what are the causes and effects of these factors? Key driving factors are factors without which the conflict would not exist or would be significantly different. Responses from research questions revealed that the key driving factors in Kenyan electoral conflict included negative ethnicity between ethnic groups affiliated to rival political parties (Party of National Unity PNU & Orange Democratic Moment ODM in the 2007 elections and in 2013 the ethnic rivalry between the ODM alliance and the JUBILEE alliance), bias

and inequality in governmental national resource allocation, weak institutions and policies and incompetent design, management and implementation of the electoral process. Other peripheral issues include: corruption, poverty, unemployment, land conflicts, centralised power and an imperial presidency. The International Criminal Court (ICC) intervention into Kenyan post-election violence is also articulated as an issue that influenced the 2013 general election.

- ii. What are the relationships and dynamics among the factors? How do the factors interact and affect each other? How are actors and factors related? The above factors, actors and issues relate to, interact with and affect each other. For instance, ethnic differences amongst the main protagonists ignite and escalate into violence during election periods. Poverty, socioeconomic differences, unequal resource distribution and unemployment interact with, relate to and affect each other. Actors from the opposition parties seemed not to be benefiting equally from government resource distribution when compared to the actors affiliated to the ruling party. As a result, antagonism arises amongst the actors and during election periods, the indifference escalates into ethnic violence that aligns with political party rivalry. Poverty, corruption, unemployment, land conflicts, and income disparities among actors escalate electoral conflicts into violence because the ethnic groups in the opposition become bitter as they realise that they might not benefit from the ruling government. Moreover, unemployed youth are easily used by elite politicians to ignite and participate in electorally-related violence during election periods. The ICC influenced the 2013 general elections. Actors who had been prosecuted by the ICC shared the same problem that united them to vote as a block during the 2013 general

elections. Poorly conceived policies and the constitution were also taken advantage of by the elites to fulfil their own selfish needs such as the need to cling to power.

- iii. What could be stopped and what could be supported and who would do it? To build and achieve positive peace, positive factors should be reinforced. Effective peacebuilding mechanisms also examines factors (actors, issues, motives, resources, dynamics, attitudes, and behaviours) that can maintain or reinforce the conflict system, as well as consider who would resist movement towards peace and why.

Considering actors and causes, in the Kenyan electoral conflict, what could be transformed or stopped constitutes: resource and power distribution inequality, negative ethnicity and societal divisions, weak rule of law and national policies, land disputes and conflicts can be transformed. Electoral conflict planners and financiers can be reformed or overhauled. Also, political aspirants fostering ethnic and other forms of societal division should be subjected to legal measures. Illegal access to weapons should be controlled. Additionally, in the year 2008, a coalition government was formed after the escalated electoral conflict. The electoral systems in Kenya that often leads to a 'winner-takes all' competition for office was put on hold. The 'winner-takes all' scenario can be transformed such that the winner or incumbent president and his government should be constituted with members from all ethnic groupings. Equal representation should be fostered without political party bias in ministerial allocations and other governmental appointments. Moreover, political competition through elections should be managed by formulating electoral policies that avoids close vote margins, re-runs and deescalates

electoral conflicts. Election fraud and rigging should be stopped and divisive campaigns language and hate speeches be discouraged. The electoral process managing body; in this context the Independent Electoral and Boundary Commission (IEBC) should amicably resolve problems of voter registration (exclusion & inflation), and ensure that vote buying, voter intimidation and theft or destruction of election materials is stopped. Voting should not be allowed to take place using malfunctioning voting machines such as the defective voter biometric equipment that failed during the 2013 general election in Kenya. Voting hours should not be shortened without prior notice to the voters and voters shouldn't experience difficulties in accessing the polling stations. In addition, long queue's at the polling stations should be avoided. Illegal voting and ballot box stuffing should be prevented entirely. Voter and candidate intimidation and/or obstruction should be criminalised. Other factors that should also be deemed illegal include; false claims or denial of claims of citizenship, use of inaccurate campaign literature, and failures of due diligence by electoral officials (UNDP 2009:38-37).

Factors that should be supported and encouraged include institutional reforms of local authorities (for example, electoral management bodies such as the IEBC, the judiciary, security forces such as the police, and local government). Traditional peacemakers, business fraternity and the clergy should be actively be involved in peacemaking, peace building and peace talks. Competent voter registration and voter education should be carried out on a large scale and with the same intensity in all counties. Armed groups should be disarmed and demobilised for example; the Mungiki sect, the Mombasa Republican Council and other emerging terror groups. The reviewed constitution of 2010

provided some solutions and positive transformation during the 2013 general elections. However, the 2010 reviewed constitution still needs some amendments for the better management of electoral conflicts. Government and electoral policies and laws should also be reviewed to suite the dynamics of electoral conflicts and disputes. Hate speech should be regulated through media controlled, censorship of information and imposition of heavy fines to defaulters. Human rights issues in relation to security force rules of engagement in the election process should be observed, enacted fully and applied promptly. Law, gender equality and security objectives and strategy should be adhered to in relation to engagement in the electoral process. Additionally, high standards of professionalism, impartiality, neutrality, and non-intimidatory conduct should be upheld by security officers, electoral management body officials such as those of the IEBC and anyone involved in the electoral process. Also, comprehensive peace campaigns should be conducted through and by leaders of civil society organisations, religious institutions, and cultural forums (UNDP 2009:38-39).

- iv. Who are the “key” actors? Key actors are people or groups who have significant influence on the conflict dynamics, are able to decide or strongly influence decisions for or against peace, and or are able to “spoil” or undermine peace. In the Kenyan electoral conflict, the major key actors are the rival political parties; especially the ruling party or coalition and the main opposition party. During the 2002, general elections the main protagonists included; the Party of National Unity (PNU) lead by President Mwai Kibaki and the National Rainbow Coalition of Kenya (NARCK) led by Raila Omolo Odinga. Other peripheral parties that merged with the main antagonists included the Forum For

Restoration of Democracy Kenya (FORD-Kenya) and the Kenya African National Union (KANU). The ruling coalition and the opposition remained the main protagonists in the 2007 and 2013 general elections. On the one hand, this included the coalition of the Wiper Democratic Movement-Kenya (WDM-K) with the Orange Democratic Movement (ODM) lead by former Prime Minister Raila Odinga as the Presidential party leader and former Vice President Kalonzo Musyoka as the running mate. On the other hand, the Jubilee Alliance; a four party coalition was established to support the joint presidential election ticket of Uhuru Kenyatta and his running mate William Ruto in the 2013 elections. At the time of elections, its members were The National Alliance, the National Rainbow Coalition, the United Republican Party and the Republican Congress. A peripheral party and a minor actor in the 2013 general election was the United Democratic Forum Party (UDFP) lead by former Vice President Musalia Mudavadi. The latter political parties, their leaders, and followers constitute the main electoral conflict protagonists who align themselves along ethnic divisions.

Electoral management bodies during the 2002, 2007, and 2013 general elections are also prominent actors in the electoral conflict in Kenya. They include the Electoral Commission of Kenya (ECK) in 2002 and 2007 and the Independent, Electoral and Boundary Commission of Kenya (IEBC) that is a reformed ECK during the 2013 general elections. In the 2013 general elections, the International Criminal Court (ICC) was also a key factor that determined how voters voted and coalitions were formed.

- v. What are the international or regional dimensions of the conflict? The immediate conflict area (context) is the country of Kenya. However, intervention into the Kenyan electoral

conflict incorporated powerful influences internationally. During the escalated 2007 electoral conflict, the United Nations (UN) intervened by sending mediators to solve the Presidential electoral conflict between Mwai Kibaki and Raila Odinga. To transform and manage the conflict, a coalition government was created, Presidential powers were reduced and the post of a stronger Prime Minister was created. Other international organisations that intervened to transform Kenya's electoral conflict include the European Union (EU), the African Union (AU) and the Electoral Institute of South Africa (EISA). The latter organisations provided legal, economic, intellectual and security interventions during elections and related escalated violence. Additionally, suspected perpetrators of the escalated electoral conflict in the 2007 Presidential election were prosecuted by the International Criminal Court (ICC) after the AU and Kenyan legal measures failed to contain the conflict. At least, peace was realised through the ICC intervention in the 2013 general election'.

- vi. Local and community factors that influence electoral conflict in Kenya are related or linked to what is happening at the national level. For instance; increased grassroots poverty amongst local civilians, social and economic inequalities, stiff competition for natural resources and high costs of living ignite escalation of electoral conflicts into violence when election outcomes seem not to be bringing about any economic developmental change. Civilians tend to opt for violence when they feel that elections are not transforming and improving their socio-economic situation.
- vii. What was tried to transform Kenya electoral conflict, and with what results? And what should be done? It would be remiss to suggest that much was not done to manage and transform election conflicts in Kenya. Measures undertaken included: constitutional

reforms that revolutionised reforms in other institutions such as the legal system, the police and security institutions, the electoral management institution and government policy reforms. The reforms, transformed, managed and de-escalated the violent 2007 general elections into a peaceful coalition government that reigned for five years, after which a 'peaceful' election was carried out in 2013 that has been branded as a latent electoral conflict. For instance, although the 2007 electoral managing body, the Electoral Commission of Kenya (ECK) was reformed and a new electoral body formed; the Independent Electoral and Boundary Commission (IEBC) that conducted the 2013 general elections. Still, the currently reformed IEBC was corrupt in handling of the electoral process. For instance, the tendering of electoral voting tools and equipment was fraudulently executed by the government in conjunction with the IEBC. As a result, the United Kingdom has prosecuted and jailed some of its citizens who were involved in corrupt tendering to the IEBC, while the Kenyan government is still investigating the claims. The opposition party is calling for an overhaul of the IEBC, and if possible its disbanding, and still claims that the 2013 general election was handled incompetently by the IEBC although it was seemingly 'peaceful'. The constitutional reviews also led to policy reformulations that saw hate speech and insecurity handled in the 2013 general elections. Even though the country evidenced constitutional, legal, security, and policy reforms that were able to manage and transform the Kenyan electoral conflict in 2013, political elites who would like to cling to power are busy doing their best to attempt the review of the constitution to suite their personal needs. An example is the 2015 security bill that was illegally passed in the parliament through the rule of tyranny of numbers (majority rule), signed by the President but later rejected the Supreme court as

unconstitutional. The constitution should be safeguarded by the government and if being reviewed, the process should be done legally with the involvement of citizens and it should be for the improvement of the entire nation and not for the purpose of benefiting the needs of a small elite. Also, for the ICC to maintain its dignity in Kenya and internationally, it should be seen to have successfully completed the cases it prosecuted against the perpetrators of the 2007 Post Election Violence (PEV). By doing so, protagonists in the Kenyan electoral conflict will feel that justice was indeed done by the ICC and Kenyans will again have trust in the highest court in the world (The Hague) when local, and national courts fail to fulfil the needs of Kenyans in the case of an escalated electoral conflict.

4.2. Civil Affairs Handbook (2009:105-106) analysis approach

In this section, the researcher discusses an analysis approach to the Kenyan electoral conflict based on the Civil Affairs Handbook 2009. Key issues that are addressed in the analysis approach include: the three-box analysis that comprises forces for peace and forces against peace in the light of the main actors in the conflict, key driving factors of conflict, exploration of the dynamics among electoral conflict factors, exploration of how key actors intersect with conflict dynamics (and with each other), identifying points of intervention, recommending the interaction among electoral conflict issues, related factors and peacebuilding intervention institutions and actors, and lastly the updating and follow-up activities of the analysis. Below is a representation of the seven steps of analysis in the Civil Affairs Handbook of 2009 and as applied in this study.

4.2.1. Step one of the three-box analysis

The table below represents question formed categories and answers in reference to peace, conflict, and actors that are examined in the analysis of electoral conflicts in Kenya from 2003-2013. The analysis takes into account the interaction of categories both at the local grassroots level, the sub-county level, county level and, national level. The main focus is on key actors of the Kenyan electoral conflict, related issues of the conflict, and forces that contribute to the peace process and those against peace.

Forces for peace		Forces against Peace/ for Conflict	Key actors
<p>1. What are the forces in the situation that exists now that can be built upon to promote movement towards peace? This includes; constitutional, legal, security, and institutional reforms.</p> <p>2. What currently connects people across conflict lines? In 2013, the International Criminal Court (ICC) connected some antagonists in the conflict. Moreover, coalitions also do bond antagonists.</p> <p>3. How do people cooperate? In the Kenyan context, people cooperate along ethnic lines and with self- interest of benefitting from the ruling government.</p> <p>4. Who exercises leadership for peace and how? (Note: these should not be things that you want to exist or that you would like to see-they must be true now.)</p>	<p>P</p> <p>E</p> <p>A</p> <p>C</p> <p>E</p>	<p>1. What factors are working against peace or for conflict? Such factors include; negative ethnicity, unequal governmental recourses allocation, weak institutions, unconstitutional or illegal amendments of the constitution, poverty, and unemployment amongst others.</p> <p>2. What factors, issues or elements are causing conflict and/ or dividing people, and how? Main issues include; unequal resource distribution with biasness along ethnic lines thus leading to some ethnic groups feeling inferior over others and others superior, weak legal and security institutions that cannot manage electoral conflicts and incompetent, corrupt electoral bodies.</p>	<p>1. Which individuals or groups in the situation are in a position to strongly influence the Conflict either positively or negatively? They include the International Criminal Court (ICC), governmental policies reformulation committees, electoral management bodies like the Independent Electoral and Boundaries Committee (IEBC). The parliament, Human Rights Bodies, The United Nations and Civil Organisation groups</p> <p>2. Who can decide for/ Against peace? They include: those supporting and those against institutional reforms, and those protecting and supporting the constitution on one hand and on the other those who would like to amend it to suit their needs. In the Kenya context they include the ruling government, the opposition and rivalling ethnic tribes.</p>

Table 4: Forces for peace, conflict and key actors in Kenya electoral conflicts. Adopted and modified from the Civil Affairs Handbook (2009:105-106).

4.2.2. Step two, Key driving factors of Kenya electoral conflict

In this stage, the researcher examines the key driving factors that are deterring peace and the peacebuilding process. These are the factors without which the conflict would escalate. They include the intervention of the International criminal court (ICC) into the Kenyan 2007 post election violence. Without the ICC intervention, the two long term protagonists (the Gikuyu, Embu and Meru (GEMA) ethnic groups and the Kalenjin, Maasai, Turkana and Samburu (KAMATUSA) ethnic groups) would not have united during the 2013 general elections. Coincidentally, their two leaders (Uhuru Kenyatta and William Ruto) shared a common predicament of being prosecuted as suspects, and main perpetrators of the 2008 Post Election Violence (PEV) by the ICC. The mutual ICC dilemma among the former protagonists united them, resulting in their leaders becoming the victors in 2013 general election. The ICC also contributed to peace since during the 2013 general elections contesters avoided violence in an effort to keep their names clean. However, it was noted that the ICC had not yet provided justice to the post-election violence victims and, it was being faulted of being biased in their verdicts against the prosecuted individuals.

Constitutional review, institutionalisation and institutional reforms have also been key factors in the management and transformation of Kenyan electoral conflict. Without institutional reforms and constitutional review, the Kenya electoral conflict would have escalated into violence during the 2013 general elections. The 2013 general elections were held and governed by laws and policies as stipulated in the new constitution that mitigated electoral conflict. For instance, the new constitution called for ethical issues to be considered during elections. As a result, the

electoral management body was reformed and offered a better service when compared to the previous elections. Although not yet fully reformed, the security and legal institutions offered better services during the 2013 general elections. Violence and hate speech were controlled, the election was peaceful in comparison to the escalated 2008 PEV, but in effect, the conflict only remained latent. Through constitutional reforms, for the first time in Kenya a devolved government was introduced consisting of both the national government and the county governments. Devolution has enabled government resources to be distributed more equitably; both at the national level and trickling down to the county government. The rate of inter-ethnic animosity is deemed to have reduced, due to more equal resource distribution among the devolved county governments. Moreover, devolution has created new job opportunities in the county governments and trickled down development into rural areas, hence reducing the possibility of electoral conflicts and conflicts in general. Other factors without which the conflict would have escalated, includes the intervention of peacebuilding institutions and the efforts of the clergy in peacebuilding.

4.2.3. Step three, interactive dynamics among actors and issues

Electoral conflicts in Kenya, its actors and issues are related factors that interact as a dynamic system. It is thus important to understand how electoral conflict issues, actors in the conflict, and related factors interact with each other dynamically. Moreover, in this section, the researcher distinguishes, which factors reinforce the conflict intensity and which factors balance or mitigate the conflict.

Actors in electoral conflict in Kenya include; the main competitor political parties that constitute the ruling Jubilee Alliance Coalition and the leading opposition alliance comprising of the

Coalition for Reforms and Democracy (CORD). Other actors include: the electoral management body the Independent Electoral and Boundary Commission (IEBC), security and judicial institutions, the Truth Justice and Reconciliation Commission (TJRC), the Commission of Inquiry into Post Election Violence (CIPEV), the Constitution Implementation Committee (CIC), the National Cohesion and Integration Commission (NCIC) and the Commission on Revenue Allocation (CRA). Main issues in the Kenya electoral conflict include: a lack of trust in the electoral management body the IEBC, an incompetent electoral system, inadequate security arrangements during the election period, inadequate systems for electoral dispute resolution, inadequate operational planning and financing, poor training of electoral officials, substandard, or no civic education and voter information, poverty, unemployment, discrepancies in the distribution of national economic resources, heightened ethnic tensions and impunity, limited media access, hate speech, provocative and violent actions by political parties, problematic ballot counting, problematic result tallying by the IEBC, delay in the publication of official results and subsequent rejections of results. Also, of concern is the interactional relationship between the government in power, its performance, service delivery, and people's perceptions of state legitimacy, and relations among different rival ethnic groups and parties.

Actors in electoral conflict interact with the issues of the conflict for instance; IEBC, the legal institutions, the CORD coalition led by the former Prime Minister Raila Odinga and the Jubilee alliance led by president Uhuru Kenyatta were in a conflict during the 2013 general election over the presidential results . Moreover, conflicts over presidential votes results tallying, problematic ballot counting, poor training of electoral officials, inadequate civic education and voter information were blamed on the IEBC and the government respectively. Additionally, the

opposition led by the former Prime Minister Raila Odinga has expressed a lack of trust in the electoral management body, the IEBC, its incompetent systems and, as a result the CORD coalition at the time of writing this thesis has been calling for a complete overhaul of the IEBC, at the very least, or alternatively, its total disbanding. Inadequate security during the election period, a lack of concrete systems for electoral disputes and conflict management has been blamed on weak governmental institutions. Factors that escalate electoral conflicts, such as poverty, unemployment, negative ethnicity, and unequal resource distribution, have always been pointed out by the opposition, civilians and nongovernmental bodies as the consequences of a weak government.

The interactions of the above electoral conflict issues in Kenya, and related factors, could either culminate into a positive (virtuous) relationship or negative (vicious) relationship. On one hand, virtuous interactional relationships by the ruling government, the opposition, other actors in the conflict, and the conflict issues mitigate electoral conflicts, and their escalation into violence, and fosters peacebuilding. On the other hand, vicious governmental relationships with electoral conflict issues and related factors lead to poor institutional performance, poor or inequitable service delivery, a lowered sense of governing legitimacy and decreased cooperation among protagonists. As a result, electoral conflicts could escalate into violence during the general election period, peacebuilding might be hampered, trade decreased, international relations diminished and political instability triggered.

Factors reinforcing electoral conflicts in Kenya include; weak government policies and institutions, illegal constitutional reviews and amendments, corruption and insincerity in the

legal and security institutions, impunity, ethnicity and unequal resource distribution. On the other hand, factors mitigating and balancing electoral conflicts in Kenya include; the intervention of the ICC, peacebuilding by Non Governmental Organisations (NGOs), institutional reforms of the legal fraternity, the police and the IEBC. Moreover, affirmative constitutional reviews and amendments should be encouraged. Civil and voter education should be encouraged as an ongoing process, standards of professionalism, impartiality, neutrality and non-intimidating conduct should be upheld by all participating in the electoral process.

4.2.4. Step four, interactions among key actors and with conflict dynamics

In this stage, the researcher identifies the actors' possible influence in either improving or worsening of the conflict dynamics. The researcher also identifies each actor's own interests and objectives then maps out the relationships between key actors, describing their interaction in terms of impact on the issues (whether positive, negative, allies, enemies, of high or low influence or of high or low polarization effect). Certainly, different actors in the electoral conflict in Kenya, its transformation, management, and the peacebuilding process have specific inspirations, objectives and interests.

Focusing on CORD, the leading opposition alliance, JUBILEE the ruling coalition, and the ICC intervention into Kenyan electoral conflict, there is a negative relationship between the two protagonists (CORD & JUBILEE), with each party viewing the other as foes, and opponents. Supporters of the latter political coalitions are also aligned along ethnic divisions with each seeing the other as 'us' and 'them'. As a result, whether propaganda or a 'reality' at a given point it was argued that CORD was the chief architect of the ICC case facing the JUBILEE leaders and that the ICC was colluding with CORD in that regard.

On one hand, the interests and objectives of the CORD coalition include: the need to disband the electoral management body, the IEBC or at least to bring about its overhaul, the need to have transparent and well managed elections, equal national resource distribution, equal ethnic representation in the allocation of ministerial posts and governmental appointments, a reformulation of some of the policies and laws governing election management and institutional reforms in the security and legal sectors. On the issue of security, CORD calls for the government to withdraw its military operations in Somalia to curb Al-shabab terrorism in Kenya. Ultimately, the CORD coalition's ambition is to win future elections. On the other hand, JUBILEE's intentions include: maintaining power for at least four consecutive terms (twenty years), alternating between the President and the Vice President, maintaining the current election management body without any overhaul, facilitating constitutional amendments that suite their political ambitions (for instance, the 2015 Security Bill that was passed in the parliament, which was endorsed by the President, but rejected by the legal fraternity as unconstitutional).

Key actors in the conflict relate differently. For instance, the main protagonists such as the ruling coalition JUBILEE and the CORD coalition relate with each other as foe's with totally different, and contradicting objectives. As a result of the animosities between JUBILEE and CORD, their supporters are also aligned along ethnic divisions. A latent conflict prevails among the JUBILEE and CORD coalitions and their supporters that might escalate again if not well managed. The Kenyan government, dominated by the JUBILEE coalition has been blamed on severally by the ICC prosecutor for not cooperating with the Hague-based ICC court. Thus, the relationship between ICC, the JUBILEE coalition, and the postelection conflict victims has

remained negative. Postelection violence victims have been left with dwindling faith in the ICC and generally they feel betrayed and have not yet achieved any justice. Also, the IEBC relates negatively with the CORD coalition. For instance, the IEBC has been negatively criticized by the CORD coalition for being biased towards the JUBILEE coalition during the 2013 general election. As a result, CORD has often threatened to withdraw from subsequent general elections if the IEBC is not reformed and overhauled.

Actor relationships, influence, interests and objectives determine the escalation, de-escalation, transformation and management of the Kenyan electoral conflict. Positive actor relationships can foster the peacebuilding process by enhancing alliance-building strategies, capacity-building strategies and advocacy strategies (Civil Affairs Handbook 2009:105-106).

4.2.5. Step five, identifying points of intervention

There are no quick and easy formulas for finding leverage points on which to base intervention (Civil Affairs Handbook 2009:110). Due to the complex ways in which actors and issues of the electoral conflict system in Kenya are connected, intervention measures are often not intuitive. Therefore, to realize successful peacebuilding intervention measures, the researcher assessed the interaction of electoral conflict issues with main actors, and related factors. The main theoretical Liberal Peace and Institutionalisation Before Liberalisation (IBL) elements are incorporated in the formulation of intervention mechanisms. Transformative mechanisms that are proposed include; initiation of institutional changes, constructive electoral policy reformulation, changing

negative assumptions and attitudes of the adversaries' behaviour. In addition, the researcher recommends transformative changes of issues underlying electoral conflict in Kenya, including structural elements and rules that shape how adversaries behave. To arrive at adequate intervention measures and peacebuilding processes, the following questions are posed and answered:

- i. Which issues and factors if changed, would lead to a significant transformative change in the electoral system ?
- ii. Which positive dynamics can be reinforced and how ?
- iii. Considering the available resources, and structures, which direct intervention measures should be given first priority, and which would mobilise others towards peacebuilding ?

To address the first question: Factors that if changed would transform electoral conflict in Kenya include: constitutional review, electoral management body reforms and competent training of its members, judicial reforms and reformulating policies and laws governing elections, pursuit of transitional justice and police reforms to suit positive interventions in case of electoral conflict.

To address the second question: Positive dynamics that can be reinforced comprise the development of a civil education curriculum that focuses on the mitigation of electoral conflict. The curriculum should be taught at all levels of education and to uneducated civilians nationally. Policy makers should identify and review where appropriate, the existing policies and practices regarding election process. Moreover, electoral assistance programs should aim at building integrity in the Election Management Body (EMB) that is the Independent Electoral and Boundary Commission (IEBC). Fundamental issues to address include: the IEBC officials and workers appointment processes, the issues of transparency and accountability of the IEBC in decision making and tendering, and competent recruitment and training of IEBC employees. In

this regard, the UNDP 2009 in reference to Pastor 1999, Lopez-Pintor 2000 and Wall et al. 2006 contends that research experience has shown that the structure, balance, composition, and professionalism of the EMB is a key component in successful electoral processes that generate legitimate, accepted outcomes.

Finally, to address the third question: Considering available resources and structures, first priority should be given to the training of police in public order management, election conflicts and observation of human rights during escalated electoral conflicts. Electoral dispute adjudication mechanism (negotiation, mediation, arbitration and legal settlement interventions) should also be prioritised. In the case of Kenya, the Supreme Court should be well prepared to deal with constitutional cases related to elections such as the presidential results dispute while the lower courts; for instance the magistrates court and court of appeal, should be well prepared to deal with cases concerning electoral violence, voter registration disputes, campaign practice violations and media violations.

4.2.6. Step Six, recommending interaction among electoral conflict issues, actors, and intervening institutions

The study proposes that, institutions which contributed to the mitigation of electoral conflicts and the peacebuilding process including: The Constitutional Implementation Committee (CIC), The Truth Justice and Reconciliation Commission (TJRC), The National Cohesion and Integration Commission (NCIC), The National Police Service Commission (NPSC), The Commission on Revenue Allocation (CRA), The Commission for Investigation of Post Election Violence (CIPEV), The Constitutional Implementation Committee(CIC), and The Kenya Commission on Human Rights, should share their information, and work together to strengthen peacebuilding. Recommendations, intervention measures, proposed policy creation and amendments should be

implemented by means of a consultation process among the abovementioned institutions in collaboration with the citizens. The researcher proposes that any proposed policies should be communicated to civilians or citizens through channels such as voter education, civil education and the media. Such an approach fosters peacebuilding, enhances relational interaction and mitigates electoral conflicts. The diagram below represents institutions that were used to intervene in the Kenyan electoral conflict. The institutions should have been given a long-term mandate to achieve sustainable peacebuilding. Although, the government argued that because of minimal resources, the latter institutions were to function only for a short-time duration to contain the conflict.



Figure 5: Intervening factors contributing to post electoral peacebuilding in Kenya

4.2.7. Step seven, post-conflict peace building, follow-up activities and policy updating

Escalated electoral violence can increase the likelihood of later violence and conflicts. It is therefore vital, that once escalated electoral conflict de-escalates, follow-up, long-term peace building activities should be enacted. Moreover, the existing policies and laws governing elections and general peace should be updated regularly to accommodate changing conflict dynamics. Post-conflict environments are highly dynamic and can be influenced by a number of factors such as subsequent elections (for instance, in Kenya the 2013 general election was influenced by the 2007 post-election violence that had left at least 1000 dead), departure of old actors and arrival of new ones (for instance, when the single-party era ended in Kenya, and multipartyism was implemented, , the multiparty system still faced its own challenges that required policy updating to suite the situation. Also, a new constitution and devolution has been implemented in Kenya, but the implementation of the new constitution is still confronted by its own challenges that need future reviews and amendments. International and regional dynamics; for example the souring relationships between the Kenyan government and the ICC at the Hague should be repaired.

4.3. Negotiation, mediation and dialogue interventions in post-election conflict

According to the European Union External Action Survey (EEAS) 2012, during post-election follow-ups, high level negotiations, mediation and dialogue are relevant reactive measures for mitigating future, post-election violence. Electoral mediation panels as well as an infrastructure for peace should be brought into existence. In agreement with latter views, the EEAS (2012:5), notes that post-election violence requires long-term efforts (including negotiations and

mediation) to ensure that underlying electoral conflicts are transformed and managed so as not to resurface during the subsequent general elections or referendums. Furthermore, the EEAS presents the argument that even if elections have led to relatively successful and undisputed outcomes, post-conflict elections are usually far from perfect. Mediation and dialogue could therefore play a vital role in restoring trust and confidence in democratic structures after escalated violence. For instance, negotiation, mediation and dialogue can strengthen local dialogue capacities and address existing shortcomings in electoral processes design by providing a forum in which all stakeholders are able to discuss and agree on recommendations for future election planning. Negotiation and mediation can also be very effective in dealing with past violence and justice issues. Adversaries in the Kenyan electoral conflict could negotiate their issues, and where they are not achieving consensus, competent impartial mediators should intervene. The European Union External Action Survey (2012:1) also notes that negotiation and mediation can be equally important for electoral conflict management if tensions are acute and in cases where violence breaks out, such as during the 2007 general elections. Furthermore, in the case of contested and disputed election results, negotiation and mediation is not only an important tool in the post-election period, but negotiation and mediation can also be used to address outstanding tensions and complaints among the adversaries. Negotiation and mediation could additionally strengthen trust in the democratic process. Short-term negotiation and mediation measures should be combined to transform and manage electoral conflicts with long-term efforts to address root causes of electoral violence and conflicts.

4.4. Power sharing and peace building

During the escalated 2007 electoral conflict, one aspect of the peace building process that de-escalated the conflict was the negotiation between the adversaries and the mediation intervention

by Koffi Annan that lead to a power-sharing agreement. Describing power-sharing, Czada (2005:20) notes that the politics of power-sharing is supposedly facilitated, either by counter-majoritarian constitutional devices (for example, federalism, bicameralism, proportional voting) or informal patterns of non-majoritarian decision-making (for instance, coalition governments or corporatist arrangements). It is based on cooperation and negotiations between various political stakeholders but does not necessarily interfere with party competition in the electoral arena. Competitive party politics and bargaining practices between national and provincial governments, governments and unions, or governments and autonomous central banks do not exclude each other but have to be seen as two different sub-systems or tiers of policymaking in power sharing. Negotiation democracy is used as the generic term for a number of power sharing arrangements (Czada 2005:20). Where consensus is not reached and legal measures have failed in the Kenyan electoral conflict, the researcher proposes negotiation democracy as an alternative intervention that could be another useful tool in transforming and managing future escalated electoral conflicts in Kenya and elsewhere.

4.5. Competent planning of the Electoral Management Body (EMB)

One of the main elements of Paris' (2004:188) Institutionalisation Before Liberalization (IBL) paradigm proposes that to mitigate election conflicts, elections should be held once a developed effective security institution and a professional neutral bureaucracy has been established. Scognamillo and Bernard (2011:33-34) note that planning thematic themes of focus by Electoral Management Bodies (EMBs) in potentially conflictive environment must include: the technical descriptive activities that are operational in nature, concerning the administrative steps required to organise an election, the political agreements on electoral timing (election dates) sequencing,

and other aspects of the electoral process (See also Paris 2004). Peace building activities should include prosecution of war criminals, demobilisation, disarmament, reintegration and demining.

4.6. Planning of an electoral security framework

An electoral security framework is an instrument that assists EMBs and the community to diagnose conflict and formulate intervention approaches. The electoral security framework constitutes a structure of laws, institutions, methodologies, and information which defines potential electoral conflict and then identifies enforcement counter-measures (Scognamillo and Bernard 2011:33-34). Under this concept, the framework possesses four components: stakeholder analysis; electoral threat assessment; legal frameworks; and action points. The four components are discussed below.

4.7. Stakeholder analysis

The stakeholder analysis disaggregates state and non-state stakeholders. State stakeholders consists of regulatory, security and judicial institutions. While, non-state stakeholders include political parties, civil society organisations, faith-based organisations, commercial organisations, media organisations, and traditional leaders.

4.8. The electoral threat assessment

Electoral threat assessment establishes a profile of the conflict dynamics by establishing drivers or perpetrators of the conflict, their motives and tactics, and the targets or victims of the conflict. In the Kenyan context, they include the opposition party, the ruling party and the rival ethnic groupings (GEMA and KAMATUSA on one hand and the Luo and Luhya on the other hand).

Electoral threat assessment examines environmental factors such as locations of previous conflict, anticipated conflicts in the electoral phase (pre-election, election day, and post-election), and the historical intensity of conflict.

4.9. The legal framework analysis approach

The legal framework analysis explores where there are structural vulnerabilities to conflict embedded in constitutional articles or legislation. In this regard, it examines the basic rights and enfranchisement opportunities as enshrined in the constitution as well as the electoral, political party, civil society, gender and media laws. The appointment process and mandates of the EMB are also examined. Responsiveness of the legal framework for reform might depend upon whether the election is being conducted in a static or evolving legal environment. In a static legal environment, political eligibility is defined and electoral stakes are established according to the type, timing and sequencing of the elections. In an evolving legal environment, election organisers and advisers have the opportunity to influence policy decisions to assure that activities in the entire electoral calendar considers technical, political, and peace building measures coordinated in a manner aimed at reducing conflict.

One fundamental component of the analysis and evaluation of the legal framework is the electoral system and its impact on behaviour, that is, whether the electoral system is creating incentives for conflict mitigation or not. For example, the legal framework formulation should take into account the relevant characteristics of the two major electoral systems (the majoritarian and the proportional). In the majoritarian system, where the winner-takes-all perspective can be exclusive of the minority and could promote dictatorship and impunity by officeholders. The

minority suffer weaker representation in all matters pertaining to them, and quotas are more difficult to implement, thus promoting disparities. Proportional representation (PR) is inclusive of small parties, potential reserved seats for women and minorities and political fragmentation. Electoral laws created on the basis of proportional representation might be more appealing in combating future electoral conflicts.

4.10.1. International Institute for Democracy and Electoral Assistance (IDEA)

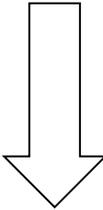
The International Institute for Democracy and Electoral Assistance (IDEA) (2013:1-14) has developed an Electoral Risk Management Tool (ERMT). ERMT constitutes of knowledge for democratic peace-builders that includes policy development, policy analysis, and support for democratic reforms in an effort to manage and mitigate electoral conflicts. ERMT builds users' capacity to understand electoral risk factors, collect and analyse risk data, design prevention and mitigation strategies, and record the results of actions. ERMT is composed of three major components namely: the knowledge resources composed of electoral risk factors, analytical

instruments, (for instance risk maps, trend charts & registers) and preventive strategies.



Figure 6. The three main components of ERMT.

According to the IDEA (2013:8) an overview of the ERMT is composed of the following list of internal and external factors that have an effect on the electoral process. Theoretically, the factors are in concurrence with the main elements of Paris' (2004:188) IBL, and if interventions are well managed, they could mitigate, transform and manage electoral conflicts in Kenya. The factors are as presented in the table below.

Internal electoral process factors	Elements of the IEDEA tool for mitigating electoral conflicts	External electoral process factors
<p>Legislation</p> <ul style="list-style-type: none"> Contested electoral law Unfit electoral system and lack of adequate ground rules Inadequate electoral administrative rules <p>Planning and preparations for the implementation of electoral activities</p> <ul style="list-style-type: none"> Poor performances and lack of trust in the electoral management bodies An inadequate system for the resolution of electoral conflicts Inadequate operational planning Inadequate funding, financing and budgeting Inadequate electoral security arrangements <p>Training, electoral education and information</p> <ul style="list-style-type: none"> Poor training for electoral officials No or poor training programmes for political parties and media Lack of training of security sector agencies A poor voter information campaign Poor or no civic education <p>Voter and candidate registration</p> <ul style="list-style-type: none"> Problematic voter registration Problematic registration of political Party and candidates Problematic accreditation of domestic and international observers <p>Electoral campaigning</p> <ul style="list-style-type: none"> Limited, unequal media access and favouritism Provocative use of media by political parties in campaigning Provocative political party rallying Provocative and violent actions by political parties <p>Voting operations</p> <ul style="list-style-type: none"> Deficit, destruction and loss of sensitive and non-sensitive 	<ol style="list-style-type: none"> Context Empirical cases Interrelated factors Observable indicators Data collection and analysis 	<p>Existing violence</p> <ul style="list-style-type: none"> Intimidation and harassment Kidnapping and extortion Assassination and homicide Gender-based violence Violence against property Presence of organised crime groups Genocide, crime against humanity, and war crimes <p>Potential risk factors</p> <p>Security context</p> <ul style="list-style-type: none"> Politicised security sector actors Regional weak state presence and control Neighbouring violence has potential to spill over borders Presence of non-state armed actors Access to small arms and light weapons Forced displacement Arbitrary arrests and lack of due processes Violation of human rights <p>Economic context</p> <ul style="list-style-type: none"> Poverty and socio economic conditions Concentration of resources Increased unemployment Natural and environmental hazards causing human distress <p>Social context</p> <ul style="list-style-type: none"> Heightened ethnic, cultural, religious tensions Changes in power dynamics among actors Sensitive processes involving fears and expectations Impunity

<p>electoral materials</p> <ul style="list-style-type: none"> • Lack of transparency of special and external voting • Problematic voting day operations • Problematic ballot counting and result tallying • Lost and destroyed tabulation forms • Fraud suspected <p>Verification of election results</p> <ul style="list-style-type: none"> • Mishandling a final round of complaints and appeals • Delay in publication of official results • Rejection of results • Poor management of election results 		<p>Political context</p> <ul style="list-style-type: none"> • Political system • “Spoiler” political parties • Manipulative media • Lack of democratic culture • Lack of accountability • Political exclusions • Conflict relating to changing power dynamics
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Table 5: IDEA (2013:8) Internal and external factors that have effect on and affect the electoral process.

In addition, through its ERMT (2013:13), the International Institute for Democracy and Electoral Assistance (IDEA) proposes eight action points that should be taken into account to prevent, mitigate, transform and manage electoral conflicts, . The points are as outlined below:

- i. The legal and institutional electoral framework
- ii. Planning and preparation for the implementation of electoral activities
- iii. Training and education
- iv. Registration of voters, political parties and election observers
- v. Electoral campaigns

- vi. Voting operation
- vii. Election results announcement and
- viii. The post-election phase.

Theoretically, as in some of the main elements of Institutionalisation Before Liberalisation (IBL) paradigm by Paris (2004:188), IDEA also proposes a three layered approach to the prevention and mitigation of election-related violence and conflicts. The IDEA three-layered approach is presented in the diagram below.

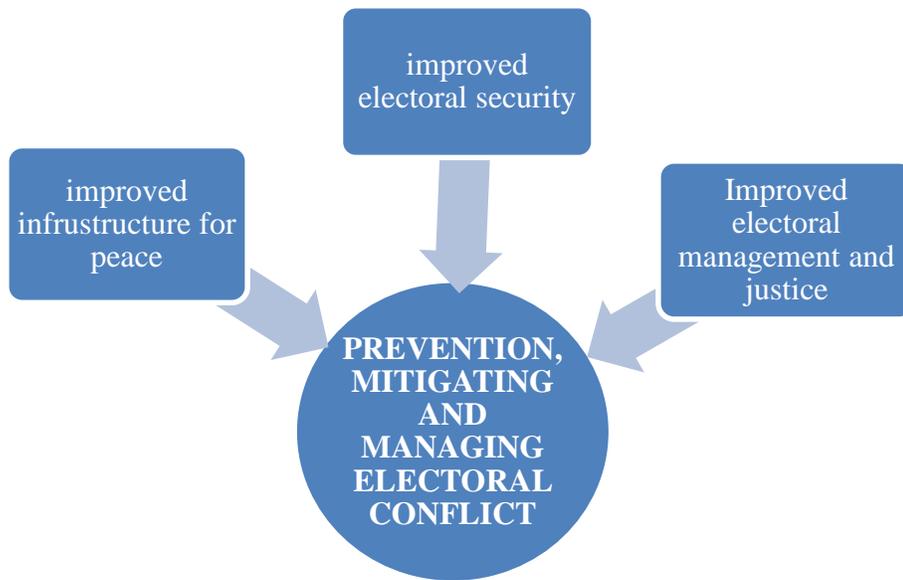


Figure 7: prevention and mitigation of electoral conflicts. Adapted from IDEA (2013:11) and modified by the author

Improved electoral management and justice includes specific measures which relate to electoral planning, implementation, coordination and dispute resolution that can be undertaken to avoid controversies and technical flows in order to minimise the potential for outbreaks of conflict and

subsequent violence. Improved electoral security comprises specific electoral security measures that can be undertaken through the electoral cycle process to protect electoral actors, events, facilities and materials. While, improved infrastructure for peace comprises the different activities that can be implemented by various state and non-state actors to mobilise and coordinate government agencies, traditional and religious leaders, reputable individuals and organisations and individuals with the capacity to contribute in defusing and mitigating election-related tension, conflict and subsequent violence (IDEA 2013:11).

Also, in agreement with the IBL tenets, De Zeeuw and Kumar (2006:1-3) focussing on election assistance, human rights assistance and media assistance maintain that the main focus areas for democratic electoral assistance and management are as presented in the table below.

Table 6: Main Areas for Democratic Election Assistance and management

Election Assistance	Human Rights Assistance	Media Assistance
1. Constitutional and legal reforms 2. Establishment of election administration (including national election commission) 3. Training of election staff 4. Political party assistance 5. International election monitoring 6. Civil society aid (e.g., Voter education)	1. Human rights monitoring 2. Support for war crime tribunals and truth commission 3. Legal reforms and human rights commissions 4. Strengthening law enforcement agencies 5. Assistance for nongovernmental human rights organisations	1. Media and elections 2. legal and regulatory reforms 3. creation of 'alternative' media 4. conflict transformation, management and resolution media programming 5. Training of media professionals 6. Support to media nongovernmental and other relevant organisations.

Adapted from De Zeeuw and Kumar (2006:1-3) and modified by the author

According to Brinkerhoff (2005:6), re-establishing security after postelection conflict also means establishing peacekeeping operations, often coupled with humanitarian and emergency relief, since many post-war countries have large numbers of internally displaced persons, ruined infrastructure and disrupted economic activity. Brinkerhoff further notes that re-establishing

security requires dealing with the police, military and paramilitary units and private militias through a mix of rebuilding, professionalising, reforming and dissolving. In the medium and long-term, the latter area of governance links closely to reconstituting legitimacy. For most post-election conflict societies, civilian oversight of security forces is weak or non-existent, which requires the re-establishment of security and humanitarian services. In addition, civil rights, judicial systems and the operation of the courts need particular attention that could include reforms and the vetting of those individual actors which are involved. Unaccountable, corrupt, or subversive security forces are also major barriers to state legitimacy. Such security forces impede the restoration of basic services and often contribute to the reigniting of electoral conflict. Good security is therefore a necessary precursor to the de-escalation of electoral conflict, peace building and progress towards a return to something approaching 'normal' economic and political activity. On the governance side, the status, capacity and actions of security forces are therefore critical (Brinkerhoff 2005:6).

Southall (2009:445), in reference to the Kriegler Commission, proposes alternatives for parliamentary and presidential electoral reforms as a way of managing election conflict. According to Southall, there is need for electoral reform to change electoral incentives in order to de-emphasise political mobilisation around ethnicity, and stress the advantage of a shift towards mixed member proportional elections or a list system proportional representation. Such systems would move away from the winner-take-all logic of the presently established first-past-the-post electoral system, and would provide incentives to politicians to compete for votes across ethnic boundaries (Southall 2009:445). In addition, wide-ranging reforms of political institutions and other affiliated institutions are required.

Additionally, Southall (2009:447) in reference to the Kriegler Commission, recommends electoral system change in an effort to manage electoral conflict. One option is that the first-past-the-post (FPTP) or plurality system should be reformulated in this case, where there is a need for a fair redistribution of constituencies in line with the principles of overall equality. Alternatively, he (2009:447) calls for the following options to be considered in managing election conflicts in Africa, Kenya being one of the African countries faced with electoral conflicts:

- i. change to a two-round election system at both the parliamentary and presidential level;
- ii. mixed-member proportional representation (MMP) based on one ballot only (this requires changes to the present constituency structure);
- iii. closed list proportional representation (PR) at the provincial or county levels, with ‘gender zipping’ to provide for fairer representation of women, youth and ethnic groupings; and
- iv. closed list PR (also with ‘gender, youth and ethnic zipping’) at the national level.

Brinkerhoff (2005:4) argues that rebuilding effectiveness in post electoral conflict societies has to do, first and foremost, with the functions and capacity of the public sector. Good governance in this area means, for example, adequate and functioning municipal infrastructures, widely available health care and schooling, provision of roads and transportation networks and attention to social safety nets. Moreover, Brinkerhoff notes that since in most countries, effective basic services depend on more than government, the functions and capacity of the private sector and civil society are also critical. Beyond service provision, effective economic governance is also of concern. Good practices involve sound macroeconomic and fiscal policymaking, efficient budget

management, promotion of equitably distributed wealth-creating investment opportunities, and an adequate regulatory framework. Good services foster positive peace. Galtung 1967 distinguishes between positive and negative approaches to peace and conflict management. Positive peace comprises; transforming the conflict, facilitating constructive behaviour, and facilitating positive attitude. While negative peace constitutes; avoiding the conflict, and impending destructive behaviour and attitude. Based on the later Galtung (1967) approaches to conflict, negative peace approaches to electoral conflicts could escalate latent electoral conflicts in Kenya, while positive peace approaches could mitigate, transform and manage electoral conflicts in the Kenyan context. Below is a table that distinguishes positive peace and negative peace approaches by Galtung.

POINT OF ATTACK	NEGATIVE PEACE APPROACH	POSITIVE PEACE APPROACH
Conflict	Avoiding conflict	Transforming conflict
Behaviour	Impending destructive behaviour	Facilitating constructive behaviour
Attitude	Impending destructive attitude	Facilitating positive attitude

Table 7: Galtung’s 1967 positive and negative approaches to conflict

4.10.2. Transitional justice and peacebuilding in post-election conflict situations

According to the International Centre for Transitional Justice (ICTJ), the leading consulting body in establishing TRCs around the world, the ‘truth commission approach’ emerged in the late 1980s in response to political changes and demands for justice particularly in both Latin America and Sub-Saharan Africa (Skroch 2012:21). Human rights activists wanted to address the systematic abuses by former regimes without endangering the political transformations underway. Skroch, notes that to date, there have been approximately 40 TRCs established around the world, with undoubtedly the most famous being in post-apartheid South Africa. TRCs

investigate specific human rights abuses within a specific time frame. They are vehicles of democratic transition which may include prosecuting perpetrators, establishing shared narratives about past abuses, reparations, commemoration and reconciliation initiatives, and institutional reform, while bypassing national judicial systems that may be ill-equipped or ill-positioned to take on these tasks. Connolly (2012:6-7) is in agreement with Skroch (2012:21) that transitional justice seeks to provide a framework for democratic transition (as in the case of Kenya). It aims to restore or create the conditions for peace and stability, through a process in which factors such as truth, accountability and reconciliation are central. Transitional justice is relevant to a time and process of change, for instance, following a key transformative event such as a peace accord, a power-sharing deal, or elections (Rotberg 2000). This period usually follows an era of violence and mass human rights violations brought about as a result of a dictatorial style of rule, an apartheid-type system, genocide, or civil war, which leaves the society divided and with many survivors still suffering (Connolly 2012:6-7, paraphrasing Moghalu 2009). This process requires a comprehensive set of strategies that must deal with the events of the past, but must also look to the future, in order to prevent a recurrence of conflict and abuses. These strategies need to include elements of truth and justice. They examine the ways in which societies address legacies of past criminal regimes which committed mass violations of human rights, in order to build more democratic, just and peaceful societies.

In Kenya, after the 2007 post-election violence, a Truth and Justice Commission was created. The commission was temporary, and existed only for a short duration of years. It managed to intervene into Kenya's past atrocities though, at a given point its chair leader was accused of being corrupt and thus the majority of the Kenyan civilians dismissed the findings and proposals

of the Truth and Justice Commission as fallacious, and favored the elite perpetrators of conflict in Kenya. Realistically, Truth and Justice Reconciliation Commissions (TJRC) if well implemented and used professionally could assist in transforming and managing future election conflicts in Kenya. However, research findings indicated that the TJRC in Kenya did not achieve many of its objectives by the time its tenure ended. Therefore, very little was achieved but an impending, latent conflict was left that might well escalate again given another disputed election, or even a referendum. The researcher proposes an overhaul in the TJRC body, its policies and an extension of its mandate to meet its stipulated objectives, that if well realized, would transform the Kenyan conflict.

4.10.3. Peace agreements do not end conflicts

Even though through the TJRC commission in Kenya some peace agreements were reached, for instance, the accord between the Kikuyu community and the Kalenjin ethnic group, Connolly (2012:5) paraphrases Francis (2000:357) and argues that ‘peace agreements...do not in themselves end wars or bring about lasting peace. In most cases, pre-war conditions and the war mentality jeopardize the prospects of a consolidated peace and post-war reconciliation. The fact that half of all peace accords tend to fail within the first five years, the so-called conflict trap, highlights the need to address the root causes of conflict in order to prevent a recurrence without relying entirely on the agreements reached; for instance the agreement between the main adversaries of the 2007 post-election violence; the Kalenjin and Kikuyu ethnic groups. However, Connolly (2012:5) also notes that there is also the issue of justice, accountability and truth in post-conflict societies. Transitional justice is associated with the notion of dealing with injustices of the past after a violent conflict. Importantly, the concept of transitional justice, as its

name hints, closely links transition with the pursuit of justice. It is based on the assumption that in order to move on politically and socially, some form of dealing with gross human rights abuses, crimes against humanity and war crimes is necessary. In Kenya, the 2007 post-election violence that entailed gross human rights abuses and crimes against humanity was dealt by the International Criminal Court (ICC). Most of the prosecuted perpetrators were found ‘not to be guilty’ and this has left the 2007 post-election victims desperate and feeling that they have been denied justice by the ICC, although some of the cases are still ongoing. During the 2013 general election, the Supreme Court intervened into the disputed presidential results. However, still the opposition have not been satisfied with the ruling of the Supreme Court of Kenya in respect of the 2013 presidential result. This therefore still poses a latent conflict that could escalate once more in the case of a disputed presidential result.

4.10.4. Application of retributive justice where TJRC fails

Connolly (2012:9) notes that international accountability mechanisms (for example, the interventions by the International Criminal Court) have been developed to respond to a wide range of crimes in conflicts involving massive casualties such as in the case of 2007 post-election violence in Kenya that left about 1500 people dead. He further observes that the international accountability measures are unfortunately often only able to pursue a small number of perpetrators. The mandate of these tribunals is to prosecute those who have perpetrated massive human rights violations, but only focusing on those who bear the most significant responsibility, as was in the case of Kenya (Connolly 2012:9). Kanyako (2012:5) also notes that as is well documented in the peacebuilding literature, external support by itself, of any kind, does not necessarily guarantee positive societal transformation. The driving force for such change

should come from within (for instance through civil education), with outsiders acting as facilitators and stimulators of positive change.

In reference to Sriram (2009), Connolly notes that tribunals use the theory of retributive justice. Retributive justice theory emphasises that no one is above the law and no one should be condemned or sanctioned outside the legal procedures. The rule of law creates the community in which each member is both fenced in and protected by the law and its institutions. To bring violators of mass human rights under this system implies the belief that these mass abuses can and should be treated as punishable criminal offences perpetrated by identifiable individuals. In the case of Kenya's 2007 post-election violence, a small number of prominent elite-class individuals were persecuted by the Hague-based International Criminal Court. Advocates of criminal justice believe the process shows a commitment to redress the harms of the past, establishes a formal system which provides a warning to perpetrators that law-breaking will not be tolerated, and provides a sense of justice for victims which is often seen as lacking in truth commissions (Connolly 2012:9, paraphrasing Teitel 2000). In this regard, the intervention of the International Criminal Court (ICC) in the 2007 Kenyan Post Election Violence (PEV) enabled the 2013 general elections to have been peaceful since elite violence perpetrators and sponsors were afraid of being implicated and persecuted by the ICC as it was during the 2007 general elections.

Connolly (2012:10), in justifying prosecutions in post-conflict situations (retributive justice) notes that there are a number of arguments for using prosecutions in post-conflict situations. Firstly, justice (and accountability through punishment) has a deep psychological impact on individuals and, by extension, on societies. When justice is seen to be done, it tends to provide a

catharsis for those who have been physically and psychologically scarred by violations of international humanitarian law. Secondly, trials establish responsibility for crimes adjudicated, thereby negating the risk of a belief in collective guilt. This often allows other members of the group to be spared the weight and shame of guilt for crimes they did not commit and they are therefore free to participate in national life on equal terms. However, Connolly (2012:10) in reference to Moghalu 2009 notes that the problem with retributive justice is that courts may not always be truly independent or impartial. Citing an example of Sierra Leone, Connolly 2012 advocates an approach where both truth commissions and criminal tribunals are applied in an intervention by having both a TRC and Special Court operating concurrently. Both institutions are supposed to have individual mandates, but seek to complement each other in the post-conflict development process. In Sierra Leone, the co-existing mechanisms of retributive justice and TJRCs were seen to provide a ‘best practice’ model for international justice by combining both retributive and restorative justice in one process. In the event of a future Kenyan election escalating, the researcher also advocates for this kind of intervention.

4.11. African Union (AU) approach to electoral conflicts and peacebuilding

Like most of other African countries, Kenya is faced with the challenge of transforming from a one-party-state to full democratisation, even though this has been stifled by external and local political elites since decolonisation in the 60s (Rupiya 2012:180). As a result, the African Union (AU) was established, among other things, to intervene into the challenging and emerging conflicts that predominantly included electoral conflicts in a majority of African countries. In this regard, the AU’s intervention mechanism is crafted on:

- i. peacebuilding efforts through its sub-regional pillars of economic and security structures in Southern (SADC), Central (ECCAS), West (ECOWAS) and East Africa (IGAD), but with no meaningful representation in North Africa;
- ii. imposing or compelling a ceasefire;
- iii. adopting its primary role as a conflict management and resolution body;
- iv. calling on conflicting parties to agree upon shared political authority during a defined transitional period;
- v. allowing legal and legislative changes as a means of managing conflicts; and
- vi. bringing about institutional reforms, including drawing up new constitutions, before going for free and fair elections, the results of which have to be officially certified by the AU.

If the above AU intervention mechanisms are well adopted and implemented, it would become quite easy to transform and manage electoral conflicts in Kenya. Latent, conflicts could also be controlled and mitigated.

4.12. Electoral conflicts in Kenya and the Peacebuilding process

Defined from the perspective of the intended result, Peacebuilding is the activity that seeks to “prevent violent conflict from re-emerging” and the efforts to “rebuild the capabilities of a society to resolve conflict without fighting” (Tait 2001:9; Kuhne 2001:383; and Reyhler 2001:12; Kuhne 2001: 383). Reyhler (2001:12) defines peacebuilding as the constructive transformation of conflict and the creation of a sustainable peace environment. Through peacebuilding, conflict is not merely transformed, managed or resolved, but the whole situation

shifts. In addition, Reychler notes that the term peace building refers to all efforts required on the way to the creation of a sustainable peace zone.

4.12.1. Post-electoral conflicts peacebuilding

Post-conflict peacebuilding refers to the set of long- and short-term activities undertaken in a post-war phase to lay the foundation for longer-term developments (Kanyako 2012:2). Kanyako in reference to Lederach (1995) further posits that peacebuilding is more than post-accord reconstruction, but involves the transformation of hostile and violent relationships into a peace system characterised by just and interdependent relationships.

Successful post-conflict peace building builds upon indigenous knowledge and good practices to introduce locals (majority of the population) to new concepts and models on the role of domestic actors in peace building and national reconciliation. Post-election violence victims, Kenyan civilians in general, security officials and peace building beneficiaries ought to acquire the necessary skills to undertake advocacy activities for peace and reconciliation at the community, regional and national levels. Participants in the peace building process should incorporate local knowledge, traditions and international intervention strategies. In addition, Kanyako (2012:5) proposes the following initiatives to be undertaken during post-conflict peace building: Rebuilding social relations; integrating state-society relationships; identifying and working with the most marginalized groups; investing in human and social capital through tailored capacity building programmers' and the establishment of long-run sustainability.

4.13. Rebuilding social relations as a critical element of peace building

Investing in peace is not simply a matter of rebuilding infrastructure; rehabilitating and resettling refugees, internally displaced persons and combatants; trying perpetrators or undertaking macro-economic development. All of these are noble goals and are critical to the overall peace building process. For such a process to be successful and sustainable, however, it also involves rebuilding the social relations that may have been fractured due to the conflict (Kanyako 2012:9 paraphrasing Cortright 2002). Healing the wounds of war lays solid foundations for peace. Because of the shared ICC predicament, the great ethnic protagonists in Kenya's conflict (GEMA and KAMATUSA) signed a peace accord that is seen to have been facilitated by the political interests of the two ethnic groups. The accord seems to have provided a positive transformation of the deep-rooted differences between the GEMA and KAMATUSA. Unfortunately, the majority of the tribes that constitute the opposition (including the Luo, Luhya, Kamba and tribes from the Kenyan coast) have not yet been reconciled with the ruling ethnic groups, the GEMA and KAMATUSA. As a result, a pending latent ethnic conflict exists between the tribes affiliated to the ruling coalition that constitutes the GEMA and KAMATUSA and the tribes allied to the opposition. For successful peace building, it is vital for the ruling tribes in Kenya to be reconciled with the tribes that constitute the opposition.

4.13.1. Integrating state-society relationship

According to Kanyako (2012:9), a core strategy of peace building is to integrate the state-society relationship as a central dynamic in the process of both rebuilding the state apparatus and recreating a new society out of the ashes of conflict. This is mainly because the fortunes of both state and non-state actors are intertwined. Thus, mending, building and clarifying relationships

among people, and between people and institutions, is critical to addressing a post-conflict country's development needs (Kanyako 2012:9). In the Kenyan context, the state-society relationship is disbanded. The state seems not to be working hand in hand with the society in enacting, reformulating and reviewing the constitution. The civil society seems to be sidelined when enacting new policies in the parliament and as a result, policies have been passed in the Kenyan parliament by the elite members of the parliament without consultations with the civil society; for instance the 2015 security bill that was passed and signed by the President without consultations with the civil society. Fortunately, the legal fraternity later revoked the bill as unconstitutional.

4.13.2. Identify and work with the most marginalized groups

Local civil society (staffed, managed and operated locally) is made up of formal, as well as informal or non-traditional groups. Due to weak capacity, language barriers, inadequate funding, and high transaction costs, the latter, which consist of some of the most marginalised people in the community, often fall outside of the radar of donors and other external agencies. As such, it is not surprising that professional NGOs tend to attract the greatest share of support, compared to informal grassroots groups. This reinforces societal marginalisation of the most vulnerable. If external support of any kind is to be effective, then the engagement of informal networks is critical (Kanyako 2012: 9-10). In Kenya, informal networks are not fully engaged in the state's decision. Moreover, the state seems to have been dominated by the elites who think and fight for their own constitutional interests without the involvement of the majority of marginalised communities. This aspect has derailed peace building processes in Kenya, and if reverted, it could transform the deep-rooted, latent conflict in Kenya.

4.13.3. Investing in human and social capital through tailored capacity building programmes

Post-conflict programmes are designed to address communities' governance and constitutional capacity-building needs. The majority of such programmes involve fostering change and transforming key actors across a broad spectrum of the society. Such targeted capacity-building requires investing in the human and social capital of marginalised individuals and groups in order to enable them to develop the capacities needed to thrive and to play various roles in developing and renewing their communities (Kanyako 2012:10, paraphrasing Blagescu and Young 2006). For such efforts to be successful, a participatory approach, in which beneficiaries feel a high degree of ownership over both the process and the outcome, is required (Kanyako 2012:10).

In the Kenyan context, community governance and constitutional capacity-building needs are still posed with challenges towards significant peace building. The community is not well engaged in the constitutional review, reforms and amendments. Contrary to Kanyako's 2012 view that the beneficiaries of the peace building should feel a high degree of ownership of the process, in Kenya, it is the elite groups that seem to be the beneficiaries of the peace building process. The majority of marginalised groups seem not even to be aware of what the peacebuilding process is; they are not fully involved in the capacity-building process and thus, the majority of marginalised groups have not benefited from the peace building process significantly.

4.13.4. Establish a long-run sustainability

According to Kanyako (2012:10), developing a vibrant civil society in fragile and post-conflict societies is a massive undertaking. Organisations are often weak and sometimes staffed by inexperienced personnel. Furthermore, competition for resources is fierce in societies faced by post-electoral conflicts. Civil workers are under-remunerated, and characterised by labour strikes and demonstrations. However, the private sector generally pays relatively high wages, thereby attracting some of the most qualified people. This is compounded by the fact that the government does not make it easy for civil society organisations to operate, it (the government) could also be hostile and uncooperative (Kanyako 2012:10). The latter problems faced by the government ought to be transformed, managed and resolved. , Kanyako argues that under such circumstances, there is always a desire on the part of local actors to learn, share, and in the process, become agents of positive change. For instance, in the context of Kenya; civilians, government officials (especially those in security and legal institutions) and politicians should be enlightened by civic education and conflict management skills. Moreover, government policies should allow for the vetting of its officials and ensure that civil institutions are managed by experienced personnel. External actors; for example nongovernmental organisations; should also work hand in hand with the government in the effort to transform the economy and deep-rooted indifferences between communities. Unfortunately, the majority of nongovernmental organisations (NGOs) in Kenya are faced with great challenges posed by government policies and as a result, NGOs in Kenya are becoming extinct.

4.14. Conclusion

This chapter has provided analytical approaches to electoral conflicts. Among the key issues discussed included: distinguishing the key driving factors (issues and people) in Kenya electoral conflict, discussion of relations and dynamics among issues, how to transform the conflict, distinguishing the key actors, and the explanations of the international and regional dimensions of the conflict. Moreover, the chapter looked at forces for peace and forces against peace, the key driving factors of the conflict, identification of points of interventions, power sharing and peace building, the planning of the Electoral Management Body (EMB), the International Institute for Democracy and Electoral Assistance (IDEA) approaches to electoral conflicts, transitional justice, retributive justice, peace agreements and the rebuilding of social relations. Basing on the analytical approaches discussed in this chapter, the research comes up with the methodology of the research in the next chapter. Ideas in this will also be used during the analysis of research findings in chapter seven.

CHAPTER FIVE: METHODOLOGY

5.0. Introduction

This chapter discusses the methodology used in the research. The themes explained revolve around how the researcher was motivated to carry out the research, the research questions, aim, objectives and sub-questions. Moreover, the researcher has also described the core tenants of liberal peace and Institutionalisation before Liberalisation (IBL) as the theoretical perspectives within which the research findings were analysed. Also, the researcher describes how he carried out data collection, population and sampling strategies, triangulation, data analysis, and how the scope and limitations of the research were arrived at.

5.1. Motivation for research

The researcher was both intrinsically and extrinsically motivated to carry out the study on electoral conflicts with a specific interest in Kenya. Intrinsic motivation was the desire to do or achieve something because one truly wants to and takes pleasure or sees value in doing so while, extrinsic motivation was the desire to do or achieve something; not for the enjoyment of the thing itself, but because doing so leads to a certain result (Pintrich, 2003:667-686). Intrinsically, the researcher who is a native Kenyan, was motivated to carry out the study on Kenyan electoral conflicts since he had practically experienced the conflict, and it had an effect on him and the entire country. Extrinsically, it was the hope of the researcher that the research findings, conclusions and the way forward would help mitigate electoral conflicts in Kenya. The findings, were to be used to manage and transform electoral conflicts in countries with similar plights to that of Kenya.

5.2. Research question, aim, objective, and sub-questions

Based on the intrinsic and extrinsic motivation for the research, the researcher formulated a main research question from the research topic, and arrived at the study aim, objectives and sub-questions as described below.

5.2.1. Research question

The main research question was: how are conflict management measures and peace building processes succeeding or failing in transforming the electoral conflicts in Kenya in the period 2002-2013?

5.2.2. Research aim and objectives

The research aim stated the overall purpose of the study and it was the research question reformulated as a statement. On the other hand, the study objectives were the research sub-questions reformulated as statements. The objectives were the steps that were undertaken to achieve the aim. The study was guided by the following aim:

5.2.3. Research aim

The aim of the study was to find out how conflict management measures and peacebuilding processes are succeeding or failing in transforming the Kenyan election-related conflicts in the period 2002-2013.

5.2.4. Research objectives

The objectives of this research were:

1. To measure the outcomes of conflict management with respect to Kenyan elections
2. To measure the outcome of peacebuilding with respect to Kenyan elections

3. To assess whether peacebuilding principles have reached a wide audience and resulted in attitude change.

5.2.5. Questions leading focus group interviews and individual interviews included:

1. What do you think were the causes and courses of electoral conflicts in Kenya?
2. What do you think were the specific forms of election related conflicts in Kenya?
3. What do you think were the effects and consequences of electoral conflicts?
4. What in your opinion could have been the solutions to electoral conflicts and how might have such conflicts been prevented?
5. Do you think that elections helped in resolving conflicts or created a post-election crisis?
6. Do you believe there were other indicators for democracy than elections?
7. Were you aware of and did you have any knowledge, or experience of peacebuilding in Kenya as a result of electoral conflicts?
8. What were the specific peacebuilding measures that had been undertaken before?
9. Do you think the measures were successful?
10. Were the measures improved recently?
11. How were the measures improved?
12. When were they improved?
13. Had there been any large-scale training of political leadership/security forces in conflict management or peacebuilding?
14. Thinking about the peacebuilding process, did the participant feel that it had succeeded or failed in transforming the electorally related conflicts in Kenya?

15. Had peacebuilding efforts, ideas, skills and knowledge in Kenya reached the majority of the population? And were the majority of the population aware of the peacebuilding efforts and their success in transforming the conflict?
16. Was the peacebuilding process in Kenya changing the attitudes and behaviours of Kenyan citizens and solving the tribal and political party differences?
17. Did leadership still appeal to ethnic difference, and other dangerous issues?
18. Had peacebuilding in Kenya managed to reconcile and heal the broken vicious circle of electoral conflicts in Kenya?

5.3. Theoretical perspective: Institutionalisation before Liberalisation (IBL) and liberal peace

5.3.1. Institutionalisation before Liberalisation (IBL)

Lyons in Dayton et al. (2009:91) in reference to MacGinty (2006) and Paris (2004) argue that the liberal internationalist paradigm posits that peace, both between and within states, is based on market democracy and that constructing democratic political structures is a key to sustainable peace. Thus, theoretically the research was guided by an improvement to the liberalisation theory, as proposed by Paris (2004:187). In this regard, see also Keating and Knight (2004: XXXIX-XL). Initially, Paris (1997:56) was of the opinion that a single paradigm; liberal internationalism; appears to guide the work of most international agencies engaged in peacebuilding. The central tenet of this paradigm was the assumption that the surest foundation for peace, both within and between states, was market democracy; that is, a liberal democratic polity and a market-oriented economy. Paris (2004:187) suggested an alternative, improved approach; the concept of Institutionalisation before Liberalisation (IBL). Paris asserts that the peacebuilding strategy that he proposes would preserve the Wilsonian goal of transforming war-

shattered states into liberal market democracies in the long run, while minimizing the destabilizing effects of the liberalisation process in the short run. The central recommendation of IBL is that peace-builders should concentrate on constructing a framework of effective institutions prior to promoting political and economic competition.

Bar-Siman-Tov (1994:78) defined institutionalization as the informal or formal attempts to put conflict relations between the parties on a more stable basis and predictable footing in order to reduce the magnitude, scope, and possibility of armed confrontation. Bar-Siman-Tov (1994:78) quoting Hampson and Mandell, (1990:196) outlines five functions of institutionalization: (1) Preventing crises; (2) blocking or reducing incentives for escalation; (3) promoting and facilitating de-escalatory measures; (4) establishing new patterns of behaviour leading to the development of more durable norms of conflict management and (5) encouraging expectations toward resolution of the conflict. According to Paris, what is needed in the immediate post conflict period will not be democratic ferment and economic upheaval, but rather political stability and the establishment of an effective administration over the territory. Paris further clarified this statement by saying that only when a working governmental authority has been re-established, should peace-builders initiate a series of gradual democratic and market-oriented reforms. Paris (2004:188) believed that “peace builders should delay liberalisation and limit political and economic freedoms in the short run, in order to create conditions for smoother and less hazardous transitions to market democracy; and durable peace; in the long run.”

The main elements of IBL include: (1) postponing elections until moderate political parties have been created, and mechanisms to ensure compliance with the results of the elections have been established. According to Crocker and Hampson (1996:63), in some circumstances an

established election date may translate locally as a dangerous deadline for an ethnic plebiscite ; (2) designing electoral rules that reward moderation instead of extremism;(3) encouraging the development of civil-society organizations that cut across lines of societal conflicts, and proscribing those that advocate violence; (4) regulating incendiary “hate speech”(5) promoting economic reforms that moderate rather than exacerbate societal tensions; and (6) developing effective security institutions and a professional, neutral bureaucracy (Paris, 2004:188). In deep-rooted conflicts, IBL tenets could be achieved during and after a conflict period that (Pruitt 1997; 2000; 2005: & Pruitt and Kim 2004) call *Mutually hurting stalemate* (a situation where both sides in conflict realise they are in a costly deadlock that they cannot escape by escalating the conflict (See also Kriesberg 2003). Such a stalemate is especially motivating if augmented by a recent or impending catastrophe for instance the period after the escalated 2008 presidential post election violence in Kenya.

5.3.2. The liberal peace theory methodologicaly

Doyle (2005:463) argued that the logic underlying the core of liberal peace theory and its three pillars includes republic representation, an ideological commitment to fundamental human rights, and transnational interdependency. Moreover, Doyle (2005:463) notes that the logic underlying peace among liberal states rests on a simple and straight forward proposition that connects the latter three pillars of liberal peace as they operate only together but not separately. On his part, Richmond (2005:12) stated that liberal peace discourse focuses on constitutional democracy, human rights, civil peace, development, and international relations with institutions. Precisely, therefore, liberal peace theory’s main components include: democratisation, the rule of law, human rights, free globalised markets, and neo-liberal development.

According to Richmond (2005:1), there appear to be four main strands of thinking within the liberal peace framework. These include the victor's peace, the institutional peace, the constitutional peace and the civil peace. First, the victor's peace has evolved from the age-old argument that a peace that rests on a military victory, and upon the hegemony or domination of that victor is more likely to survive. Second, is the institutional peace which rests upon attempts to anchor states within a normative and legal context in which states multilaterally agree how to behave and how to enforce or determine their behaviour. Third, Richmond (2005:1) states that the constitutional peace is the one that rests upon the Kantian argument that peace depends upon democracy, trade, and a set of cosmopolitan values that stem from the notion that individuals are ends in themselves, rather than means to an end. Fourth, Richmond notes that the civil peace is derived from the phenomena of direct action, of citizen advocacy and mobilisation, in the attainment or defence of basic human rights and values.

Furthermore, Richmond (2005:1) argued that the latter four aspects of the liberal peace are both contradictory and complementary, and each brings with it a certain intellectual and empirical baggage. Richmond adds that the liberal peace is a discourse, framework and structure, with a specific ontology and methodology. Its projected reform of governance entails a communicative strategy on which depends its viability and legitimacy with its recipients. This operates both at a social and state level. It cannot be achieved without significant resources. The allocation of those resources, the power to do so, and their control, was often the new site of power and domination in post conflict societies.

Citing the classical liberal, Immanuel Kant, Oneal (2001:2) noted that international peace could be established on a foundation of three elements: republican constitutions, cosmopolitan law

embodied in free trade and economic interdependence, and international law and organisations. In the liberal view, it was the fear that conflict would disrupt beneficial commerce that leads states to refrain from using military force against others. Thus, the relationship between interdependence and peace was and is expected to be reciprocal and justify the three pillars of Kantian tripod (Oneal 2001:8). Oneal also noted that studies have found that trade reduces the incidence of conflict. Further, in reference to Kim, Oneal (2001:11) concluded that the effect of trade on conflict is stronger than the effect of conflict on trade. Thus, trade was and is a powerful force for peace.

In the same vein, Mousseau, Hegre and Oneal (2003:277) maintain that over the past decade of the liberal peace, the finding that democracy and economic interdependence contribute to peace among nations has emerged as one of the strongest and most important results in the scientific study of international relations, conflict management and consequently peace building. The conflict-reducing effect of democracy depends on the level of economic development. Consequently, if the less developed state in a dyad has a per capita GDP below 1400 USD, joint democracy is not a significant force for peace. Research findings, argue that the strength of the democratic peace is conditional on economic development (Mousseau, Hegre and Oneal 2003:277). However, it is important to note that having developed economies in Africa alone will not secure peace; other factors also do contribute.

From the above arguments by Doyle (2005), Richmond (2005), Oneal (2001) and Mousseau, Hegre and Oneal (2003) the researchers observed that the core thesis of Liberal Peace theory revolves around the construction and strengthening of democratic institutions and processes that may enhance economic growth and development, and therefore, promote peace and

development in the societies concerned (for instance Kenya). It was in this context that this theory was adopted in an attempt to analyse the connectivity between the concept of electoral conflict in Kenya (that flourishes on the ethos of democracy and liberalism), conflict management and peacebuilding.

5.4. Qualitative research method

This study and the methodological framework of the research was qualitative in nature. Qualitative research is based upon the observations and interpretations of people's perception of different events and it takes the snapshot of the people's perception in a natural setting (Guba, 1990; Guba & Lincoln, 1994; Newman, 1994). Qualitative research is an interpretive and naturalistic approach (Guba and Lincoln 1994 & Denzin and Lincoln 2003). According to Creswell (1998:15 & 2007:14-20), qualitative research is an inquiry process of understanding based on distinct methodological traditions on inquiry that explore a social or human problem. In this context the research focus is on electoral conflict management and peace building. Moreover, Creswell notes that in qualitative research, researchers builds a complex, holistic picture, analyses words, reports details of informants, and conducts the study in a natural setting.

Describing why qualitative research is important, The Centre for Strategy Research (CSR) 2010 notes that the difficulty and complexity of today's issues require that research methods capture the rich, nuanced, varied, and sophisticated feedback that your audiences-research participants-are capable of sharing with you. In CSR's experience, the audiences will share feedback with you-if you allow them to express their ideas and give you their advice in their own words (See also Babbie 2004). By far, the best research methodologies to gather this kind of feedbacks are qualitative in nature and appropriate in researching electorally related conflicts. In this regard,

(Guba 1990 & Guba and Lincoln 1994) have argued that there is an assertion within the ranks of qualitative researchers, that the experiential quality of described events cannot be measured by quantitative standards alone. Bradshaw (2007:13) states that ‘increasingly, researchers in the social sciences, claim that qualitative research processes do more justice to their subject matter than do quantitative approaches.’ CSR, 2010 advocates the qualitative approach because: it enable participants to say, in their own words, what matters to them and why; Provide a forum for participants to express diverse beliefs; and results in a meaningful, actionable understanding of participants’ needs and expectations as required in this study. According to CSR 2010, the qualitative research approach in this study was characterized by:

- i. Structured, open-ended questions (the same questions from interview to interview);
- ii. In-depth answers unbiased by leading questions;
- iii. Independence from, or reduced reliance upon, closed-ended (yes/no, 1-10, agree/disagree), directive questions, or fragmentary or single word responses;
- iv. Interviews were conducted by an experienced interviewer who allowed participants to fully express their own unique needs and interests and who listened actively rather than coding responses or operated menu-driven software while the interview were being conducted;
- v. Results captured not only what people wanted about mitigation of electorally related conflicts but also why they wanted it and how they decided among different options that are presented to them.

Thus, based on qualitative research questions and objectives, the researcher collected qualitative data and then performed a constructivist, grounded theory data analysis to discuss peace building

and electoral conflict in Kenya. Below is a representation of the qualitative procedure in this study.



5.5. Triangulation

According to Maphosa (2009:25), the term triangulation is originally recognised in works of Webb et al. 1966, cited in Johnson et al., 2007:115 who coined the notion of multiple operationalism in social science research. Maphosa also notes that Denzin (1978:291) first outlined how to triangulate methods and defined triangulation as ‘the combination of methodologies in the study of the same phenomenon’. Tashakkori and Teddlie (2003:717) delineated triangulation as the combinations and comparisons of multiple data sources, data collection and analysis procedures, research methods, or inferences that occur at the end of a study. Thurmond (2001:3-7) notes that triangulation is the combination of two or more methods of [collecting] and analysing data in a study. Triangulation is often used to indicate that two (or more) methods are used in a study in order to check the results. In particular, it refers to the application and combination of several research methodologies in the study of the same phenomenon. The idea is that one can be more confident with a result if different methods lead to the same results (Thurmond 2001:3-7). Triangulation is therefore a powerful technique that facilitates validation of data through cross verification from two or more sources. The greatest

benefits of theoretic triangulation is that it provides a broader and deeper analysis of findings. Maphosa (2009:26) notes that there are many advantages of triangulation, and these include that:

- (i) it allows the researcher to be more confident of the results;
- (ii) it stimulates the development of creative ways of collecting data;
- (iii) it allows room for richer data;
- (iv) it can lead to the synthesis and integration of theories; and,
- (v) Can reveal contradictions in the results.

Marshall (1998:9), describing the scientific study of the conflict process presents a threefold schematic conflict research process. The three inter-subjective realms of inquiry are: endogenous inquiry (inquiry conducted by the researcher i.e. primary data); exogenous inquiry (inquiries conducted by other researchers i.e. literature review, secondary data and IBL in this context); and existential inquiry (the intuitive/ perceptual inquiry of practical application embedded in actuality, language and culture, and artefacts and extant in reality or the natural context i.e. constructivist grounded theory approach). This research adopts the third approach presented by Marshall that is concomitant with the triangulation process. Furthermore, Marshall (1998:29) has argued that as a field incorporating concepts, methods, and findings from a number of distinct disciplines, peace studies involves three major areas of substantive focus: analysis of causes and consequences of conflict (electoral conflicts); study of theories and techniques of managing, reducing, and resolving conflict; and the examination of those norms, values, rules, and institutions that are necessary for constructing peace. In this study, triangulation follows a cycle as illustrated below.

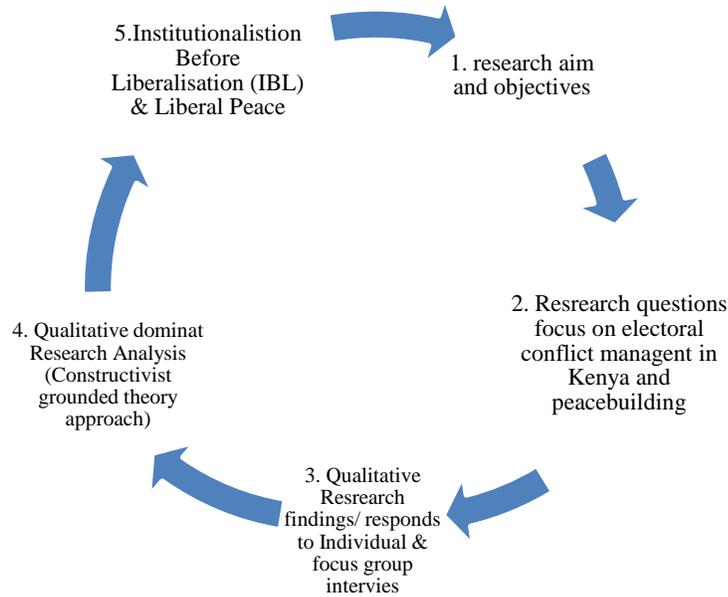


Figure 8: Triangulation cycle

As a case study, this study focused on Kenyan electoral conflicts. Maphosa (2009:24) paraphrasing Sartorius and Carver 2005 notes that case are normally employed when one seeks to understand a particular group such as child soldiers or ex-combatants; a particular problem (in this context electoral conflict), or problems such as gender violence or trade in small arms and light weapons; or, a unique situation such as successful healing of memories or successful and/or failed truth and reconciliation implementation. Maphosa(2009:24) paraphrasing Sartorius and Carver (2005:40) adds that a key attribute of the case study approach is that it underscores why decisions were taken, how decisions were made, how decisions were implemented and ultimately, with what effects, hence illuminating the unintended results.

Moreover, Maphosa (2009:24) as well as Sartorius and Carver (2005:40) note that related to the foregoing uses and attributes of case studies are its advantages which include:

- i. allowing for in-depth analysis of a problem;
 - ii. help in establishing causal relationships between interventions and their outcomes;
- and

- iii. Incorporation of a variety of techniques that allow for triangulation and strengthening credibility and valid results.

Case studies are not without shortcomings and these include:

- (i) focusing only on one causal relationship leaving out other potential relationships;
- (ii) it is difficult to generalise to other situations; and
- (iii) a difficulty in establishing a causal link between specific positive changes, though it can establish correlations between interventions and specific positive changes (Maphosa 2009:24; Sartorius & Carver 2005:40).

Triangulation is frequently used to overcome the second shortcoming (Maphosa 2009:25). This is therefore another reason as to why the researcher adopted the triangulation technique in this study.

Maphosa also observed that Denzin (1978:291) distinguished four types of triangulation, : (i) data triangulation (i.e., use of a variety of sources in a study); (ii) investigators' triangulation (i.e., use of several different researchers); (iii) theory triangulation (i.e., use of multiple perspectives and theories to interpret the result of a study); and, (iv) methodological triangulation (i.e., use of multiple methods to study a research problem). This study incorporated the four triangulation approaches as expressed in the above research cycle. Denzin additionally also distinguished within-methods triangulation and between-methods triangulation. The former refers to the use of either multiple quantitative approaches and the latter involves the use of both quantitative and qualitative approaches as in this study.

The two types of methodological triangulation are simultaneous and sequential triangulation (Maphosa 2009:25 in reference Johnson et al., 2007:115 and Morse 1991). Simultaneous

triangulation represents the simultaneous use of qualitative and quantitative methods in which there is limited interaction between the two sources of data during the data collection stage, and sequential triangulation is utilised when the results of one approach are necessary for planning the next stage method. Likewise, this study; in more tangible terms, the research activity (i.e. the process of systematically acquiring data to examine the problem) involved a rigorous library and desk-top search and review of related literature; running focus groups, in-depth individual interviews with a number of key informants; and participant observation. Also, data gathering instruments primarily integrated rigorous literature search and review, focus group interviews and in-depth key informant interviews and observations.

5.6. Data Collection

Tillet and French (2006:40-41) note that investigation or information gathering is crucial for appropriate and effective analysis and evaluation. This section discusses the data collection process that was followed during the research. According to Frost (1996:32-33) and Hoffman (2004:13), people often hold sets of beliefs about how international and national politics work (together with beliefs which specify where they themselves fit into the politics) and these beliefs systematically mask from them the ways in which they are manipulated by power structures which disadvantage them. In the same vain Posthuma (2011:108) maintains that too often, research is criticized as being irrelevant with little or no application to the real world. The researcher therefore collected data by conducting focus group interviews among the majority dominant ethnic groups in Kenya; Kikuyu, Luo, Luhya and Kallenjin (Posner 2007:1317). Open-ended questions whereby the respondents are asked to provide their own answers (Babbie & Mouton 2001:133) were used. An example of such questions was ‘what in your opinion do you think were the causes of the post-election conflicts?’

As in Madu's (2010:193) research and Druckman's (2005:152) views, the researcher also carried out individual interviews. Carefully formulated and sequenced questions based on the study aim and objectives were used to elicit a wide range of responses from specific individual participants and key informants, including political party leaders, members of parliament or their representatives, Electoral Commission of Kenya (ECK) members, Electoral Institute of Southern Africa (EISA) members, political science scholars, academicians and police officials. Additionally, selected members from the following commissions were interviewed: Kenya Commission on Human Rights, Constitutional Implementation Committee (CIC), Truth Justice and Reconciliation Commission (TJRC), National Cohesion and Integration Commission (NCIC), National Police Service Commission (NPSC), Commission of Administrative Justice (CAJ), Commission for Investigation of post election Violence (CIPEV), and Commission on Revenue Allocation (CRA). This set of data helped to complement as well as confirmed the reliability of the data from focus groups.

Also, as the researcher conducted focus group interviews and individual interviews, he adopted participant observation as a method of collecting data. Mugisa (2010:83) states that participant observation occurs when the researchers is part of the study. Mugisa further writes that the researcher immerse themselves in a research setting with the aim to experience and observe at first hand a range of dimensions in and of the setting, using observation, participation, interrogation, listening and communication. Hence, the researcher worked closely with the participants, making them feel comfortable with his presence. By doing so, the researcher observed, as well as recorded in written form, information about the study questions, responses in focus groups and Individual interviews.

Apart from focus group interviews, individual interviews and participant observation, this study also drew part of its data from reviews of literature surrounding the study of International Relations, Peacebuilding and the liberal approach. Scholarly journals featuring debates about peace processes were also consulted. Journals included: the Journal of Conflict Resolution, Journal of Peace and Conflict Studies, the Journal of African Elections, African Affairs and the International Journal of Peace Studies. The instruments that were used to collect data included: pens, writing materials, and also as Maphosa (2009:130) and Mugisa (2010:83) put it, the researcher was the primary instrument of data gathering and analysis by observing, participating, interrogating, listening and communicating.

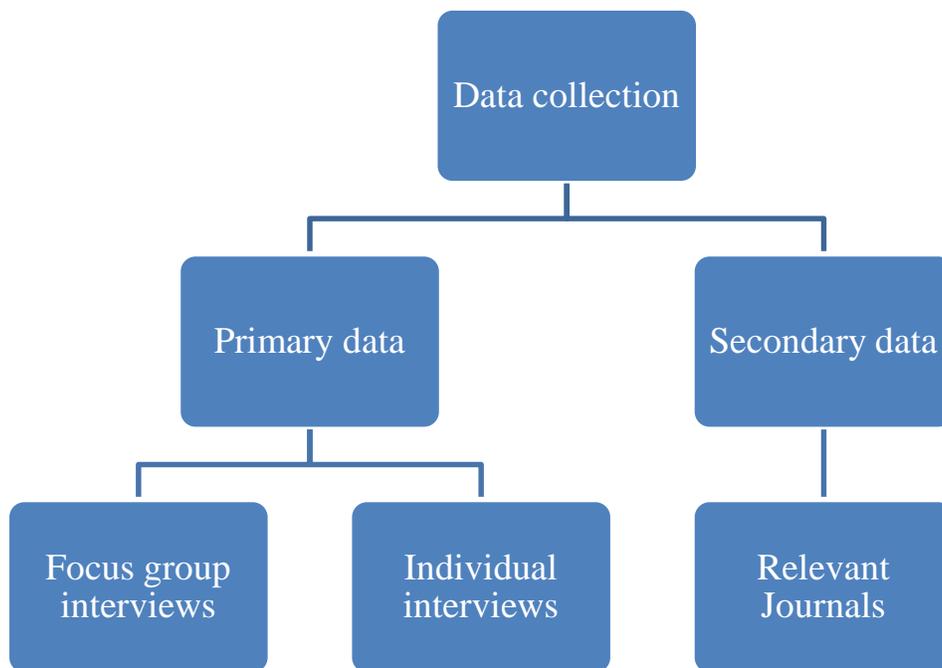


Figure 9. Data collection procedure

5.7. Population and Sampling strategies

Babbie (1989:207) states that the population for a study is that group (usually of people) about whom we want to be able to draw conclusions. In this study, the population included Kenyan citizens; both male and female and above the age of eighteen years old for the focus group interviews and individual interviews. The interviews were conducted in the duration after the escalated 2007/2008 post election violence and before the 2013 general elections. The specific dates were as from 7th November 2012 to 7th November 2015. Individual interviews covered the following population: members of the Kenyan Electoral Commission (ECK), members of the Electoral Institute of Southern Africa (EISA), academicians and scholars specialising in electoral disputes, peace-building and conflict management, members of the police unit, political party leaders or their representatives, Muslim and Catholic clergy and members of nongovernmental bodies dealing with peace building in Kenya. Individual interviews were key informants because they constituted professional individuals selectively selected to collect data that would not have been revealed in the focus group interviews or data that required information from individual professionals like top management officials in the selected research institutions.

Babbie (1989:207) further notes that researchers are never able to study all the members of the population of their interest; in virtually every case, researchers must sample the subjects for their study. Druckman (2005:151) and Babbie & Mouton (2001:288) share the argument that for some purposes in survey research and evaluations, it may not be essential or even feasible to have a probability sample. But, some non-probability samples would be better than others and exploratory research may be an appropriate setting for non-probability sampling. Thus the study adopted a purposive (judgemental) sampling approach. Purposive sampling is a type of non-

probability sampling method in which the researcher uses his or her own judgement in the selection of sample members (Babbie 1989:207 & Marshall 1996:523). Thus, individuals in the individual interviews were selected through a purposive sample.

Druckman (2005:151) adds that in-depth interviews with individuals to explore key concepts for a survey are often conducted with individuals chosen purposefully to represent a range of perspectives, and that focus groups conducted with small numbers of participants to help in crafting language for survey questions are usually conducted with non-probability samples of individuals located near the facility in which the group would meet. Individual interviews were conducted in locations that the participants felt comfortable with and where they felt that their anonymity would be preserved. Thus, the study population comprised eighty individuals. The focus groups targeted fifty participants. Five focus groups were identified. Each group consisted of six to ten adult Kenyan citizens from the major Kenyan ethnic groups: Kikuyu, Luhya, Luo and Kalenjin. These were individuals from regions severely affected by electoral conflicts. The researcher conducted at least three meetings with each focus group after church services outside the church premises. Individual interviews targeted thirty participants with at least three individuals from the following groups; ECK, EISA, academicians, clergy, Peace-building NGO's, political party leaders or their representatives and police force members. As this study adopted a grounded theoretical approach, follow up sessions for both the focus groups and individual interviews were also conducted. As in any other research, the data collection was faced with a few challenges that included; the incapability of the researchers reaching the very interior parts of the county where roads were inaccessible and language would have been a barrier since most of the individuals in such regions communicate in their mother tongues that were totally different from the researcher's spoken and written languages.

5.8. Data analysis

Paraphrasing Le Compte and Schensul (1999), Kawulich (2004 :97) defined data analysis as the process a researcher uses to reduce data to a story and its interpretation. Large amounts of collected data are reduced to make sense of them. In reference to Patton 1987, Kawulich further notes that three things occur during analysis: data are organised, data are reduced through summarization and categorization and patterns and themes in the data are identified and linked. The focus is to discover repeated similarities in the collected data and link concepts into substantive and formal theories.

To significantly enrich the body of knowledge, good research needs cross-linkages between data, theory and literature (Shrank & Koeszegi 2007:53). Thus, qualitative data collected in this study was analysed qualitatively by the constructivist grounded theory method (Charmaz 2000; 2003; 2014 & Mills, Bonner and Francis 2006:1-10). According to Charmaz, constructivists deny the existence of an objective reality, assessing instead that realities are social constructions of the mind. According to Guba and Lincoln (1989:430), individuals who deny the existence of an objective reality assume a relativist ontological position. Relativists claim that concepts such as rationality, truth, right, good, or norms must be understood as relative to a specific conceptual scheme, theoretical framework, paradigm, form of life, society, or culture. Epistemologically, constructivism emphasise the subjective interrelationship between the researcher and participant, and the co construction of meaning (Charmaz 2008a & Charmaz 2008b).

Babbie and Mouton (2005:490) define qualitative data analysis as all forms of analysis of data that have been gathered using qualitative techniques, regardless of the paradigm used to govern

the research. The researcher develops categories, makes comparisons and contrasts the data. Qualitative data analysis is the process of organising, sorting data in light of the researchers' sophisticated judgements, including meanings and finding interpretations that have been discovered to shape the study (Glesne, C. & Peshkin, A. 1992:125-128).

According to Corbin & Strauss (1990:5) and Mills et al. (2006:1-10), grounded theory can be seen as a methodological spiral that begins with Glaser and Strauss' (founding fathers of grounded theory) original text and continues today in different perspectives. Grounded theory is an inductive method that was developed by Glaser and Strauss to outline an inductive method of qualitative research which allows a social theory to be generated systematically from the data (Strauss 1987:22-23, Charmaz in Denzin & Lincoln 2003:249). Charmaz in Denzin and Lincoln (2003:250) notes that constructivist grounded theory celebrates first-hand knowledge of empirical worlds, takes a middle ground between postmodernism and positivism, and offers accessible methods for taking qualitative research into the 21st century. Charmaz paraphrasing Guba and Lincoln 1994, Schwandt 1994), adds that constructivism assumes the relativism of multiple social realities, recognises the mutual creation of knowledge by the viewer and the viewed, and aims towards an interpretive understanding of the subject's meaning. Strauss and Corbin (1998:155) state that the grounded theory approach can be used in a study even if, as in this study, the ultimate research goal is to arrive at a set of findings rather than theory development alone.

Srnka and Koeszegi (2007:53) propose a blueprint for a deductive-inductive procedure of content analysis, which on one hand can provide newly constructed, adapted, or extended theory and on the other hand allows transforming qualitative data into categorical (coded) data for further

quantitative or qualitative analyses. Maphosa (2009: 136) in reference to Greene et al. (1989), Onwuegbuzie & Teddlie 2003 and Denscombe (2008) describes the latter views of Srnka and Koeszegi as data transformation that involve quantisation of qualitative data by conversion of qualitative data into numerical codes that can be represented numerically. The quality of the outcome of this process depends on the structure and systematic procedure researchers apply. And the most significant contributions of the process comprises the separation of unitization, categorization, and coding as individual stages as well as proposing appropriate quality checks for each of these stages to provide for valid and reliable results (Srnka and Koeszegi 2007:53). Essentially, Srnka and Koeszegi have suggested the inter-coder consistency-matrix to guarantee concise category scheme development. Thus the researcher first analysed the qualitative data using the grounded theoretical approach. As Scott (2004:144) notes, open coding is the initial phase of grounded theory analysis, the researcher firstly, carried out open coding of the qualitative data. Secondly, the coded data was categorised into core categories following Sandole's (2007:28) three-pillar framework for analysing and resolving conflicts at any level. The first pillar consisted of a category that locates the characteristics of the Kenyan electoral conflict while the second-pillar comprised a category of the nature and causes of the Kenyan electoral conflict. Elements of conflict intervention design specifically addressing the peacebuilding process in Kenya were categorised under pillar-three. Sandole (2007:28) notes that the underlying working hypothesis would be that the researcher must understand the conflict itself in terms of its significant elements (Pillar 1) and understand causes and conditions (pillar 2) before designing an effective intervention into it (Pillar 3). During data coding and categorisation, the researcher adopted Dudouet, Schmelzle and Bloomfield's (2005:11-12) methodology of focusing analysis on factors that represents obstacles to the constructive

transformation of conflict and in this context, the Kenyan electoral conflict. The following categories were as a result presented: policy factors, psychological factors, social factors, political factors, and entrapment. According to Symphorien (2010:50), changes in institutions that manage conflicting interests and needs are most effective when they are closely associated with efforts to address macro as well as micro problems and engage socio-cultural issues. Thus, the research analysis was also guided by following analysis rules of Christopher Mitchell as paraphrased by Dudouet, Schmelzle and Bloomfield (2005:17-18):

- i. Emphasis on pragmatism and rationality,
- ii. Emphasis on the future, and de-emphasis on history
- iii. De-emphasis on justice (where there may be a tension between retributive justice and peace. Although, there need not be tension between justice and peace)
- iv. Emphasis on development and equitable resource distribution and
- v. De-emphasis on local cultures

In reference to Kawulich (2004:100) the process of coding data also included looking for patterns and themes. A theme in the research was an abstract entity that brings meaning and identity to a recurrent experience and its variant manifestations. As such, themes captured and unified the nature or basis of the experiences into a meaningful whole. The themes involved five aspects: the overall entity or experience; the structure or the basis of the experience; the function or the nature of the experience into a meaningful whole; the form or the stability or variability of the various manifestations of the experience; and the mode or the recurrence of the experience. The four fundamental criteria that defined themes included: the theme's emergence from data,

abstract nature, interaction or recurrence of patterns of behaviour, and levels of identification (which would include categories, domains, or taxonomies).

Alongside categorisation of the coded data into the three main pillars, the researcher integrated descriptive statistics in the form of tables to display and describe the qualitative data in the three-pillars. At this level, the researcher methodically explored the relationships between research categories, for example the relationship between research questions, research aims, objectives and IBL.

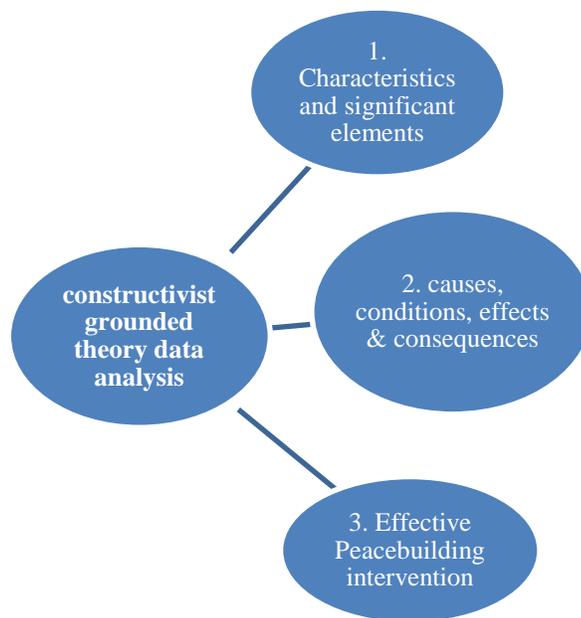


Figure 10. Interactive themes in the analysis

The study also adopted shared strategies by qualitative researchers that were used to analyse qualitative data (Kawulich 2004:100). For instance, the researcher:

- i. Integrated the theoretical framework into the analysis. The theoretical underpinnings provided the lens through which the data was viewed and helped the researcher to situate the results in the theory, that helped to facilitate the understanding of the data within the Institutionalisation before Liberalisation (IBL) and liberal peace theoretical perspectives

- ii. Reviewing of the research questions. The research questions guided the design and implementation of the study analysis. The research questions were the ones that were answered to generate research findings. Thus, sufficient data was collected to enable the researcher to answer questions posed within the study
- iii. Creating of vignettes. This included snapshots that provided an overview or summary of data, encouraging the researcher to organise data into smaller segments that helped to develop understanding.
- iv. Reference to the historical background. During the analysis, the researcher referred to the background and history of the research topic (Electoral Conflicts in Kenya). This was important in assisting the researcher to interpret the data. It was important to understand the past as a tool for understanding the present.
- v. The researcher also created summaries of focus group interviews and the specific selected individual interviews.
- vi. Moreover, the researcher created a conceptual framework and drew it. This provided a visual aid that encompassed the concepts that were found helpful to foster understanding of the data.
- vii. Also, the researcher wrote the findings and analysis in a narrative form. Critical events were arranged chronologically. This helped the researcher to lay out the story from the beginning to the end.
- viii. A list of the most important facts were also developed by the researcher during the analysis. Like the chronology, such a list helped present the study's most important points.

- ix. The researcher drew a visual display of data. This included a variety of ways to display data, including charts, tables, and figures.
- x. Lastly, the researcher made inferences using inductive reasoning. The theory was both amalgamated in the analysis and the interpretation. The analytical analysis provided structure, while the interpretation provided a way to link the theory for explanatory purpose.

Research interpretations observed Rabiee's (2004:658-659) measures of qualitative data interpretation. Thus the researcher considered the following factors:

- i. The actual words used and their meanings
- ii. Intensity of the comments
- iii. Internal consistency. By considering any changes in opinion or position by the participants.
- iv. The research context, internal consistency and
- v. The frequency and extensiveness of comments. Frequency was related to consideration of how often a comment or view is made.

However, as in any other research, the common processes of data analysis were also observed and followed. For instance, the researcher familiarised himself with the data through review, reading, organization and indexing of the data for easy retrieval and identification. The researcher also identified and recorded themes that were directly related to the aims and objectives of the research. For example, themes that answered the question 'what, in your opinion do you think were the causes of electoral conflicts in Kenya?'

5.9. Scope and limitation of the study

Generally, all studies have their scope and limitations. According to Simon and Gomes (2013:1) the scope of the study refers to the parameters under which the study will be operating. In this study, the main focus was on electoral conflict management in Kenya. However, other core peripheral issues that the research revolved around included; the election poroses and preparation, Peacebuilding, liberalisation, liberal peace and institutionalisation before liberalisation (IBL).

Limitations are matters and occurrences that arise in a study which are out of the researcher's control. They limit the extensity of the study, sometimes they affect the end results and conclusions that can be drawn (Simon and Gomes 2013:1). In addition, Simon and Gomes add that limitations may be directly related to the methodology used in the research; others could emanate from the number and types of participants or to the procedures of the study. This study was a qualitative dominant research. Wiersma (2000:211) notes that since qualitative researches occur in natural settings, it is extremely difficult to replicate such studies. In the same vein, Simon and Gomes (2013:2) argue that causal inferences cannot be made from case studies because it is difficult to rule out alternative explanations. Hence, it is always unclear about the generality of the findings of case studies. Moreover, the study drew primary data through focus groups and individual interviews. Primary data was supplemented with secondary data from relevant accredited journals and book reviews.

5.10. Conclusion

In this chapter, the researcher explained the methodology as used in the study. Among the key issues discussed included; motivations for the research, research question, aim, objectives, sub-

questions, theoretical perspectives, the qualitative dominant mixed method research, triangulation, data collection, population and sampling strategies, analysis, scope and limitations. The discussion in this chapter guides the researcher in the following chapters that focus on the research findings and analysis. Research findings and analysis were described methodologically by categorisation and coding as stipulated in the constructivist, grounded theoretical approach. Furthermore, analysis and conclusions were drawn in reference to the Liberal Peace theory and Institutionalisation before Liberalisation (IBL) as described in the methodology. Therefore, the next chapter presents the research findings from the collected data.

CHAPTER SIX: RESEARCH FINDINGS

6.0. Introduction

This chapter presents the research findings from the focus group interviews, individual interviews and literature from journals and books. The findings emanated from the research question and sub-questions. The researcher gathered data, coded it, and then arranged it into constituent categories in line with the research questions. Relationships among the categorical research sub-question responses were constructed, deconstructed, compared and reconstructed to generate conclusions that are presented as the research findings. As de Vos, Strydom, Fouche and Delport, (2007:312) argue, the researcher considered the words in the data, the consistency and frequency of responses, extensiveness of comments and even what was not raised in the responses to the sub-questions. Below is a discussion of the research findings deducted from the research questions leading the focus group interviews, individual interviews and information from literature reviews.

6.1. What do you think are the causes and courses of electoral conflicts in Kenya?

Focusing on ethnic conflicts, responses from focus group interviews and individual interviews asserted that ethnic conflicts in Kenya are caused and triggered by the vast degree of geographical and economic differentiation in the country and its relationships to ethnic divisions. Certain regions or counties were seen as being richer than others, and well-endowed with resources and infrastructure when compared to others. Thus, poor regions and counties rebel against the more affluent ones during election periods. Dersso (2012:31), shares the view that

ethnic conflicts in Kenya are caused by unequal resource distribution among the different ethnic groupings and economic differentiations.

Lack of respect for sanctity of human life for instance, could have influenced the verdict of the case related to the 2007/2008 post-election violence where at least 1500 people died and over 350,000 were displaced. The controversial 2007 presidential results and the March 2013 election results announced by the Supreme Court were mentioned as major trigger of elections and post-election conflicts. Identity conflict, as in the case of Mombasa Republican Council (MRC) was also mentioned as a trigger of electoral conflicts where by the members of MRC felt that the government was not concerned with their interests. MRC maintained that Mombasa County in the coastal part of Kenya was not benefitting from the central government resources distribution, and as a result MRC was calling separation of the coastal county as a distinct country. MRC also threatened to boycott participation in elections (Focus group interview on 15th October 2012). Individual interviews and focus group interviews carried out on 20th October 2012 also cited; impunity, political assassinations, acts of terrorism and subversion as causes of electoral conflicts.

Also, the latter focus group interview and individual interview revealed that; unconstitutional changes in government, situations which prevent and undermine the promotion of democratic institutions and structures, including the absence of the rule of law, equitable social order, population participation and manipulation of electoral processes were all major contributors and triggers of election conflicts. In an individual interview with a political science scholar, it was noted that it would be incorrect to peg Kenya's election-related conflicts, transition, and the resulting attempts to deal with the past injustices solely on the events following the escalated

2007 general election. Additional views from focus group interviews contended that post-election conflicts that escalated into violence in 2008 were a culmination of years of tensions in Kenya around access to state power and the control of national resources-primarily land. Furthermore, it was argued that the post-election violence was a tragic consequence of deep-rooted ethnic intolerance, corruption and inefficient governance structures. The International Criminal Court (ICC) intervention into the Kenyan electoral conflict was mentioned as a factor that could determine whether peace prevailed or, it could also trigger violence during the election period. Ngari (2012:1) is in agreement with views from our focus group and individual interviews as causes and course of electoral conflicts. According to Ngari (2012:1), issues that cause electoral conflicts have significantly contributed to ethnic polarisation, and left physical, emotional and economic scars on the country and its people. The Kenyan society has therefore to fully address the scars of its history through conflict management and peacebuilding. From a partially different perspective, but also in agreement with responses from focus group and individual interviews, Nderitu (2011:1-2), with reference to the National Cohesion and Integration Commission (NCIC), the only permanent body created by Kenya National Dialogue and Reconciliation (KNDR), delves into some of the causes underlying Kenya's election violence. He notes that the NCIC identified four key milestones that have the potential to trigger further violence. These include:

- i. The referendum on the constitution in August 2010,
- ii. the ongoing resettlement of internally displaced people,
- iii. the proceedings of the International Criminal Court (ICC) with regard to the charges levelled against several high-ranking Kenyan politicians, and
- iv. ethnic mobilisation that may occur ahead of the 2013 elections.

Another factor also observed in the focus group interviews as a cause of electoral conflict was the improper conduct of the electoral processes; the absence of the promotion and protection of human rights, a lack of individual and collective freedoms, and inequitable opportunities for all, including women, children and ethnic minorities. Poverty and inequitable distribution of natural resources; and corruption was also cited as a cause of electoral conflict. In agreement with the latter research findings, Dersso (2012:31) highlights inequality and unequal resource distribution as major causes of electoral conflict. The following dialogue with a respondent in an individual interview elaborates more:

I think because of the unequal distribution of resources, infrastructure and opportunities among different ethnic tribes is a cause of electoral violence. It pains to see that a government that has been biased in resource distribution and favours certain ethnic groups winning an election again. Some province have good roads, the hospitals are well equipped and sanitation is perfect while in others things are totally different. This discrimination escalates into violence during election periods

(Individual interview respondent).

According to Dersso (2012:23) the nature of peace and security challenges facing Africa do not always originate from Africa, and the causes of these challenges are not always limited to African actions or omissions. Dersso argues that the nature and origin of most of the structural challenges facing African elections and Africa as a continent implicate outside actors. Respondents in individual interviews and focus group interviews held on 28th September 2012 noted that the International Criminal Court's (ICC) involvement in the Kenyan 2007/2008 post-election violence had an effect on the 4th April 2013 elections. For instance, it was argued that the ICC case dilemma had united the two influential ethnic groups in Kenya (Kikuyu and

Kalenjin) to unite against other ethnic groups whose leaders were not involved in the 2008 election violence case at the ICC. As a result of this factor, the incumbent President in 2013 Uhuru Kenyatta and his Deputy President William Ruto, were elected. They also formed the government despite having case's against them pending in the ICC. Consequently, the two 'elite' tribes remained the most influential in the government. The following citation depict the influence of the ICC in the Kenyan elections:

The ICC cases against our leaders Uhuru Kenyatta and Willian Rutto has eventually united us. The Kalenjin and the Kikuyu are now brothers and sisters and we shall vote as a block because we share same problems in the Hague. Our indifferences has been solved by the ICC and now we are going to form our government

(A respondent in a focus group interview from the Rift Valley province).

Resource redistribution and governmental position allocations remained skewed in favour of the elite ruling tribes. Categorically, most frequent respondents were of the view that Kenyan electoral conflict was a consequence of deep-rooted ethnic intolerance, corruption, unequal resource distribution, impunity and inefficient governance structures.

Considering the theme of deep-rooted ethnic intolerance, a respondent in an individual interview on 24th October 2012 argued that some activities that contribute to the possible resurgence of electoral conflicts that escalate into violence included; the aversion towards group or ethnic affirmations on the part of political leaders and the use of inflammatory language by politicians and their affiliates. Furthermore, the respondent maintained that 'such activities have the capacity-if not the intent-of undermining efforts towards reconciliation in the country and contributes to ethnic polarisation that escalates during election periods'.

On the theme of inequitable resource distribution, a respondent in the focus group interview on 22nd October 2012 noted that ‘ individuals from the dominant ruling tribes were favoured by the government in allocation of resources and governmental positions while those from the opposition were allocated meagre resources’. This factor has caused tribes affiliated to the opposition wing being treated unevenly as compared to tribes forming the ruling government. Focusing on the issues of corruption and impunity, a respondent in an individual interview on 24th October 2012 argued that:

Kenya is faced with many corruption scandals including the notably Anglo leasing scandal and the Golden bag scandal in which billions of money was looted by governmental officials. Each government in reign comes up with a scandal. Inquiry commissions to investigate the scandals were formed but bore no solution instead, more funds were misused by the commissions of inquiry into the scandals

(individual interview respondent from the anti-corruption committee).

As a result, ethnic groups allied to the opposition are obliged to be involved in violent activities with the realisation of corrupt officials being re-elected. It was also noted by a respondent in a focus group interview that impunity in form of assassinations was a trigger of violence during elections and examples noted were the mysterious death of Robert Ouko, Tom Mboya and J.M. Kariuki whose death left a scar in their ethnic tribes. The following statement illustrates impunity in form of assassinations:

In the Kikuyu community, J.M Kariuki was mysteriously killed, among the Luo, Ouko’s death remains a mystery. Whoever killed Tom Mboya and the reason behind has never been revealed. Recently, Professor Saitoti died and many more might follow...

(A respondent in a focus group interview).

Inefficient government structures were also cited in focus group interviews and individual interviews. For instance, a respondent in an individual interview on 23rd October 2012 noted that ‘electoral conflicts are a result of incompetent electoral body, the Electoral Commission of Kenya (ECK), weak security institutions to deal with electoral violence and inadequate judicial institutions’. In a focus group interview on 22nd October 2012, a respondent noted that ‘many election disputes in the Kenyan courts were corruptly handled and it depends on whoever bribes the court more will emerge the victor in the elections’.

6.2. What do you think are the specific forms of election-related conflicts in Kenya?

Asked what the specific forms of election related conflicts in Kenya are, the most frequent respondents argued that election-related conflicts were manifested in the form of pre-and post-election violence characterised by killings, robbery, presidential results petitioning, election rigging, and mismanagement of the entire electoral process (focus group interviews on 23rd October 2012 with representatives of the Commission for Investigation for Post election Violence). In reference to the flaws and challenges of the March 4th 2013 General election, it was further observed that the election was marred by voter registration anomalies, poor voting equipment tendering, and a limited timeframe for voter education. Also, it was observed that since the beginning of the election season, there were numerous reports of in-fighting and defections from one party to another, creating political enmity between the protagonists in the Kenyan electoral conflict. For instance, a respondent noted that:

In some voting station, names of some registered voters were missing and yet they claimed and had a prove of registering as voters. Thus, they did not vote. Other voters complained that for the fact that the electronic system failed during the voting process,

the voting process was delayed and as a result, some voters got impatient and gave up queuing to vote

(a respondent in a focus group interviews on 23rd October 2012).

Moreover, it was reported that there were some politically-motivated human rights violations in the pre-campaign periods. For instance, it was argued that the Tana River massacre in November 2012 was politically organised, and the former acting Internal Security Minister was mentioned as a facilitator of the conflict between the differing rival ethnic adversaries (Galla tribe pastoralists and Pokomo tribe cultivators). Delays in the election preparations processes, as well as fixing of the election date were also cited in the focus group as a problem that caused anxiety during the election period. Potential delays were attributed to the high cost of running the elections. Although, another respondent in a focus group interview maintained that ‘the delays were due to the uncertainty of peace during the election period’. Besides, it was argued that election preparations had remained uncertain and controversial for a long period especially for the tendering process of equipment to be used during voting including; computers, ballot boxes, and voter biometric registers (VBR). During a focus group interview with officials from the Independent Electoral and Boundary Commission (IEBC) 24th October 2012, a senior individual member maintained that ‘indeed the tendering process of equipments to be used during elections was termed as corrupt, and moreover, the funding of the whole election process was inadequate’. Besides, the following narrative substantiates this findings:

From the beginning IEBC had a problem, we keep on complaining that the government had allocated us little money during the budget allocation. We had requested for 25 billion but we were only given 16 billion. Top officials from the IEBC tried to argue with the government that the kind of election in 2012 was going to be complex since it

involves electronic equipments, but the government did not pay attention. Moreover, the tendering process for voting equipments was corrupt and controlled by top governmental official and not the enacted constitutional tendering rules

(interview with a representative from IEBC).

6.2.1. Independent electoral Body Commission (IEBC) failure as a form of electoral conflict in Kenya

In an individual interview on 26th March, 2013 with a lawyer dealing with election disputes and affiliated to the Supreme Court, the respondent noted that some of the accusations levelled against IEBC included among other things:

- i. unlawfully creating special registers with 31,000 unknown voters
- ii. allegations that the presidential votes for one candidate were illegally topped up in some stations
- iii. that IEBC did not give Kenyans a chance to inspect the voters register after making alterations to it
- iv. that due to graft and internal discord, the IEBC failed to deploy technology as had been stipulated in the constitution.

Furthermore, it was also noted that a CORD legal representative told the Supreme Court that:

- i. The IEBC had unlawfully created a special register with 31,000 unknown voters names. These names, from this register, caused voter turnout to exceed the formal registration of voters. This deviation from the formal registration of voters is unconstitutional, and affected the final tally.

- ii. Due to graft and internal discord during the corrupted tendering process of equipments to be used during the election, the IEBC failed to deploy technology as stipulated in the constitution on the voting day. For instance, the voter biometric equipments that had been bought by the IEBC was found to be defective during the voting day and was not used
- iii. Moreover, it was argued that votes for one the presidential candidates were topped up illegally in various stations and that the IEBC unconstitutionally, and illegally transferred voters from one station to another.
- iv. Also, it was argued that IEBC had not given Kenyans a chance to inspect the formal voter register after it had been cleared as authentic.

The following dialogue with a representative from CORD elaborates more about the failures of the IEBC:

The IEBC failed to conduct a genuine 2013 general election. In everything they did they failed, maybe because they had been bribed or they were just incompetent in all they did. They tampered with the voter register and they were just not transparent in all they did. The technology they had employed failed during the voting day and in some instances, there is evidence that they illegally topped up votes in favour of Uhuru Kenyatta

(Individual interview with a respondent affiliated to the CORD party).

6.2.2. Issues raised during the 2013 Presidential petition against IEBC as a form of electoral conflict

During a focus group interview on March 28th 2013, it was revealed that poll books, the biometric voter registration (BVR) systems and the electronic results transmission system

adopted by the IEBC were very poorly selected, designed and implemented. It was alleged that from the inception, the BVR system was destined to fail with the knowledge of the IEBC and its chairman.

It was additionally noted that the collapse of the BVR equipment on the voting day fundamentally changed the polling system and the number of votes cast. As a result, the optional, discredited manual system was adopted, thereby posing risks of election rigging, and presenting opportunities for abuse and manipulation of the voting process. Another failure of the IEBC was the fact that the official list of the registered voters inexplicably and mysteriously grew overnight by a large proportion on the eve of the election, notwithstanding the fact that registration had closed some 30 days previously, and that by law, the list was not permitted to be opened or changed.

In addition, it was argued that election results contained widespread instances of manipulation of the returns through alteration of Form 36, and in some instances the votes cast exceeded the numbers of registered voters. Moreover, the numbers of votes for presidential candidates in some instances exceeded those cast for the gubernatorial and parliamentary elections after taking due account of any spoilt, rejected or disputed votes.

In further information from a focus group interview with legal representatives affiliated to the CORD party and its members on 17th March 2013, it was noted that the Former Prime Minister who had contested the Presidential ticket on a CORD ticket had moved to the Supreme Court seeking to nullify the Presidential results as a result of IEBC malfunctions in the elections. It was argued that grounds on which the CORD case stood were based on the allegations that the IEBC failed to carry out proper and valid voter registration in accordance with Article 83 of the

constitution. CORD alleged that in some constituencies the number of votes cast exceeded the number of registered voters and that the IEBC unconstitutionally allowed a mobile phone service provider to co-host both its server and that of the National Alliance Party (TNA) party. A respondent argued that:

How can the number of votes cast exceed the number of registered voters in a voting centre? Once the BVR and the entire constitutionally approved electronic system collapsed during the voting day, the unconstitutional alternative manual voting system was manipulated and rigging took place severely. The elections became neither electronic voting nor manual voting but rigging of elections

(An interview with a legal representative).

Still focusing on IEBC, in an individual interview on June 25th 2013 with an official from the Ethics and Anti Corruption Commission (EACC) four Months after the March 3rd General Election, it was noted that the electoral commission blocked investigations into the controversial procurement of the biometric voter registration kits that failed on the election day. Moreover, it was argued that the IEBC hid tender papers relating to the procurement of poll kits and refused to give crucial information on investigations into the tendering process. Furthermore, it was argued that top officials of three government agencies namely; the Ethics and Anti Corruption Commission (EACC), the Public Procurement Oversight Authority (PPOA) and the Auditor General had told the Parliament's Public Accounts Committee that the electoral body had refused to submit documents to their respective investigators. For instance, it was noted that officials from EACC and PPOA complained to Members of Parliament, that when they tried to get documents from the electoral commission, they were taken round in circles and that it had been very difficult for them to get relevant, original documents used by the IEBC. It was alleged

that the EACC deputy secretary said that his investigators wrote to the electoral commission seeking original documents, but he was instead given very clear photocopies generating a push and pull between EACC and IEBC over the original documents. According to the Director General of PPOA, the electoral body was reluctant to provide key files that were to help in investigations into electoral conflict. As a result, it was observed that when PPOA carried out an audit, they usually estimated that it should not take more than three weeks, but investigations into the IEBC had taken more than two months, despite the PPOA committee putting more pressure on the IEBC to release the original documents.

In a focus group interview with political representatives affiliated to the CORD party on 17th June, 2013, three month after the General Election, it was noted that it appeared as though the IEBC had been squeezed into a corner by the law as dictated by the previous Party of National Unity (PNU) government regime. As a result, the presidential election results of March 4th, 2013 were disputed in the Supreme Court after the electoral body had released the final tallies for the General Election ‘officially’. Representatives from the CORD party also argued that there could have been a number of reasons for withholding the final tallies and that such a delay did not augur well for the funding of political parties. Political parties were supposed to be funded, based on among other things, the number of seats they won at all levels, from the counties upwards, backed up with the final tallies from the IEBC, (the only body mandated by the Constitution to release the figures).

Further information revealed that reliable sources inside the electoral body were of the opinion that things were not as straightforward as the IEBC might want them to appear; that in fact, the disparities in the tallies for the presidential election and the National and County assemblies were, in some instances, wide enough to raise questions. In addition, it was argued that during

the election petitions at the Supreme Court about the outcome of the presidential poll, the IEBC acknowledged that there were discrepancies in the presidential results. It was additionally mentioned that there was talk that the IEBC was planning to seek amendments to the electoral law to suit their own interests. For instance, the IEBC wanted to remove the barrier that posed challenge to the need for a reconciled tally of the valid presidential votes cast during the 2013 election.

However, in response to IEBC failures, it was argued that criticism of the IEBC over the delayed and unrealistic election results was unfair. For instance, a respondent argued that Kenyans had a short memory. Many, especially politicians, had forgotten that the procurement of the biometric voter registers (BVR) kits had been made almost impossible by the politicisation of the process. Nonetheless, the BVR kits did arrive, but the training on how to use them was done hastily, leaving some officials poorly prepared to use them practically on the day of election. In addition, an individual interview respondent noted that amongst the loudest critics of the IEBC were those who had made it difficult for the IEBC to properly prepare for the new technology (individual interview with an official from the IEBC on March 12th 2013). The respondent further noted that ‘at the various stages of the 2013 general election, the IEBC deployed the following technologies that failed: biometric voter registration (BVR) during voter registration; electronic voter Identification (EVID) on polling day; and results transmission system (RTS) during tallying’.

According to another respondent, once the General Election period was over, somebody had to be immediately made to take responsibility for the failure of the biometric voter system that caused so much anxiety in the country on the 2013 election date. The interviewee was convinced that the country had not gotten the value for the money invested in buying the BVR

and that the guarantee was still valid, which would allow the IEBC to claim the colossal amount of tax-payers' money that had been used to procure the kits. It was maintained that the IEBC should explain to the nation why the government had invested over 8 billion Shillings of Kenyan money on biometric voter registration and identification devices that did not work (focus group interview with representatives of the CORD party on 17th. April, 2013). One of the respondents said: 'The IEBC is being pushed to explain why it has been heavily funded but failed to deliver credible elections'.

Further information revealed that the majority of the citizens felt let down by the IEBC in the way it handled the 3rd March, 2013 General Election. For instance, an electoral observer from EISA noted that, having witnessed the shambolic elections of 2007, and given the numerous assurances by the IEBC that things were going to be different during the 2013 General Election, the observer did not expect to see so many negative similarities with the past come into play. To begin with, the observer said that the voting was by and large manual as opposed to the earlier promise that it would be electronic as provided for by the constitution. The respondent questioned 'wasn't the manual voting our undoing in 2007?' Furthermore, the informant argued that the electorate deserved to be respected during the 2013 General Election since they had resisted the temptations to ignite violence as in the 2007 escalated elections (individual interview with an electoral observer who was also a political science scholar affiliated to the Electoral Institute of Sustainable Democracy in Africa). Furthermore, the respondent questioned 'how come the electronic voter identification devices collapsed at the critical moment, forcing IEBC to revert to the unconstitutional use of manual registers?' The respondent believed that this was a deliberate act, and if it was not, he questioned why it was that some people were reported to have been found with fake voter registers in polling stations? How did these people get prior

knowledge that at some stage, the IEBC system would collapse and so, equipped themselves with fake documents? It was also questioned why it was that many voters countrywide failed to find their names in the manual registers despite having been properly registered by IEBC?

Moreover, the observer argued that there were also reliable reports that one of the IEBC clerks was issuing extra ballot papers to some voters. In connection with the latter allegation, the question that arose was to what extent the clerk had done that before he was caught? And how would it have been ruled out if similar incidents had happened elsewhere undetermined? Additionally, it was questioned why it was that the IEBC had promised from the onset to deliver the presidential tally first, and what it was that had happened to cause presidential votes to be the last to be counted? Reflecting on the 3rd, March, 2013 General Election, the interviewee concluded that the 2013 General Election was a referendum of sorts on many issues; first, against the ICC; second, it gave the tyranny of numbers a clean bill of health. In addition, it was argued that if civic education for the Western and Nyanza Province voters had been done well, it would have translated their numbers into votes and ended the reign of tyranny of numbers. On a positive note, the respondent observed that the 2013 General Election was a triumph against a previous election that had escalated into violent conflicts. A respondent in one of the focus group interviews with officials affiliated to the IEBC noted that ‘even though the electronic equipment used during the 2013 general elections failed, the election process was by far much more peaceful as compared to the escalated 2007 election’.

6.3. What do you think are the effects and consequences of electoral conflicts?

Guibert and Perez-Quiros (2012:2) note that in December 1991 the Kenyan Constitution changed, allowing multi-party democracy for the first time. Since then, Kenya has had four

general elections: 1992, 1997, 2002, and 2007; and all of them shared the common factor of violence. Qualitative research by Guibert and Perez-Quiros (2012) found that over the period 2007-2011, per capita income GDP was reduced by an average of 70 USD per year, which amounts to approximately 5 percent of the 2007 baseline level. In 2009, per Capita GDP in Kenya was estimated to be about 6 percent lower than the previous years. Moreover, Guibert and Perez-Quiros (2012:2) write that official figures stated that in the ensuing days of the election, over 1200 people were killed, there was massive destruction of property in some areas, several hundred thousand Kenyans were displaced from their communities and data from the Nairobi Women's Hospital-Gender Recovery Centre showed that there were over 356 cases of sexual violence. During the escalated electoral conflict period, at the end of 2007 and beginning of 2008 Kenya experienced a political, economic and humanitarian crisis (Guibert and Perez-Quiros 2012:2).

Focus group interviews, as well as individual interviews carried out on January 30th 2013 in the counties mapped as violence hotspots; specifically Rift valley, Eldoret and Nyanza, Kisumu, it was also observed that insecurity, fear, unplanned relocation and deteriorating business activities were some of the consequences of electoral conflicts. For instance, residents had opted to boost security around their homes and business premises to safeguard against any break-ins during the election period. Some traders had also reduced their stocks to minimise losses in case of attacks. Through the interviews, it was accentuated that as a result of the escalated 2007/2008 poll chaos, at least 1,300 people were killed and over 600,000 others were displaced from their homes.

It was moreover observed that electoral conflicts; especially during the election period; destabilised foreign trade, paralysed transportation and led to economic shrinkage. For instance,

in an interview with representatives of the British diplomatic envoy in Kenya on 29th March 2013, it was noted that Britain had upgraded its travel advisory asking its citizens to avoid parts of Nairobi, North Eastern and Coast counties citing the impending ruling of the presidential election petition as a trigger of violence. Besides, due to the expected electoral violence, the Foreign and Commonwealth Office (FCO) advised against all but essential travel to within 60 kilometres of the Kenya-Somali border, Kisimayu, Eastleigh area of Nairobi and to low income areas of Nairobi, including all slum areas. As a result, the Kenyan economy depreciated. Interviews revealed that a statement from the British consulate in Kenya cautioned that tension was going to remain high in the lead up to the ruling on the presidential poll petition. Americans and British travellers were warned that following developments in the media during election period in Kenya, they should be very vigilant at all times and avoid all demonstrations or large gatherings. British citizens were advised to take comprehensive travel and medical insurance before they attempted to travel to Kenya due to the fear of electoral conflicts that could escalate into violence. As fear for electoral and post electoral violence mounted during the 2013 General Elections, the United States embassy in Nairobi also issued its own travel warning to its citizens, resulting in a steep drop of tourists from the US. In general, interviews revealed that the December 2007 and 4th March 2013 elections contributed to a standstill in the tourism industry during the election period as well as a decline in the air transport thus impacting negatively on economic revenue.

In agreement with the above responses from focus group interviews and individual interviews, Doyle and Sambanis (2006:1-2) say that electoral conflicts that escalate into civil wars have negative security and economic externalities and can destabilise the entire region. Beyond the deaths and displacements that are caused directly by electoral conflict, electoral conflicts and

civil wars also cause a deterioration of health levels for the entire region long after the fighting ends. For instance, during Kenyan post-election violence, transport and communication was interrupted, foodstuff could not be transported from one region to another within Kenya and eventually the whole of the East African region. In addition, due to electoral and post electoral conflicts, prices escalated within a short period, and starvation and malnutrition increased. Movement of goods from the main harbour that serves Kenya, Uganda, Sudan and other landlocked countries was paralysed as a result of the 2007/2008 post-election violence. Kenyan electoral and post election conflicts and violence fulfils responses of individual interviews, focus group interviews and Doyle and Sambanis' (2006:1-2) argument that post-election civil wars have regional contagion or diffusion effects and that they reduce rates of economic growth in both the directly affected countries and their neighbours. According to Doyle and Sambanis, post-election violence usually targets civilians, and their objectives range from secession to control of the state or resource predation. Globally, Doyle and Sambanis (2006:1-2) argue that election related civil wars have created approximately 13 million refugees and 38 million internally displaced persons. Interviews revealed that at least 3 000 people in Kenya were killed during the escalated 2007 post-election violence and more than 300,000 were internally displaced from their original settlements.

6.3.1. Fear of a repeat of 2007/2008 poll chaos resulted in poor voter listing of the March 3rd 2013 general elections

Once an electoral conflict escalates into violence, it affects the following election. Citizens and participants always reflect on the previous escalated violence and gain a fear of a repeat of similar episodes following subsequent referendum and election periods. For instance, in a focus group interview held with clergymen in Eldoret county, Rift valley on December 3rd 2012 and an

individual interview with a spokesman affiliated to the Institute for Education in Democracy (IED), it was revealed that a lobby group had claimed that some people who were viewed as ‘outsiders’ in Rift Valley were not registering as voters, fearing a repeat of the 2007/8 post-election violence. Moreover, the representative from the IED alleged that the developments were likely to disenfranchise voters in the Rift Valley region since an IED executive officer had observed that some people, especially those working in the multiethnic tea estates, preferred travelling back to their rural areas to register for voting due to fear of a relapse of the 2008 electoral violence come the March 4th 2013 general election.

Additionally, the respondent from the IED argued that through the IED electoral observers, it had been revealed that some of the people in parts of the Rift Valley had testified that they were not going to vote. These were people who worked in the multiethnic regions. As a result, the IED anticipated a situation whereby the Rift Valley and Central regions of Kenya were being zoned ethnically (Individual interview with a respondent affiliated to IED on 4th December 2012). Also, it was observed, that people feared to register in some areas like Kwale and Msambweni in Coast due to the alleged threats to disrupt elections by the Mombasa Republican Council (MRC), while those in Samburu, Turkana, Garissa and Tana River feared military operations that were taking place to secure security in the place during election periods. Throughout their study, the IED claimed that in some stations, there was no clear communication from the Independent Electoral Boundaries Commission (IEBC), and that one could register in an urban station and vote in his/her rural home. As an intervention measure, the respondent from IED argued that the IEBC should have adequately enlightened Kenyans on the modalities of registration and how it relates to where one prefers to vote. Information from an IED respondent also warned that the IEBC was not going to reach its targeted 18 million registered voters in the 2013 General Election

because some centers had remained idle the whole day during the voter registration period as a result of the fear of 2007/8 post-election violence and the pre 2013 mild election-related clashes.

6.4. What in your opinion could be the solutions to electoral conflicts and how might such conflicts be prevented?

The majority of the respondents in the focus group interviews and individual interviews, as well as information in the literature review strongly agreed that solutions to electoral conflicts relied on: Police reforms, Judicial reforms, Constitutional reform, and overhaul of the IEBC , Devolution and equitable resource distribution, Truth Justice and Reconciliation Commission intervention, Peace and Conflict Management education in school curriculums, competent IEBC voter education, constitutional review through the Constitution Implementation Committee (CIC), Peace building in ethnically divided communities and avoiding negative ethnicity. This has been dealt with in the sections below.

6.4.1. Suggested mechanisms that emanated from focus group interview and individual interviews for managing Kenya electoral conflicts included:

- i. Immediate and urgent detailed negotiations on the structure and composition of a power-sharing arrangement, constitutional and legal reforms, overhaul of electoral framework (IEBC), economic policies reforms, immediate, equitable land acquisition and redistribution, enacting major job creation programs, and formulation of a framework for implementing commitments for ending election related conflicts, and resolving the humanitarian crisis.
- ii. Involve citizens, the clergy, stakeholders from civil society and the business community in the talks on economic policies, and legal and constitutional reforms.

- iii. Restore security in areas where people were displaced due to electoral conflicts, resettle the Internally Displaced People (IDP) from the IDP camps and suspend all resettlement and relocations until a suitable policy framework has been formulated.
- iv. Ensure equal access and distribution of essential humanitarian resources to all victims affected by electoral conflicts.
- v. Investigate perpetrators and police officers, in charge of areas where extrajudicial killings occurred, including; Nairobi, Kisumu, Kakamega, Nakuru, Naivasha, Sotik and Kericho.
- vi. Condemn publicly and persecute with sanctions any leader inciting ethnic hatred, and express sympathy for the victims of electoral violence.
- vii. It was also recommended that the International Criminal Court (ICC) should open a preliminary examination of alleged atrocity crimes committed in Kenya during the election period, and that a list containing names and relevant information on those suspected of bearing the greatest responsibility for crimes falling within the jurisdiction of the proposed Special Tribunal on post-election violence should be forwarded to the Prosecutor of the International Criminal Court, who would analyse the seriousness of the information received with the intention of proceeding with the investigation and prosecution of suspected persons.
- viii. It was moreover recommended that persons holding public office and public servants charged with criminal offences related to election conflict should be suspended from their duties until the matter is fully adjudicated upon. And upon conviction, any person charged with a post-election violence offence of any nature, should be barred from holding any public office or contesting any electoral position.

ix. As a measure to combat electoral conflicts, it was recommended in an interview with an individual affiliated to the Ministry of Security that the State Security Agencies should develop a joint operational preparedness arrangement to assist in dealing with high level security and emergency situations under the oversight of a National Security Advisory Committee (NSAC). This should comprise all key participants including; in the case of elections, the IEBC, the Ministry of Health, and the Ministry of State for Special Programmes (Disaster Management). NSAC should take a greater leadership role in determining security priorities, focus on preventive strategies and actions, and provide clear direction to state security agencies.

6.4.2. Preventing electoral conflict

As a measure of preventing electoral conflict, Amnesty International deputy director of the African program advised on February 23rd 2013 that with five weeks left before elections, Kenyan authorities must demonstrate political will and take urgent measures to prevent human rights abuse during the election period. Moreover, it was noted that the global human rights body wanted a code of conduct produced to guide police officers should they be required to quell chaos. This was to ensure that the police do not use unnecessary force. Also, it was suggested that there was still much work to be done to implement reforms in the police; both before and immediately after the elections. Emphasis was on the sense that urgency behind police reforms was palpable, and that delays in implementing the new policing laws meant that many of the same old police structures were still in place during the March 4th General Elections. (Individual interview response from a participant affiliated to Amnesty International on January 30th 2012). Alongside the latter argument, an example of security unpreparedness was cited where for instance police had failed to protect the public in the Tana Delta, where 200 people had been

killed and 112,000 displaced after August 2012. And there had been little movement towards bringing the police to account; either collectively or individually for those human rights violations. As an effort in mitigation of pre- and post-election violence, Amnesty International insisted that the authorities should ensure that there was a clear strategy for how the elections would be policed. The respondent from Amnesty International noted that ‘the government should put in place adequate security measures during the entire election period to prevent violence’.

Alongside the idea of reforming the police force and educating the police on how to handle electoral conflicts, it was noted that the legal system also intervened into the 4th March 2013 election disputes and the following legal actions were taken into account: first, three IEBC official’s who were stationed at different polling stations in Rongai Constituency, Nakuru County, were charged before the Nakuru Chief Magistrate with concealing ballot boxes and papers at their respective stations. Second, it was observed that another IEBC official who was stationed at Soin ward was accused of keeping counterfoils of both used and unused ballot papers in an opaque black ballot box instead of a white transparent ballot box, against the IEBC rules. Thirdly, another IEBC official was also accused of putting counterfoils for all six elections behind a door of the Kiamunyi tallying centre in an effort to conceal them. Fourthly, an IEBC officer who was in charge of Kimomora ECD Nursery polling station was accused of concealing used and unused presidential ballot boxes. As a matter of legal intervention, all of the latter accused were released on 200,000 Kenyan Shillings bond bail, pending the hearing of their cases between March 14th and 15th. (Interview with a judicial representative concerned with election cases on March 13th, 2013). In an effort to prevent post-election conflicts escalating into violence, focus group interviews, as well as individual interviews revealed that all the proposed presidential candidates of the 4th April 2013 general election, through the guidance of the clergy

and the International Human Rights bodies, committed themselves to accepting the outcome of the elections, as long as they were deemed to be free and fair.

In agreement with the above research findings, Lumsdaine, Akpedonu and Sow (2013:1-5) note that successful conflict prevention around the 2013 election was based on the interplay between constitutional and institutional reform, the pursuit of transitional justice, and a range of local initiatives. In their research paper, Lumsdaine et al (2013) argue that information sharing, and co-ordination of who plays what role, and when, was essential for maximising the cumulative impact of different efforts, and for capitalising on the reform of political institutions.

Specifically, Lumsdaine, Akpedonu and Sow (2013:1-5) found that:

- i. Constitutional reform, as well as the associated reform of electoral bodies and the judiciary, was an essential foundation for regaining the confidence of the Kenyan people.
- ii. The pursuit of transitional justice, especially through the International Criminal Court (ICC), provided a looming spectre of accountability for politicians. Despite concerted attempts to delegitimize the ICC, transitional justice issues had a profound impact on the conduct of politicians.
- iii. A range of local conflict prevention efforts helped build a broad-based desire to avoid the violent scenario of the previous election. These efforts involved, for instance, early warning response mechanisms, District Peace Committees, small arms and light weapons control schemes, interethnic dialogue, as well as an emphasis on collaborative leadership.
- iv. The prevalence of 'peace messaging' appears to have influenced popular discourse in the lead-up to the 2013 election and afterwards, and appears to have been effective in preventing conflict from boiling over into violence.

6.5. Do you think that elections help in resolving conflicts or create a post-election crisis?

A majority of the participants interviewed were of the opinion that elections do not necessarily resolve conflicts in Kenya. For instance, the Muslim clergy argued that during the election period, business comes to a stand-still, and people living in the violence hot spots were forced either to live in fear or even leave their homes to other places where they felt safe during the election period. In regions such as Mombasa's Kisauni area, people lived in fear that elections could escalate into violence as evidenced in the previous elections (focus group interview on 5th February 2013). In these circumstances, indeed elections were not resolving conflicts but were seen as creating a post-election crisis. A respondent in a focus group interview maintained that 'every time there is an election, violence accompanies it. Without elections, there is no violence'.

Focussing on the 2013 General Election, it was observed that Uhuru Kenyatta, the Jubilee Coalition presidential candidate, was controversially declared the president after the CORD party had filed a case challenging the IEBC results in the Supreme Court, although it lost the case (individual interview with a political science scholar specialising in peace studies on 12th, March, 2013). Moreover, he said that Kenyans were not at peace after the Supreme Court verdict and that peace was not synonymous with the absence of war during the 2013 General Elections. Thus, the respondent argued that according to the '2013 General Elections results' 6.1 million voters voted for President Uhuru Kenyatta of the Jubilee Coalition and 5.3 million for the former Prime Minister Raila Odinga of the CORD Coalition. For this reason, it was not correct to say that Kenya was at peace after the 2013 General Election since the CORD coalition rejected the authenticity of the Presidential results. It was argued that Kenya was simply at calm but not at

peace, and that the Jubilee political leadership was faced with the serious challenge of bringing peace to Kenya.

Through the interviews, it was also noted that in Kenya voting was clearly an indication of how Presidential candidates commanded tribal followings rather than nationhood. As a consequence, worry and negative ethnicity prevailed during election periods. For instance, on one hand former Prime Minister Raila Odinga commanded a lot of votes from Ukambani because of Mr Kalonzo Musyoka the former Vice President who controls the Ukambani ethnic group. And on the other hand, President Uhuru Kenyatta attracted Kalenjin votes because of Mr William Ruto the Kalenjin ethnic group representative. Therefore, those who did not celebrate President Kenyatta's win were millions of Kenyans, while those who celebrated were similarly also millions. This clearly indicated that the 2013 General Elections divided the nation into ethnic groupings with GEMA uniting with KAMATUSA and opposing the other tribes affiliated to CORD, fostering negative ethnicity (individual interview with a political science scholar specialising in peace studies on 12th, March, 2013). In order to transform and manage their ethnic divisions, Kenyans must understand that leadership is more than voting for your fellow tribesman or woman. Leadership is about promoting a conducive business climate, cordial international relations, the collection of taxes, development, health care and education.

6.6. Do you believe there are other indicators for democracy than elections?

During an individual interview with one of the political science scholars on July 18th 2012, it was noted that elections were detrimental to human security, they escalate ethnic tensions and were expensive to organise. Thus, the scholar maintained that it would be better if the country did away with elections and instead, substituted elections with either the rule of law or devised a

method of hiring competent manpower that would take up the roles and duties of the parliamentarians, senators and governors. According to this scholar, such individuals should be hired on the basis of interview meritocracy and not elections. They should preferably be foreigners to avert tribalism which takes root during elections. Further, the respondent maintained that such a move would reduce corruption and increase performance and thereby spur development forward. A respondent argued that ‘competent employed foreign individuals would be neutral, nontribal, less corrupt and will perform effectively’.

6.7. Are you aware of and do you have any knowledge or experience of Peacebuilding in Kenya as a result of electoral conflicts?

Information from focus group interviews, individual interviews and the literature review-revealed that peacebuilding in Kenya was approached through the initiation of political negotiations that took the form of the Kenya National Dialogue and Reconciliation (KNDR), which was started on 29 January 2008. KNDR has the following agendas:

- i. immediate action to stop violence and restore fundamental rights and liberties
- ii. immediate measures to address the humanitarian crisis, and to promote reconciliation, healing and restoration
- iii. overcoming political crisis
- iv. creating national commissions that would address longer term issues and provide solutions.

Further information from a focus group interview by officials from the Electoral Institute of Sustainable Democracy in Africa’s (EISA) Kenyan office, on 10th February 2013 noted that

towards the effort of promoting peacebuilding, a number of institutions and reconciliation commissions were created. This included the Kenya National Cohesion and Integration Commission (NCIC), the only permanent institution created. Also observed, was the fact that to foster peacebuilding, Kenya remained in a state of transition, aspired to safeguard democracy and establish a lasting peace after the escalated electoral conflicts and decades of systematic human rights abuses by state and non-state actors.

The 4th August 2010 constitutional referendum was another effort towards peacebuilding as revealed by the focus group interviews and individual interviews. The referendum was free, fair and peacefully conducted by the Independent Interim Elections Commission (IIEC). The IIEC was a commission established under Agenda Four of the KNDR and was charged with the pivotal task of reforming Kenya's election system. The IIEC was built on the significant work done by the Independent Review Commission (IREC). Furthermore, in respect of peacebuilding efforts, it was also noted that the Commission for the Investigation of Post-Election Violence (CIPEV), which was similarly a product of Agenda Four of KNDR made remarkable findings in its investigations into post-election conflict and violence. As a result, one of the CIPEV recommendations was to set up a Special Tribunal for Kenya, which became a local court with international characteristics, to investigate and prosecute individuals alleged to have committed crimes during the escalated post-election conflict and violence. Following CIPEV's investigations, a list of ten individuals deemed to have been the most responsible persons for the escalated 2008 post-election conflict was handed to the mediator, Kofi Annan. The CIPEV's report provided that failure to abide by its recommendations would result in the two Principalsⁱ referring the situation to the International Criminal Court (ICC). In the event, the Special Tribunal for Kenya Bill, 2009, was defeated in Parliament, and as a result, the Prosecutor of the

ICC initiated investigations that led to the confirmation of criminal charges against four Kenyans, and their trials were expected to commence in April 2013.

It was also observed that in the effort to build peace, The Truth, Justice and Reconciliation Commission of Kenya (TJRC) was created through an Act of Parliament (No. 6 of 2008) to investigate human rights violations, including those committed by the state, groups or individuals. This included, but was not limited to, politically motivated violence, assassinations, community displacements, settlements and evictions. The TJRC was mandated to inquire into major economic crimes, historical land injustices, and irregular and illegal allocations of land; especially those crimes and injustices related to conflict or violence. As at the time of our interviews, the TJRC was at the final stage of its mandate, and it was hoped that the narratives of inquiry developed in its report would be used to build a ‘collective truth’.

6.7.1. Devolution and equitable resource distribution as Peacebuilding

Information from some politicians and their representatives responding to the theme of equitable resource distribution revealed that despite the huge amount of money the Commission on Revenue Allocation (CRA) had proposed to give the counties in Kenya, there were both satisfactions and dissatisfactions among the politicians from different counties. It was observed that while some political leaders applauded the budget formula proposal which was to be ratified by parliament, others thought that the formula used by CRA was discriminatory and favoured the big and already rich counties (focus group interviews, on April 30th and 3rd May 2012). Moreover, it was argued that according to the CRA formula, Nairobi, Kakamega, Bungoma, Kiambu and Nakuru, which are the most populated counties, were to get the lion’s share from the proposed Ksh 200 billion for the financial year 2012-2013. Allocations for the latter five

counties put together represented 20 per cent of the total set aside for all county governments. Although, some politicians and their representatives argued that the amount given to the five counties was more than the total allocation that was set aside for the bottom 15 counties, being Lamu, Samburu, Elgeyo Markwet, Laikipia, Embu, Busia, Tana River, and Isiolo. Others are TharakaNithi, West Pokot, Vihiga, Kirinyaga, Marsabit and Nyamira. This reflected inequality in the distribution of the counties' resources. A politician from one of the marginalised counties maintained that 'My county received a very small amount from the budgetary allocation and yet it is ranked as the second poorest county in the country'.

Moreover, individual interviews revealed that academic scholars (economics) and political representatives confirmed the view that as per the CRA proposal, Nairobi County got the biggest share at Ksh 11.7 billion while Lamu got the least amount, at Ksh 1.4 billion. Another political representative from one of the under populated counties maintained that the formula of CRA was discriminatory and therefore defeated the purpose of the Kenyan vote for devolution. The following quotation explains more:

It is not in order that the richest counties are to be given the lions share and get richer while the poor grow poorer, and yet devolution is intended to address economic disparities and historical marginalization. The CRA is contravening constitutional rules. The incumbent of devolution meant that all counties were to be treated the same when it comes to resource distribution. The devolved government has to be empowered equally and not with biasness among some counties and especially the poor counties should be prioritised when it comes to resources distribution but the opposite has exactly been done by the CRA

(individual interview with a representative of the Kenya Commission on Human Rights (KCHR).

In response to resource allocation inequalities, it was argued that unless the politics surrounding the creation of the new two-tier system of government; national and county governments; is clearly understood and settled, it may pose a challenge to the forthcoming elections in 2017 and beyond. Of particular concern was the sharing of resources between the national and county governments as well as between and among the counties themselves.

6.7.2. Hurdles of devolution

On April 2nd 2013, governors from the 47 counties created constitutionally under the devolved government act clashed with the central government over budgetary allocation of resources. Contrary to the notion of devolution, the president incensed the governors by repeatedly saying that Kenya is a unitary state. The president maintained that despite the devolution of political power to counties, Kenya remained a unitary state with the central government controlling the budget of the entire nation. In response to the president's argument, the Commission for the Implementation of the Constitution (CIC) chairman and commission members argued that the president's sentiment were wrong and that they hampered devolution (focus group Interview on April 3rd 2013 with the devolved government politicians). As a result, the governors accused the central government of plotting to derail devolution by halting county government funds, and dictating how they should be spent. Following citation explains more:

We voted for a new constitution and now it is being tired apart and rubbished with the government. They want to get us back to the one party system. The main objective behind is to steal government resources and favour certain tribes alone. That is why the president can afford

to say that Kenya is still a unitary state where as the constitution puts it clear that Kenya is a devolved state. Kenyans and the opposition must watch out or else we are headed into problems and marginalisation of some communities (individual interview with a politician from the left wing of the parliament).

It was also noted that during a meeting attended by the Commission on Revenue Allocation (CRA) and the CIC members, the central government was not committed to the implementation of the constitution and the devolution process. At issue was the fact that the Treasury was acting outside the law, it was acting with impunity, and it was disregarding what parliament had passed in December 2012 and had gone ahead to prepare budgets for the counties unconstitutionally. Moreover, the Treasury sent an itemised budget to the counties without consulting the governors. This implied that the devolved government had no say over expenditure in the county as the devolution act states. Intervening into the devolution process and equal budgetary allocations, the vice-chairperson of CRA said that the Treasury needs to be sending money to the counties equitably and in a lump sum. He furthermore noted that the fastest way to kill the devolved government was to kill its funding.

6.7. 3. IEBC funding, fixing of the election date and voter education as Peacebuilding

How the election process and administration is designed, managed, and implemented has a strong bearing on electoral violence (UNDP 2009:4 and Fischer 2004:4). Those elections considered to be free, fair, and transparent are less likely to experience electoral violence than those where allegations of mismanagement or deliberate cheating are prevalent (Fischer 2004:4). According to Crocker and Hampson (1996:63), experience shows that deferring elections in societies not yet prepared to hold them and likely to become more polarised and fragile as a

result, is usually desirable. In some circumstances, an established election date may translate locally as a dangerous deadline for an ethnic conflict trigger. Paris (2004:188) argues that elections should only be held when mechanisms to ensure compliance with the results of the elections have been established. During both focus group interviews and individual interviews, it was revealed that one of the important prerequisites for holding of elections was the governmental capability to fund the electoral process, educate citizens about the electoral process and fix an appropriate date for the general elections. However, it was revealed that the IEBC was not pleased that the government budget committee had proposed and maintained to allocate only 17.5 billion Kenya Shillings for the 4th March 2013 general election. The amount was deemed to be insufficient by the IEBC, and not enough in comparison with, the 41.4 billion Kenya Shillings that had originally been requested in order to conduct a competent general election. Moreover, the normal proposed budget for the General Election, modern electoral results transmission and the predicted presidential re-run that was likely to cost 6.5 billion Kenya Shillings extra, called for an increase in the IEBC funding.

On 4th June 2012, just a few days before the reading of the Kenyan budget for the financial year 2012-2013, the government maintained that it was only going to allocate 17.5 billion Kenya Shilling to the IEBC. This scenario forced the IEBC to slash its budget by reducing the proposed 4 billion Kenya Shilling meant for voter education, to only 1 billion Kenya Shillings. In this regard, we should note that Okoth (2012:11) argues that voter education is the key in preparation for successful general elections. The government and IEBC were therefore tasked with Civic Education on the Constitution and Elections especially given that the March 4th 2013 election was going to be the first under a new constitution. In the same vein, during a focus group interviews with representatives from the IEBC, it was observed that working within the allocated

minimum amount of 17.5 billion Kenya Shillings forced the IEBC to reduce the number of the polling stations envisaged, and, as a result of the reduced number of the polling stations, delays were caused on the voting day due to concentrated number of voters per polling station. Evidently, the research findings revealed that the IEBC was faced with financial challenges that threatened its competency and as a result, it was adjudged that it was not able to deliver efficient electoral services in the March 4th 2013 general elections (information from IEBC representatives affiliated to the Chief Executive Officer (CEO) during individual interviews held on 4th May 2012. The respondent noted that:

Honestly, how do you expect a fair and genuine election when the funding for the election is inadequate? Definitely, the whole electoral process will be corrupted. It was easy for IEBC officials to be bribed simply because they were not going to be paid well. Besides, would you expect a genuine election when the equipments to be used during the election day are faulty? All this was a clear indication that the election was definitely going to be rigged.

(an individual interview with a representative from IEBC).

Contrary to this, another critic in an individual interview argued that the IEBC was demanding too much and that a developing country like Kenya could not meet the requirements. The respondent maintained that: ‘The Kenyan electoral process should not be compared to the electoral process in developed countries’. The budget funding allocation to the IEBC was a sensitive issue with regard to peace building, and the fact that it was not well implemented, confirms Paris’ (2004:188) element of IBL that maintains that elections should only be held

when mechanisms to ensure compliance with the results of the elections have been fully established.

6.7.4. Foreign intervention, Institutional reforms in the Judicial System and Police as

Peacebuilding

Following the escalated 2007/08 electoral conflict, the Norwegian Ambassador to Kenya, Hellen Jacobsen, argued that Kenya was a vital country in the East African region and that the international community was not ready to watch it slump into anarchy (Khadiagala 2008:4). Scott (2002:97) notes that the absence of human security in certain countries and parts of the world emerging from conflict has been a significant and continuing issue that has confronted the United States and the international community. Where the United States (US) and the United Nations (UN) personnel had been involved in post electoral conflict operations, significant initial progress had been made. People stopped killing, and many more stopped dying. According to Scott, the record shows that the UN and the US interventions successes outweigh their failures when considered from the significant successes at the end of World War II. Post-election conflict situations leave a significant security vacuum that is often the proximate cause for external intervention as was the case in Kenya in 2008. During the escalated 2007/8 postelection violence (PEV) indigenous security institutions; for instance the police and legal services were unable to provide security and operated outside accepted norms (corruption, abuse of power, or threats to regional security based on internal instability). Due to reasons of insecurity and the drastic escalation of violence during the 2007/08 disputed presidential election in Kenya, the international community and the United Nations had no choice but to intervene in the conflict. The intervention focused on the four pillars of post-conflict reconstruction; security, social and economic well-being, justice and reconciliation, and governance and participation. The former

four pillars were all expected to be inextricably linked, and a positive outcome in each pillar depended on a successful integration and interaction across them (Scott 2002:98). Focusing on the issue of institutional reforms (police and legal), it was noted that it is useless to reform the police force alone without reforming other institutions and especially the legal fraternity (individual interview with a senior police official on June 18th 2012). He maintained that ‘To achieve un-violent successful election, not only the police force should be reformed but concurrently, the judicial and other affiliated institutions should also be overhauled and reformed’. Roland Paris’ (2004:188) Institutionalisation before Liberalisation (IBL) paradigm maintains that security institutions and a professional, neutral bureaucracy are essential features of post-election peacebuilding. Research findings revealed that the legal and police institutions had undergone and were still undergoing some kind of institutional reforms, although, it was observed that institutionalisation in both the judicial system and the police force was being faced with some challenges that could contribute towards an escalation of electoral conflict in the future General Elections.

6.7.5. Insecurity control and Police/legal reforms as Peacebuilding

During election periods, for instance in the year 2012 up to early 2013, it was observed that insecurity in the country had increased and that many outlawed groups were increasingly being formed despite the ongoing police reforms (Individual interview with a senior police officer on 27th May 2012). The Prime Minister in a meeting of parliament on 9th May 2012 sounded a warning that there was a possibility of the March 3rd 2013 general elections escalating into violence as a result of a rise in insecurity and tribalism. A senior police officer maintained that ‘Insecurity can be attributed to the alignment of political parties along ethnic lines’. As a result of increased insecurity, the National Security Intelligence Service (NSIS) also warned that

Kenya could end up in chaos during the March 3rd 2013 General Elections. The Minister of Internal Security by then, the late Professor George Saitoti, contended that unauthorized criminal gangs were already evident in the country and that politicians should not misuse the gangs to cause violence during the March 4th 2013 General Elections. Nonetheless, the Internal Security Minister maintained that legislative and structural measures were in place to curb electoral conflict and related violence. In agreement with later findings, a focus group interview with representatives of NSIS on 20th June 2012 also revealed that both the judicial and the police force institutions were undergoing reforms that were deemed to create security efficacy during the March 4th General Elections.

According to a practicing lawyer, a legal scholar and representatives from the human rights committee, it was pleasing to note that Kenyans were likely to be guaranteed the application of justice during the March 3rd 2013 General Elections, given the ongoing reforms in the judiciary. The law implementing arm of the government dealt with reforms in the conduits of justice through the vetting of Court of Appeal Judges. The scrutiny brought hope to many who were denied justice under previous regimes in that even the legal experts were not immune to scrutiny (focus group interviews on 24th June 2012). The following citation explains more:

Now the legal fraternity is better than before. It has been reformed and vetting has been done to chose qualified officials. The laws have also been reformulated to meet the current challenges facing Kenya electoral process. I'm optimistic that the newly created supreme court will and the high court will genuinely handle election disputes and conflicts

(Individual interview with a legal representative).

6.7.6. Intervention of the Commission on Administrative Justice (CAJ) in Peacebuilding

In a focus group interview on June 28th 2013 with legal practitioner participants affiliated to the Commission of Administrative Justice (Office of the Ombudsman) it was revealed that the CAJ was delighted to present its first annual report covering the 12 month period between January and December 2012. The publication of the Report had been carried out pursuant to Article 254 of the Constitution as read together with Section 53 of the CAJ Act. The Commission was established under Article 59 (4) of the Constitution and the CAJ Act, 2011. The CAJ was mandated to enforce administrative justice in the public sector by addressing maladministration through effective complaints handling and alternative dispute resolution. Moreover, the Commission had a constitutional mandate to safeguard public interest by promoting constitutionalism, securing the observance of democratic values and principles and protecting the sovereignty of the people of Kenya in the interests of peacebuilding.

One of the respondents in the focus group interview with legal participants from CAJ, noted that the Commission had achieved some milestones in the handling of complaints and inquiries. For instance, it was said that the CAJ had handled a total of 4,063 complaints and inquiries which included 2,440 complaints inherited from the Public Complaints Standing Committee and 1,622 new complaints/inquiries. Of these 1,398 complaints were resolved.

The CAJ, jointly with other institutions also established a mechanism for referral of complaints, known as the Integrated Public Complaints Referral Mechanism (IPCRM). IPCRM is an electronically-based system of referring complaints for resolution by appropriate institutions. The IPCRM was aimed at enhancing the accessibility and capacity of the CAJ's complaints handling and also strengthened the CAJ partnership with other institutions. Besides the CAJ and IPCRM, it was noted that other institutions involved in peacebuilding and the justice process

included the Ethics and Anti-Corruption Commission, the Kenya National Commission on Human Rights, the National Cohesion and Integration Commission, Transparency International Kenya and the National Anticorruption Campaign Steering Committee. By the date of the focus group interview (June 28th 2013), IPCRM in its pilot phase had facilitated efficient and effective access to the Commission of Administrative Justice's services at devolved levels with a total of 26 complaints being referred to the Commission for action through the IPCRM.

Furthermore, the CAJ played an important role in public sector reforms through participating in performance contracting, training of public officers and provision of legal advisory services. Towards this end, the Commission monitored the implementation of the resolution of public complaints through the assessment and certification of public institutions based on the guidelines that it developed. The guidelines encompassed a number of key requirements, such as the establishment of internal complaints handling and management infrastructure, development and implementation of service delivery charters and submission of quarterly reports by public institutions. The Commission also trained 2,665 public officers drawn from local authorities, government ministries, state corporations and tertiary institutions. Reforms in the public sector improved efficiency and effectiveness in service delivery, mitigated corruption and reduced the practice of negative ethnicity.

Toward peacebuilding, public awareness and advocacy on administrative justice, the CAJ implemented a number of public awareness and advocacy programmes and activities in the interest of peacebuilding. The Commission notably undertook visits to ten (10) counties to create an awareness of its mandate, reminded public officers of their obligations towards equality in service delivery, conducted spot checks on selected public institutions and promoted policies

and administrative procedures on matters relating to administrative justice and peacebuilding. The counties visited included Mombasa, Kilifi, Kisumu, Machakos, Uasin Gishu, Turkana, Nyeri, Kisii, Kakamega, Garissa, and Nakuru. The participants involved in the forums included public officers and representatives of the private sector and civil society. The visit accorded an opportunity to the public at the counties to access the services of the Commission within their environs, enabled the CAJ to undertake spot checks on selected public institutions to determine the extent of service delivery to the public, and identify areas requiring its intervention. During the spot checks, the CAJ discovered challenges in punctuality, adherence to service charters, courtesy and responsiveness. As a matter of intervention, the CAJ developed intervention mechanisms to address the challenges. For instance, the CAJ implemented a number of media education and advocacy strategies aimed at creating awareness of administrative justice and peacebuilding. This included media appearances, press conferences, press statements and coverage on matters of strategic importance that had the likelihood of impacting negatively on governance and service delivery.

In addition, the Commission published various advisory opinions in the print media to inform the Government and the public on the position of the law on a number of matters of importance in public administration in Kenya. The CAJ also participated in the Nairobi International Trade Fair (Nairobi Agricultural Society of Kenya Show) that took place from 1st to 7th October 2012. The show provided an excellent platform for the CAJ to interact with and receive complaints from the public, disseminate Information, Education and Communication (IEC) materials, and provided legal advice to the public on their complaints. The CAJ also received complaints of alleged maladministration from the public. Through the involvement of the CAJ in the Nairobi

International Trade Fair, the knowledge of the Commission was enhanced as evidence by an increment of the number of complaints received after the Trade Fair.

The CAJ also promoted constitutionalism and good governance in the public sector. The Commission, like other Constitutional Commissions, was mandated under Article 249 of the Constitution to safeguard public interest by protecting the sovereignty of the people, securing the observance of democratic values and principles by State Organs and promoting constitutionalism (focus group interview on June 28th 2013 with legal participants affiliated to CAJ). An individual in the focus group interview maintained that:

For sure CAJ's mandate is transforming Kenya in the right direction. Through CAJ, the constitution is protected, Kenyans are assured at least of good governance and politicians will be forced to deliver and if not CAJ was monitoring any violation of public laws and the constitution. Definitely, human rights and the observation of democratic rights will prevail

(Response from an individual in a focus group interview).

In addition, it was noted that Article 59 (2) (h)-(k) of the Constitution and Section 8 of the Act empowered the CAJ to promote constitutionalism and good governance by ensuring ethical leadership and integrity by public officers. Thus, the CAJ's role complemented roles of other public institutions in leadership and integrity. Specifically, Article 59 (2) (h) of the Constitution and section 8 (d) of the Act empower the Constitution to investigate any conduct in state affairs or any acts or omissions in public administration in any sphere of Government that was alleged or suspected to be prejudicial, improper, or which would result in any impropriety or prejudice. In addition, it was noted that the CAJ was empowered to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, or unresponsive official

conduct and misbehaviour in public administration. Generally, the CAJ played an important role in ensuring transparent governance, ethical leadership, good public administration and respect for human rights.

It was also noted that the CAJ implemented a number of strategies to promote constitutionalism and good governance in Kenya including; the issuance of advisory opinions and recommendations, mediation and public interest litigation. Specifically, the Commission issued eight (8) advisory opinions and recommendations on a number of matters of national importance such as the Draft Policy on National Values System, the Truth, Justice and Reconciliation Commission, and declaration of wealth forms. The CAJ's recommendations were later adopted by relevant public institutions. In addition, the Commission participated in a number of court matters of public interest which included the Supreme Court Advisory Opinion Reference No. 2 of 2012 on the application of the Gender Principle and the Jurisdiction of the Supreme Court in relation to presidential elections; Constitutional Petition No. 284 of 2012 on the constitutionality of sections 14, 16 and 23 of the Supreme Court Act, 2011; and Constitutional Petition No. 21 of 2012 on the applicability of section 14, 16 and 23 of the Supreme Court Act, 2011; and Constitutional Petition No. 21 of 2012 on the applicability of the leadership and integrity provisions. In addition, the CAJ initiated measures to enforce compliance with leadership and integrity provisions in the Constitution. Notably, the Commission forwarded a list of 35 individuals to the Independent Electoral and Boundary Commission (IEBC) recommending that they ought not to hold any public or elective offices based on their unsuitability. However, the interviews also revealed that most of the convicts were affiliated to the ruling government and were reshuffled from their positions and given other governmental responsibilities. Only a few of the 35 had permanently resigned from the government. The CAJ also certified 109 judges and

magistrates under the vetting of Judges and Magistrates Act, 2011. Also vetted by CAJ were 60 applicants who sought judicial appointments as Judges of the High Court through the Judicial Service Commission. Two hundred and fifty-eight persons who sought appointive and elective offices were certified by the CAJ. Moreover, the Commission initiated a number of mediations to resolve disputes amicably in line with Article 252 of the Constitution and Section (8) (f) of the Commission on Administrative Justice Act, 2011.

Additional information revealed that the CAJ initiated a number of local and international partnerships and coalitions aimed at enhancing its capacity and promoting good governance. This was achieved mainly through the Forum of Chairpersons of Constitutional Commissions and Holders of Independent Offices that crystallised into a forum for addressing matters of national importance, promotion of constitutionalism and co-ordination of activities of relevant targeted institutions. The Commission also participated in the National Council for the Administration of Justice that reviewed a number of Bills; some of which were enacted into law, and participated in seminars and conferences that focused on administrative justice and good governance. In terms of institutional capacity building and growth, the Commission developed its infrastructure and ensured efficient mobilisation and prudent utilisation of resources to create a robust and effective organisation capable of discharging its mandate (focus group interview on June 28th 2013 with legal participants affiliated to CAJ). A respondent in the focus group interview maintained that ‘The CAJ has recruited enough competent staff and at the moment, it has enough funds to fairly carry out its mandate.’ Chief among these measures included the development of the organisational structure and recruitment of all cadres of staff, development of regulations to fully operationalise the Commission in line with Sections 19 (2) and 56 of the Act. The CAJ also developed governance manuals and a strategic framework, trained staff, developed

and strengthened physical and ICT infrastructure, diversified resource mobilisation and fostered the prudent use of available national resources.

The CAJ recruitment process was transparent and competitive, making the Commission to be one of the public institutions that best complied with the Constitutional provisions on the appointment of staff. However, it was noted that despite the efforts that the CAJ had put in, the Commission was still faced with significant challenges. For instance, one of the top officials of the CAJ noted that ‘the main challenges included inadequate financial and human capital, limited presence at the level of counties, unresponsiveness by public institutions, low public knowledge of the Commission’s mandate and inadequate mechanisms for enforcing the recommendations and decisions of the Commission.’

Focussing on the 2013 General Election, the Commission on Administrative Justice, through the Supreme Court acknowledged that there were several discrepancies in the March 4th General Elections. For example, it was noted that the highest court in the land (Supreme Court) had recognised, after a re-tallying of the votes in 22 stations, that five polling stations had discrepancies between the number of votes cast and those reflected in Form 34 (official signed form declaring election results for presidential elections) and Form 36 (official signed form declaring election results from each polling station in a constituency in respect of each candidate). Moreover, it was noted that in its ruling, the Supreme Court also found out that many Form 34s were missing in some polling stations such as Zowerani Primary School in Kilifi North Constituency, Show Ground in Kapenguria constituency and Mjanaheri Primary School in Magarini Constituency. Also, the aggregate results of Form 36 from 75 constituencies were missing. A participant in a focus group interview with legal practitioner representatives in charge

of electoral conflicts, on 17th April 2013 noted that ‘the stations where discrepancies were recorded by the Supreme Court included Lomerimeri Primary School in Tiaty Constituency, Nthambiro Primary School in Igembe Central Constituency, Kabuito Primary School in Igembe Central Constituency and Mugumoini Primary School in Chuka.’

During the interview, it was also noted that the Supreme Court scrutinised Form 34 used in the tallying of presidential election votes from 18,000 polling stations out of 33,400 polling stations in the country. On March 25th 2013, the court ordered the scrutiny of all Forms 34 and Forms 36. The scrutiny was to obtain a better understanding of the vital details of the electoral process, and gain an impression of the integrity of the electoral process.

In accordance with the legal register of all voters, the Supreme Court also ordered a re-tallying of the 2013 presidential votes in 22 polling stations using Forms 34, 36 and the principal register, as these stations had featured in the presidential vote petition grievance. The purpose of the re-tally was to establish whether the numbers of votes cast in these stations exceeded that of registered voters as indicated in the principal register and as petitioned. In response to the 2013 presidential results petition, while quoting several authorities from judgements across the world, the Supreme Court found merit with the judicial approach in terms of which a party alleges non-conformity with the electoral law. Thus, the petitioner had not only to prove that there was noncompliance with the law, but also that such failure of compliance did affect the validity of the elections. Consequently, the Supreme Court judges concluded that all acts were presumed to have been done rightly and regularly. And it was on such a basis that the respondents bear the burden of proving the contrary. The verdict was concluded despite the fact that the petitioners had observed that the discrepancies during the tallying exercise confirmed former Prime Minister

Raila Odinga's claims that the IEBC and its chairman did not verify the presidential election results as required under the law, and should not have announced the results without accounting for all electoral areas. This was particularly so in light of missing Form 34s from ten polling stations that was highlighted as evidence. The Supreme Court however, proceeded and declared Mr Uhuru Kenyatta to be the President.

Intervening into the 2013 Presidential conflict, the Director of Public Prosecutions requested the Ethics and Anti-Corruption Commission (EACC) to probe the IEBC on procurement irregularities of electronic equipment. This was as a result of the ruling on the presidential poll petition, where the Supreme Court concluded that it was likely that the procurement of the electronic system was marred by competing interests (focus group Interview on 17th April 2013 with legal practitioner representatives in charge of electoral conflict-related cases, and affiliated to the Supreme Court). An individual in the focus group interview noted that ' The tendering and procuring processes of voting equipments have been carried out corruptly by senior governmental officials in the former regime.'

6.7.7. International Criminal Court (ICC) intervention into Kenyan election conflict

The United Nations principles specify that a right to justice means prompt, thorough, independent and impartial investigations and appropriate measures in respect to the perpetrators, particularly in the area of criminal justice, by ensuring that those responsible for serious crimes under international law are prosecuted, tried and duly punished. Article 17 of the Rome Statute provides that any national alternative must involve a state genuinely able and willing to conduct a thorough investigation as well as an independent and impartial prosecution of the accused.

The Rome Statute also provides that the investigation and prosecution must not be undertaken to shield a person from criminal responsibility, nor be conducted in a way that is inconsistent with intent to bring a person to justice.

Maina (2011:3)

This section deals with data about the intervention of the ICC into the 2007/ 2008 post-election violence in Kenya. The ICC played a vital role in the Kenya electoral conflicts including; judicial interventions, its impacts on the electoral conflict antagonists, and the influence on the 2013 electoral organisation and results. Research findings noted that trials of individuals accused of committing gross human rights violations during the escalated electoral conflicts could contribute to peacebuilding and reconciliation (focus group interview on 5th March 2013 and individual interviews by legal practitioners dealing with electoral conflict cases). Also observed, was the fact that depending on how they are managed, international and locally owned justice processes could either foster or impede national reconciliations. Whereas the ICC process had enjoyed wide public support as a vehicle for fighting impunity in Kenya, there was scepticism about the ability of the ICC interventions to promote reconciliation in the country. For instance, it was observed that there had been a fair amount of politicisation around the timing and subjects of ICC trials, which did not contribute to effective dialogue on reconciliation.

However, it was maintained that it was possible for the international criminal trials to contribute to political reconciliation by fostering social conditions required by the rule of law (focus group interview on 5th March 2013). For example, it was noted that Kofi Annan, the African Union envoy who mediated the 2008 peace deal in Kenya said on October 2012 that if an ICC suspect assumed the presidency in the 4th March 2013 General Election, the consequences for Kenya

could be disastrous politically and economically. The following sanctions would be given: first, it was argued that Kenya could be labelled a pariah state by the international community. This would imply that donors might withdraw their moral and financial support from Kenya. Donor funded long-and medium-term plans and projects, such as vision 2030, would be shelved. Poverty levels would rise. Economic growth rates would decline and Kenya would not attain middle income status by 2030. Second, it was noted that Western nations may impose a trade embargo on Kenya if ICC suspects assumed presidency. The African Union, which backed the peace process, may also press upon its members to impose sanctions on Kenya. And Kenya's coveted membership in the East African Community might be threatened, third, it was noted that the United Nations may pull out its official residences in Kenya and set up its base in a neighbouring country, thereby severely affecting the local economy. Revenue gained from United Nations conferences, contracts and projects would then disappear. If the UN was to leave, Kenya would lose millions of dollars that pass through the country's bank. Nairobi's housing and retail markets that cater for UN staff would also collapse.

Fourth, it was argued that if Kenya was sanctioned, like Zimbabwe, Kenyans would start seeking refuge and jobs in neighbouring countries. Kenya might be viewed as a collapsing state as it started generating large numbers of refugees and IDPs. Western countries would also start to impose harsher travel restrictions on Kenyans. Middle and upper class Kenyans who can afford to travel and send their children abroad for further studies may be particularly affected. Fifth, it was noted that if the vice president, Honourable William Ruto and President Uhuru Kenyatta were not going to appear at their ICC trials, they might not be able to represent Kenya at international forums and their travelling was going to be only restricted to countries that promise not to hand them over to the ICC. Thus, they, might in turn decide to follow the path of

isolationism by breaking all international agreements that Kenya is and has been a signatory to. Sixth, it was also noted that if the vice president and the president attend their trials, and even if they were found innocent, they would have to spend a considerable amount of their time at The Hague. Hence, Kenya would suffer an absentee leadership. Anarchy might ensue and as a result, regional warlords may take advantage of the situation and break the country up into fiefdoms. Besides, jealous neighbours may also use the leadership vacuum to gain economic and political supremacy in the region.

Lastly, it was noted that if found guilty, president Uhuru and vice president Ruto were going to face a very tough moment; that would lead to their resignation or impeachment by the National Assembly. At the ICC level, it was argued that the men would go into detention as the court searches for a country to hold them in prison for the duration of whatever sentence is handed down.

According to the Kriegler and Waki Report (2008:71), it was argued that upon conviction of any person charged with post-election violence offences of any nature, such persons shall be barred from holding any public office or contesting any electoral position. This posed a big challenge to the March 4th 2013 General Election, since two prominent politicians from regions that were heavily affected in the 2007 General Electoral violence were contesting as presidential and vice-presidential aspirants despite the fact that they had pending electoral violence related cases at the ICC. As a result, some political representatives affiliated to the Gikuyu, Embu, Meru Association (GEMA) maintained that a free and fair election was not going to be guaranteed if the trial of Deputy Prime Minister Uhuru Kenyatta, former public service boss Fransis Muthaura, Eldoret North Member of Parliament William Ruto and radio presenter Joshua Sang was going

to run concurrently with the General Elections. Despite the GEMA allegations, the ICC maintained that there was no possibility of the cases being postponed or transferred to the local courts in Kenya or the East African court (focus group interview on 25th June 2012). Mr Uhuru Kenyatta and Mr William Ruto still contested the 2013 General Elections and “won” the elections assuming the Presidency and the Vice-Presidency positions respectively.

On 11th March 2013, the ICC at the Hague dropped charges against former Public Service head Francis Muthaura, arguing that key witnesses in his case had either been killed, died, bribed or were too afraid to testify. Additionally, a key witness had been dropped after he recanted a crucial part of his evidence, and admitted that he had accepted bribes. Mr Muthaura and President Uhuru Kenyatta were accused of having been co-perpetrators ‘criminally responsible’ for deportation, rape, murder, persecution and other inhumane acts during the post-election violence of 2008. The ICC Prosecutor told judges that she was unable to get witnesses to prove charges of crimes against humanity against Mr Muthaura. Thus, the ICC prosecutor argued that it was her duty to proceed with the case only when she believed that there was a reasonable prospect of conviction at trial. And if there was no reason for conviction at trial, then it was her responsibility as a prosecutor to take the decision to withdraw the charges. Charges against Mr Muthaura were therefore dropped. It was also argued that the prosecutor’s decision to drop the case against Muthaura had left holes in the case against President Uhuru Kenyatta. And that if the case against President Uhuru Kenyatta had to proceed, it meant that the prosecutor would have the extra work of determining who the President ‘co-perpetrated’ with. One of the presiding Judges questioned what would the withdrawal of the charges against Mr Muthaura mean for President Uhuru Kenyatta who had been charged alongside Mr Muthaura. Nonetheless, it was maintained that cases against President Uhuru Kenyatta, Deputy President

William Ruto and Radio journalist Joshua arap Sang would proceed (focus group interview on 25th June 2012). Also, despite the indifferences and the questioning of Muthaura's verdict, the ICC prosecutor maintained that she was committed to deliver justice for the victims of the 2007-2008 post-election violence in Kenya. According to the Prosecutor the real victims of the terrible violence in Kenya were the men, the women, and the children who were killed, injured, raped or forcibly displaced from their homes-and whose voices must not be forgotten. (Individual interview on 13th March 2013 with a legal representative affiliated to the National Attorney-General). The following quotation explains more:

The ICC is our last resort. Main perpetrators of the 2008 post-election violence must be convicted and charged. We suffered, people were killed , women raped, houses burned, and many were internally displaced. Surely if the ICC does not charge those who planned all this then justice will not have been done. There slim chances that we shall be compensated what we loss and the damage but it is only the ICC that we hope to deliver justice

(Interview with a 2008 post-election victim).

6.7.8.0. Recantation and atrocities of Kenya government against ICC

Besides the ICC prosecutor charging that the witness in Mr Francis Muthaur's case had recanted the testimony after receiving bribes, the prosecutor told judges that Kenya had also failed to provide her with important evidence and to facilitate access to critical witnesses. Moreover, the prosecutor accused Kenya of being uncooperative in the case. For instance, the prosecutor told the Judges at the ICC court that despite its assurances of willingness to cooperate with the court, the government of Kenya provided only limited cooperation to the prosecution. Furthermore, it was alleged that the Kenyan government failed to assist the ICC in uncovering evidence that

would have been crucial or that may have been useful in the case against Mr Muthaura (Individual interview on 13th March 2013 with a legal representative affiliated to the National Attorney-General who was also the go-between the government and the prosecutor). The respondent noted, that ‘the ICC claimed that the Kenyan government had become uncooperative with matters pertaining the cases.’

6.7.8.1. United States restates stance on Uhuru and Ruto on ICC

During an individual interview on 8th February 2013 with a diplomatic representative of the United States of America in Kenya, it was revealed that the US President Barrack Obama had instructed the top US diplomats for African Affairs on 7th February to send a veiled message that the election of the Jubilee flag bearers as president and vice-president in the March 4th 2013 General Elections could be received negatively by the United States because the two were facing charges of crimes against humanity at The Hague. Although, during the interview it was argued that the US Assistant Secretary of State Johnnie Carson, while addressing the USA envoy to Kenya did not specifically say that the US-Kenya relations would suffer if the Jubilee team won the Presidential election. Mr Carson’s caution came just two days after a video statement on Kenya by President Barack Obama welcomed the Jubilee Presidential candidate Uhuru Kenyatta and his running mate William Ruto as an indication that the US government had no objection to their taking power. However, Johnnie Carson maintained that the US believed that individuals accused of crimes against humanity should go before the courts to prove their innocence and suffer the consequences of the judgements if they were found guilty. Carson concluded by maintaining that even though the US was not a member of The Hague based court, it supports The-Hague’s mission on crimes against humanity (individual Interview on 8th February 2013 with a diplomatic representative of the United States of America in Kenya). He also advised that

‘for the county to maintain harmonious international relations, the government should cooperated with the ICC.’

6.7.8.2. International Criminal Court (ICC) prosecutor drops charges against President

Uhuru Kenyatta

On December 4th 2014 the ICC Prosecutor withdrew the Post Election Violence (PEV) charges against President Uhuru Kenyatta. The prosecutor argued that she had no choice but to drop charges against President Uhuru Kenyatta since the government of Kenya through the State Law Office and other agencies had fought off the ICC prosecutor’s request for the identification of Presidents Kenyatta’s financial and property records, partly leading to the collapsed case. The ICC prosecutor maintained that the PEV case against presidents Uhuru Kenyatta was weakened by the failure of the government of Kenya to cooperate fully and effectively with the ICC.

6.7.8.3. Anticipated consequences of terminating PEV charges against President Uhuru

Kenyatta

The dropping of PEV charges against President Uhuru Kenyatta was received with mixed reactions from the Kenyan and the International community at large. PEV victims, some of the clergy and an opposition senator were dismayed at turn of events in The Hague on the December 4th 2014 termination of the case against President Uhuru Kenyatta. According to a senator from the one of the counties in Kenya, a Catholic Bishop from the Rift Valley and victims of the PEV from Nyanza county noted that the Prosecutor’s move to terminate President Uhuru Kenyatta’s 2007/2008 PEV case was the end of the road for the quest for justice for thousands of Kenyans (Individual interview with an affiliate official of Amnesty International on 4th December 2014). Three of the PEV victims from Nyanza Province were of the opinion that President Uhuru

Kenyatta should ensure that PEV victims from Nyanza province are also compensated as their counterparts in Central and Rift Valley Province. The chairman of the Nyanza Internally Displaced Persons (IDPs) network that consists of more than 30,000 members, said that ‘he was disappointed by the dismissal of PEV case at The Hague against President Uhuru Kenyatta but would let the rule of law prevail.’ According to this respondent, the Nyanza (IDP’s) had a lot of hope that ICC would give them justice for the property and the loved ones that were lost during the 2007/2008 PEV. According to the chairman of Nyanza IDPs, the compensation paid to the 2007/2008 PEV victims was lopsided. PEV victims in Central and Rift Valley were given 400,000 Shilling each while those in Nyanza were forgotten, said the chairman of the Nyanza IDPs.

One of the senators from the Western province was of the opinion that ‘the decision of terminating President Uhuru Kenyatta’s ICC case was a big blow to the PEV victims.’ He said that “I do not want to sound harsh towards the ICC, but the prosecutor’s decision to terminate the ICC PEV case against President Uhuru Kenyatta showed that the Prosecutor and the ICC had finally abandoned the 2007/2008 PEV victims’’. The senator added that the decision of dropping charges against President Uhuru Kenyatta might also mark the end of the JUBILEE coalition as it was likely to create unease among the Kalenjins. “Should the Kalenjins decide to go angry all the way, this was going to mark the end of the tyranny of numbers,” said the senator. A Catholic clergy man from the Rift Valley said that charges against Deputy President William Ruto should also be dropped for peace and stability to prevail. According to the Catholic clergyman “there was no problem with Mr Kenyatta’s release, but it was going to be unfair to try one side. He said that according to his following of the Kenya 2007/ 2008 PEV evidence, there

were aggressors and those who retaliated. So where will the acquittal of one side leave the other?” the Catholic clergyman questioned. The Catholic Clergy maintained that the ICC Prosecutor should tell the PEV victims and the International community who conducted the retaliatory attacks. Moreover, the Clergyman added that Kenyans knew as a certainty that people from various tribes had been killed. Does the ICC Prosecutor want Kenyans to believe that it was Mr Ruto, the sitting Deputy President who did all that.” He also questioned why it took so long for the ICC Prosecutor to declare that she had no evidence against President Uhuru Kenyatta. One of the 2007/2008 PEV victims who lost everything at his mobile accessories shop, lost both of his hands while his wife lost most of her teeth and his child who was beaten and was now deaf and dumb said that he was very disappointed by the withdrawal of the ICC case against President Uhuru Kenyatta. “If no one was guilty, what do you explain to the PEV victims in various parts of Kenya?” He asked. Another PEV victim from Kisii county felt that the ICC did not collect evidence from those who were affected. ‘The court forgot that the PEV victims were available and that the court could not thus claim that it does not have evidence.’ He maintained that the PEV were all available to tell their experiences. ‘How can the ICC say that they don’t have evidence?’ he asked. Lastly, the victim said that ‘president Kenyatta should compensate all the 2007/2008 PEV victims without bias and in that way, they would see a little justice.’ A representative of Amnesty International, during an individual interview maintained that justice for the 2007/2008 PEV victims was still an urgent priority. “The withdrawal of ICC PEV charges was not a vindication of President Uhuru Kenyatta; rather it was an indictment of the Government of Kenya and the ICC, both of which continue to fail the victims by denying them the justice they deserve,” Said a top official from the Amnesty International East African region during an individual interview.

6.8. Do you think Peacebuilding and intervention measures have been successful?

According to respondents from the Electoral Institute of Sustainable Democracy in Africa, in a focus group interview, it was noted that peacebuilding intervention measures had been carried out in the electoral violence hot spots, including the Rift valley (Kitale, Eldoret and Nakuru), Nyanza, and the Coast. Positive behavioural changes had been observed among the antagonists in those places. However, at the time of the interview, it was also noted that it was still uncertain whether the 4th March General Election was going to be violence free. This was a response that indicated that peacebuilding intervention measures had not been achieved fully. In another focus group interview on 5th February with clergy respondents in Rift Valley Eldoret (a region which was badly affected by the 2007/2008 electoral ethnic violence among the Kikuyu and Kalenjin tribes) it was also agreed that peace building measures and efforts had also received a positive reception in Rift Valley. Through the intervention efforts of the Catholic clergy, positive ethnicity had been achieved among the protracted ethnically divided neighbours, the Kikuyu and Kalenjin tribes. Before peacebuilding interventions, the two antagonists could not live in the same neighbourhood, but during the focus group, it was noted that they were at the moment living in harmony despite the experiences of the past. However, another respondent in the focus group interview maintained that the unity among the Kikuyu and the Kalenjin tribes was as a result of the fact that both tribes had had their political leaders implicated in the 2007/2008 post-election violence case at The Hague. A factor that brought them together, uniting them to share the same accusation despite of their previous ethnic differences.

Justifying the fact that peacebuilding measures had not succeeded fully by the 2013 General Election, it was noted that insecurity in the country had increased and many outlawed groups

were increasingly being formed (Individual interview with a senior police officer on 27th May 2012). He noted that ‘within a span of one month, more than one hundred crime related death had been reported in his station of work. A number that was three times more as compared to previous months.’ In response to increased insecurity towards the 2013 general elections, the Prime Minister during a parliamentary meeting on 9th May 2012, sounded a warning that there was a possibility of the March 3rd 2013 general elections escalating into violence. This was attributed to the alignment of political parties along ethnic lines, indicating that ethnicity still prevailed and that peacebuilding measures had not yet succeeded. In the same vein, information from the National Security Intelligence Service (NSIS) revealed that Kenya could end up in chaos in the March 3rd 2012 General Elections due to the emergence of political ethnic alignments; for instance, the KAMATUSA and MUNGIKI fostered negative ethnicity (focus group interview on July 5th 2012). Further information from IEBC delegates in a focus group interview revealed that mock elections held in Malindi and Kajiado North, were enough evidence that violence was a major threat to the March 4th General Elections and thus, peacebuilding measures had not succeeded.

Focusing on the electoral body, it was argued that despite the fact that the Electoral Commission of Kenya (ECK) had undergone peacebuilding geared reforms that saw ECK transformed into the Independent Electoral and Boundaries Commission (IEBC) the Former Prime Minister, the CORD party and majority of the opposition leaders maintained that the IEBC displayed incompetency during the 2013 general election and that it should not therefore be allowed to conduct the next polls in 2017, as it is currently constituted. A respondent in the focus group interview maintained that ‘ the IEBC was constituted of corrupt officials, weak policies and structures.’ According to the former Prime Minister, IEBC needs an overhaul to guarantee a

genuine election come 2017. Moreover, it was maintained that IEBC as currently constituted should not be allowed to conduct the next elections in 2017 and that Kenya needed a reformed electoral institution before 2017 to mitigate electoral conflicts and related violence (focus group interview on 19th April 2013 with representative affiliated to the CORD party of the former Prime Minister and other opposition parties representatives).

6.8.1. Some of the key milestones achieved by the National Cohesion and Integration

Commission (NCIC)

Even though Peacebuilding in Kenya has encountered some challenges, key institutions involved in the Peacebuilding process have achieved a number of milestones. For instance, the National Cohesion and Integration Commission (NCIC) which was the only long-term Commissions and a statutory body that was established under the National Cohesion and Integration Act, No. 12 of 2008 enacted after the 2007 post-election violence and subsequent political negotiations achieved the following peacebuilding milestones. First, was a peace accord signed between the elders of Kalenjin and Kikuyu rival ethnic communities. The community peace dialogues saw the Kalenjin and Kikuyu elders come together with their counterparts in other communities living and conducting business in Nakuru County where they signed a peace accord to ensure that they observed peace at all times (Focus group interview on 23rd February 2013 with NCIC representatives). One of the respondents in the interview noted that ‘the elders agreed that they should break the jinx of violence every election year since 1992 by providing an environment of peace.’ The accord appreciated the fact that although the two communities had been antagonists for a long time, they had underscore the importance of solving the underlying problems peacefully.

Second, during the focus group interview, it was noted that the process of having the peace accord signed with both parties started when NCIC conducted a conflict mapping prior to the 2005 and 2010 referendums. Through, the NCIC conflict mapping, it was confirmed that in the Nakuru County in the Rift Valley, the key players of violence were more often than not the two leading communities in the area, namely the Kikuyu and the Kalenjin. Thus the NCIC Commission intervened by bringing the representatives of the two protagonists (Kikuyu and Kalenjin) together to explore ways for establishing sustainable peace before, during and after general elections. As a result, representatives of the Kikuyu and Kalenjin agreed on a peace agreement as the way forward. It was argued that indeed, the government and other partners had invested heavily on peace initiatives in the Rift Valley province before without attaining any sustainable peace. Research findings revealed that stakeholders starting with the government, churches, Non-Governmental Organizations (NGO's), faith based organizations and the civil society had consistently held seminars, workshops and public *barazas* on the same theme of peace building and reconciliation with minimal results when compared with the NCIC achievements of a peace accord. One of the strategies used by the elders in peacebuilding to achieve the peace accord was to promote intermarriages between different communities as a way of having a harmonious co-existence in the nine districts that form Nakuru County.

The Nakuru County peace accord also served as an example to other volatile parts of the country to be emulated to promote peace between different communities before, during and after the next general elections. An early conflict warning team was also created with the full backing and blessings of the elders from the Kikuyu and the Kalenjin tribes to predict and manage violent conflicts. In addition, respondents affiliated to the NCIC said that there were other reconciliation efforts that the Commission had facilitated besides the peace accord. This included

reconciliation between the Kipsigis and Kisii in Borabu/Sotik; reconciliation between the Nandi and Luo in Nyando; reconciliation between the Orma and Wardei in Bura/Tana River; reconciliation between Borana and Burji in Moyale and reconciliation of the Gabra and Borana in Moyale. Lastly, it was accentuated in the focus group interviews that for a peaceful non-violent society to exist, cohesion and integration must be enacted.

6.8.2. Police reform milestones towards peacebuilding

Focusing on the 2013 General Elections, research conducted by Amnesty International about Police Reforms in Kenya indicated that police operations and procedures that were in place a number of years ago during the 2007/08 post-election violence had remained unchanged until the 2013 General Election period (Individual interview with a representative from Amnesty International on January 30th 2013). Furthermore, it was noted that Amnesty International observed that realistically the 4th March 2013 General Election took place without concrete pre-reform policing apparatus in spite of the new leadership and a new constitutional Policing Act. In this regard, peacebuilding efforts towards police reforms did not succeed.

Moreover, the interview noted that because of the failure to properly support the police reform process, many fear-rank and file police officers did not fully comply with all provisions of the policing structure as stipulated in the new Police Act. The new structure is contained in the National Police Service Act, as well as the National Police Service Commission Act, that was enacted in 2011, although it was yet to be fully implemented. Citing an example, a representative from Amnesty International said that senior police officers were required to be vetted and those found unfit sent home or removed from the key positions they held. But this had not yet been implemented by the period of the 2013 General Elections.

Another focus group interview with officials from the National Police Service Commission (NPSC) on 3rd July 2013 revealed that the police team was divided over the proposed changes to the Bills reforming the police service. For instance, it was noted that the NPSC had opposed the proposed amendments to the National Police Service (Amendment) Bill and National Police Service Commission (Amendment) Bill, terming them unconstitutional. Also, it was argued that some members of the commission led by the Inspector General of police and his deputies supported the proposed changes, while others termed them illegal. A participant in the focus group interview uncovered the fact that the two rivalling groups in the police force had met before the Commission for the Implementation of the Constitution (CIC) and openly differed, with each side giving reasons for their stand. On one hand, it was noted that any amendments to the NPSC and NPS Acts, which entailed the removal or derogation of the functions of appointments, transfers, promotions and discipline from the NPSC to the institution of the Inspector General (IG) was unconstitutional and was obviously going to meet a barrage of litigation towards that effect, while, on the other hand the IG and his team argued that the changes were aimed at ensuring that governance benefited all Kenyans. The IG however argued that the changes were in order because of overlaps in the two Acts on the mandates of the IG and of the commission. This clearly indicated that in-spite of the breakthrough of reforms in the police institution, the process was encountering hurdles. Though not yet successful, at least, it was a step forward towards peacebuilding efforts.

Further information, revealed that the proposed police reforms posed a challenge. For instance, sources from the police force indicated that the majority of the police prosecutors were opposed to the reforms of harmonizing their activities under the office of the Director of Public

Prosecution, arguing that their terms of service were going to be adversely affected. According to a senior police officer, police officers were ill-equipped, inadequately trained, unmotivated and poorly remunerated, and that expecting exemplary service delivery from them was like asking one to reap where he had not sowed (individual interview by a senior police officer on June 23rd 2012). He argued that ‘because the police force was de-motivated, crime rate’s had been escalating with some of the policemen being involved in the crimes committed.’ This scenario, posed security challenges to the March 4th 2013 General Elections; more so because the police force had been under pressure to reform, especially after the 2007/2008 escalated post-election violence.

6.9. Have peacebuilding measures been improved recently?

Asked if the peacebuilding measures had been improved recently, a majority of participants in focus group interviews and individual interviews noted that an improvement in peacebuilding efforts took place through reforms in key institutions that directly influence security and peace in the country. In this regard, institutional reforms took place in the judicial (for instance vetting of judges), the police force, though with slow implementation of the proposed policies, of the constitutional and governmental devolution. Moreover, towards peacebuilding efforts from 2007-2010 the Electoral Commission of Kenya was reformed and transformed into the Independent Electoral and Boundary Commission (IEBC). The Truth, Justice and Reconciliation Committee (TJRC) was also created as an effort to build peace, seek justice for those affected with post-election conflicts and reconcile the adversaries. According to Crocker (2000), Connolly (2012:7-8) and Mbugua (2011:25) Truth Commissions also provide recommendations regarding legal, administrative and institutional measures that should be taken to prevent the recurrence of human rights abuse by the government of the country involved. A representative

from the Electoral Institute of Sustainable Democracy in Africa (EISA) also noted that constitutional reforms towards peacebuilding had taken place and a new constitution had been implemented in 2010. Besides the constitutional reforms and implementation of the new constitution, constitutional amendment was to be an on-going process through the parliament.

6.10. How have peacebuilding measures been improved?

During a focus group interview on 26th June 2013 with representatives from the Kenya National Commission on Human Rights (KNCHR), it was noted that KNCHR had been actively involved in the constitutional review process by advocating for the inclusion of an expanded Bill of Rights. As a result of constitutional reforms, Kenyans enjoyed a constitutional right to water, food, housing, security and education. Through the interview with representatives from KNCHR, it was noted that KNCHR had been at the centre of both institutional and legislative reforms and in particular, KNCHR had spearheaded reforms in the security sector and the justice sector. To achieve its objectives, KNCHR also conducted public education across the country, targeting remote areas and empowering the public to claim their constitutional rights.

In addition, KNCHR worked with the Vision 2030 Secretariat to ensure that development in the country was in compliance with Human Rights Standards. In its work, KNCHR was guided by the values of integrity, accessibility, impartiality, independence, and inclusiveness. In recognition of their work, KNCHR was accredited an 'A' Status by the International Coordinating Committee of National Human Rights Institutions.

A participant in the focus group interview further noted that the KNCHR still continued its engagement with the legislative and judicial arms of Government through the lobbying for

enactment of Bills; key among them the Prevention of Torture Bill 2011, Access to Information Bill, and the Special Tribunal for Kenya Bill. The KNCHR spearheaded the development of an IDP policy and law, judicial reforms that included the development of a Judges and Magistrates vetting tool. It also, established and strengthened court users committees around the country for improved efficiency of the criminal justice system.

Also, the KNCHR had numerous engagements with the traditional justice mechanisms around the country by continuously infusing human rights principles into the management of cases through a traditional justice approach. The Luo Council of Elders in Nyanza province, the Njuri Ncheke of Eastern province, and the Maslah system of the Northern Kenya region were given as examples of successful engagements that KNCHR commission engaged, leading to positive justice transformation and thus building-peace (focus group interview on 26th June 2013 with representatives from KNCHR). One of the respondent maintained that ‘indeed KNCHR had contributed significantly to tribal reconciliation and peacebuilding.’

6.11. When were the peacebuilding measures improved?

During a focus group interview on 26th June 2013, representatives from the KNCHR, noted that some peacebuilding achievements were attained in the 2009-2013 Strategic Plan Period. This was the period between the escalated 2007/2008 post-election conflict where at least 1300 people died and more than 350,000 were internally displaced. Officials from the National Cohesion and Integration Commission (NCIC), argued that they had achieved some of their milestones at least five years after the 2007/2008 post election violence (focus group interview on 10th February 2013). NCIC, was a statutory body established under the National Cohesion and Integration Act, No. 12 of 2008 enacted after the 2007 post-election violence and subsequent political

negotiations. It was the only long-term Commission. A participant from KNCHR argued that ‘peacebuilding objectives had taken long time to be achieved because of inadequate funding of peacebuilding projects, weak governmental institutions and policies.’

6.12. Has there been any large-scale training of conflict management or Peacebuilding strategies to political leaders and security forces?

Through a focus group interview on 26th June 2013, representatives from KNCHR noted that some critical public institutions (such as the National Police Service, the Kenya Prison Service, and the Judicial Service Commission among others) had made progress in the reform agenda and conflict management training. However, it was argued that there was still a need to monitor the reforms through continuous, wide-scale conflict management education to ensure that the reform momentum was maintained. Peacebuilding and conflict management education and an enlightenment process was not carried out on a large scale. Moreover, it was observed that mainly the minority elite, professionals and civil servants affiliated to the latter institutions were the only ones privileged to be trained and enlightened either about conflict management or peacebuilding. The majority of the wider population including middle and low class level citizens were not informed, educated or aware of conflict management and the peacebuilding process. One of the local civilians thought that ‘peacebuilding was a mandate of the government, its officials, the United Nations, and Non-governmental Organisations in the urban centres without involving civilians.’ A local village elder maintained that he had never heard of the concept of peacebuilding even at the local meetings (baraza) with the village administrators and chiefs.

6.13. Thinking about the peacebuilding process, do you feel that it has succeeded or failed in transforming the electoral related conflicts in Kenya?

Asked if peacebuilding processes had succeeded in transforming the electoral conflict, divergent views were given during the interviews. On one hand, there were those respondents who maintained that peacebuilding had succeeded or at least transformed electoral conflict. Such were participants from the minority elite class, and top officials in the legal and police institutions. On the other hand, a majority of the civilians were not aware of any peacebuilding processes and had the perception that the peacebuilding process did not succeed in transforming electoral conflicts. It was moreover observed that there were regions, such as in the Rift valley where peacebuilding efforts had taken roots while in other regions, peace efforts were reported to have failed or were never even carried out. For instance, in Mandera, in North Eastern province and in some parts of the Mombasa coast, peacebuilding education and similar efforts had not been carried out at all. During a focus group interview with Catholic clergy in the rift valley in Eldoret town on 7th January 2013, it was noted that through the church's peacebuilding efforts, the long time major protagonists in the region (the Kalenjin and the Kikuyu divided ethnic communities) had united. The internally displaced people (IDPs) who had left their homes in fear of post-election ethnic conflict re-escalating into violence, had returned and were living in harmony with their former foes through the Catholic Church's reconciliation efforts.

However, an individual in the focus group interview argued that the harmony between the Kalenjin and Kikuyu communities had been brought about by the sharing of a common predicament (The Hague case that involved leaders of the two communities). The Hague cases involved Mr Uhuru Kenyatta (Kikuyu ethnic leader representative) and Mr William Ruto

(Kalenjin ethnic leader representative) over the 2007/2008 escalated post-election conflict but during the 3rd March 2013 General Election, Mr Uhuru Kenyatta united and formed a coalition with Mr William Ruto. Consequently, the Kalenjin and Kikuyu communities also united, fulfilling Malik's (2014:1) argument that the peaceful 2013 elections in Kenya were not a product of leaders commitments to peace per se. Instead, peaceful elections in Kenya occurred when unique domestic (national elections & coalition building on ethnic grounds) and international developments (International Criminal Court interventions) drove politicians and elites to unite rival ethnic antagonists in coalitions of convenience. Furthermore, Malik contends that politicians' decisions to unite historically rival communities do not reflect their commitment to peace and the peacebuilding process. A participant in the focus group interview maintained that the unity would be pegged to the Hague case outcomes. An IEBC representative who carried out a pre-election trial in Mombasa county, Kisauni and Likoni constituencies revealed that indeed, such regions had not encountered any peacebuilding initiatives, or if they had, then the peacebuilding efforts had failed. The IEBC representative justified his argument by maintaining that during the 2013 pre-election trials, violence erupted in Kisauni and Likoni and the trials could not be carried out at all (Individual interview on 6th January 2013 with IEBC official). According to the respondent, 'people from Kisauni and Likoni did not see any positive outcomes of being involved in an election, and elections remained to be a trigger of violence.'

Officials from the National Cohesion and Integration Commission (NCIC), also argued that indeed, the Government and other partners invested heavily in peace initiatives in Rift Valley province without attaining sustainable peace for three years before NCIC achieved some of its objectives. Furthermore, it was noted that peacebuilding stakeholders starting with the government, churches, non-governmental organizations, faith based organisations and the civil

society had consistently held seminars, workshops and public barazas on the theme of peacebuilding with minimal results (focus group interview on 26th June 2013 with representatives from KNCHR). An individual in the focus group interview argued that ‘even though peacebuilding sensitisation had taken place, a lot was still to be done and minimal positive peacebuilding results had been achieved. There was still tension among protagonists in the Kenyan electoral conflict.’

6.14. Have peacebuilding efforts, ideas, skills and knowledge in Kenya reached the majority of the population? And are the majority populations aware of the peacebuilding efforts and their success in transforming the conflict?

Research findings revealed that peacebuilding efforts, ideas, skills and knowledge in Kenya did not reach majority of the population. However, it was noted that in specific, selected regions such as the Central province, Rift Valley (urban areas like Nakuru and Eldoret), Nairobi city, and in major towns, people were enlightened about the peacebuilding process. They were fairly aware of the peacebuilding ideas and efforts on the ground, of what had been achieved, what failed and what was yet to be achieved. In these regions, citizens had been somewhat educated about peacebuilding. In the more remote areas and interior regions of Kenya where the population is high, peacebuilding efforts, ideas and skills were not realised (Individual interview on 26th June 2013 with an official from KNCHR). Research findings revealed that it was only the elite class, those involved in peacebuilding projects, a majority of the politicians, government officials and civil society leaders that were aware of peacebuilding ideas and efforts. A few civilians were aware of peacebuilding efforts and ideas especially in the countryside. In the rural area in most of the counties, majority of the population were totally unaware of any peacebuilding initiatives. The majority in the rural areas thought that the absence of violent war

was peace, they did not have any information about peacebuilding and thus could not comment on whether peacebuilding was successful or not. Respondents who were directly involved in the peacebuilding projects pointed out their success in transforming electoral conflict as well as the difficulties they encountered. According to one of the respondent, ‘some area’s were inaccessible due to poor roads and infrastructure and hence peace-builders could not access such regions.’ Another respondent argued that ‘ peacebuilding messages were written in English and Swahili and this posed a language barrier to majority of the local civilians who did not understand English nor Swahili.’ He argued that ‘peacebuilding sensitisation should be conveyed in mother tongue and by the local civilians and not only by the selected individuals working with peacebuilding organisations.’

6.15. Is the Peacebuilding process in Kenya changing the attitudes and behaviors of Kenyan citizens and solving the tribal and political party differences?

The peace accord signed between the Kalenjin and Kikuyu elders (focus group interview with officials from NCIC on 10th February 2013) was the most outstanding milestone achieved in the peacebuilding process. The Kalenjin and Kikuyu tribes were among the main protagonists in the 2007/2008 escalated post election violence. During the focus group interview, it was also revealed that community peace dialogues saw the Kalenjin and Kikuyu elders come together with their counterparts in other communities living and conducting business in Nakuru County, Rift Valley where they signed a peace accord to ensure that they were going to observe peace at all times. This was a symbol of an achievement in the peacebuilding efforts. The accord appreciated that the two communities that had been antagonists for a long time were now united. Also, the accord underscored importance of solving underlying problems among the kikuyu and Kalenjin peacefully. The process to have the peace accord signed by both parties started when

NCIC conducted conflict mapping prior to the 2005 referendum. The NCIC intervened in the deep-rooted ethnic conflict between the Kikuyu and Kalenjin by bringing representatives of the two protagonists together to explore ways for establishing sustainable peace before, during and after any proceeding general elections. Representatives of the protagonists agreed on a peace agreement as a way forward although, it was noted that if political differences emerged between Kikuyu-Kalenjin unity then the peace accord could be rendered null and void again. An individual in the focus group interview noted that ‘previously, unity among the Kikuyu and Kalenjin communities had been created although, the unity never lasted and escalated each election period.’ Moreover, he maintained that the current peace accord had been motivated by the fact that the leaders of the of the two communities had formed a political alliance and both had electoral cases at the Hague.’ Another respondent was of the view that if one of the ICC suspects either from the Kikuyu or the Kalenjin ethnic community was jailed and the other one rendered innocent then the peace accord between the two would also be nullified.

6.16. Does leadership still appeal to ethnic difference and other dangerous issues?

Research findings from individual interviews and focus group interviews revealed that individuals in regions whose political representatives were elected to form the Jubilee government were impressed with leadership, electoral process, and governance. However, individuals affiliated to the opposition parties such as the Coalition for Reforms and Democracy Party (CORD) were not delighted with the theme of governance and elections. They did not trust the integrity of the Independent Electoral and Boundary Commission (IEBC), the elected government and the democratic process that was prevailing in the country. Generally, ethnic groups affiliated to the government embraced leadership while those in the opposition had little faith in leadership, the IEBC and the prevailing democracy in the country. On one hand, the

GEMA community that consists of the Kikuyu and other affiliate tribes and the Kalenjin's were impressed with leadership since the 'elected president' was from the GEMA community and the vice president from the Kalenjin Community. On the other hand, the Luo, Luhya, residents from the Coast province, and Ukambani were not impressed with leadership, the electoral process, and the running of government. They were of the view that the March 3rd 2013 general elections had had been rigged and the incumbent government had been created on principles of impunity. Thus, although there were no pronounced ethnic differences that would escalate into post-election violence during the 2013 general elections, still ethnic communities affiliated to the opposition were not impressed with the electoral process and they felt dehumanised by the outcomes of the general elections and the serving government.

For instance, in the Coast province, a majority of the citizen were not impressed with the election process before and after the 2013 general elections. As a result, an outlawed group; namely the Mombasa Republican Council (MRC) vowed not to vote during the March 3rd 2013 general election. The MRC also contended that the Coast province should form a separate country since they did not have trust in the Kenyan government and the whole electoral process. The MRC felt that their identity was not recognised by the government and were treated as if they did not form part of the Kenyan population.

6.17. Has Peacebuilding in Kenya managed to reconcile and heal the vicious circle of electoral conflicts in Kenya?

Research findings revealed that peacebuilding in Kenya had reconciled the Kikuyu and the Kalenjin ethnic groups through the signed Peace Accord. This peacebuilding did not, however entirely heal the broken vicious circle of electoral conflicts. During the 2013 general elections,

the Kalenjin and Kikuyu united and voted against the Luo and Luhya ethnic groupings. Electorally related conflicts between the Kalenjin and Kikuyu were therefore de-escalated by the process. However, a latent ethnic conflict was created between ethnic groups aligned to the ruling JUBILEE coalition government and the opposition CORD coalition. This scenario was attributed to the alignment of political parties along ethnic lines (focus group interview on July 5th 2012 with informants affiliated to the National Security Intelligence Service). A respondent noted that ‘although violent conflict was not present, there existed latent tension between supporters of the opposition and the ruling government and their affiliated ethnic groupings.’

As a result of ethnic differences around the March 2013 general elections, the National Security Intelligence Service (NSIS) warned that Kenya could end up in chaos ignited by the elections due to the emerging alignment of politics with ethnicity. It was noted that such ethnic alignment could have fostered negative ethnicity and hence, proved that indeed peacebuilding measures had not managed to reconcile or heal the vicious circle of electoral conflicts in Kenya. Proving the fact that the vicious circle of electoral conflicts still existed in Kenya around the period of the 2013 general election, the IEBC representatives during a focus group interview maintained that mock elections held in Malindi and Kajiado North, were enough evidence that electorally ignited violence was a major threat to the March 4th general elections, and this was attributed to insecurity, ethnic differences and identity issues. In response, President Mwai Kibaki urgently intervened by calling for a two day conference (Peaceful Election Forum) from 7th to 9th June 2012, that was held in Mombasa and attended by all members of parliament, and the legal and security policy makers and implementers. The core theme was to call for a peaceful election in the March 4th 2013 general election (individual interviews by representatives affiliated to the ministry of Internal Security on 14th June 2012).

Peacebuilding efforts managed to reconcile the Kikuyu and the Kalenjin major ethnic and electoral conflict antagonists. For instance, peacebuilding efforts carried out by the Catholic Church in Eldoret (Rift Valley) reconciled the Kikuyu and the Kalenjin ethnic groups. Although; it was also argued that reconciliation of the Kikuyu and Kalenjins was tied to The Hague case that acted as a unifying factor since the leaders of the two ethnic antagonists shared the same problem of being major suspects of the escalated violent 2007 Post Election Violence (PEV) that left thousands dead and more than 300,000 displaced. Following the reasoning that The Hague case was a unifying factor, some respondents were of the opinion that the reconciliation between the Kallenjin and Kikuyu depended on the final verdict of The Hague court and the unity could break if of the political leaders were to be found guilty and then jailed.

Interviewing those who were directly involved in the 2007/2008 PEV and the Internally Displaced Persons (IDPs), it was observed that a majority of those people still felt the wounds of losing their loved ones; they still had memories of how their houses and properties were burned and all the violent deeds that were committed against them. As a result, during the 2013 general election period, those in the regions that experienced violence in 2007/2008 temporarily migrated to other, safer regions in fear of a repeat of the 2007/2008 PEV. Moreover, even though some of the IDPs had been brought back into their original lands and others relocated to new regions, they still experienced fear during election periods. The March 3rd 2013 general election did not escalate into a PEV but still divided the country along ethnic divisions in a way that could escalate during any subsequent referendum or election.

6.18. Conclusion

This chapter has presented the research findings. Responses from focus group interviews, selected individual interviews and literature reviews have been integrated in writing up the research findings. Thus, responding to the research questions the chapter examines the causes and course of electoral conflicts in Kenya, the specific forms of election related conflicts, failures of the Independent Electoral and Boundary Commission (IEBC), effects and consequences of electoral conflicts, solutions to electoral conflicts, and how to manage and transform electoral conflict. Moreover, the researcher has assessed peace building and the interventions of different institutions in managing electoral conflicts including the International Criminal Court (ICC) and the National Cohesion and Integration Commission (NCIC). Also, the research findings indicate the extent to which the peacebuilding process has managed to reconcile and heal the vicious circle of electoral conflicts. The findings in this chapter have been analysed in the next chapter in accordance with the liberal peace theory and Institutionalisation before Liberalisation approaches.

CHAPTER SEVEN: ANALYSIS OF THE RESULTS

7.1. Introduction

Mills, Bonner and Francis (2006:3) note that depending on the researcher's ontological and epistemological beliefs, there are several points of departure along a spiral of methodological development in constructivist grounded theory. Engaging in any form of grounded theory study, however, requires the researcher to address a set of common characteristics: theoretical sensitivity, theoretical sampling, treatment of the literature, constant comparative methods, coding, the meaning of verification, identifying the core category, memoing and diagramming, and a measure of rigor (Mills et al in reference to McCann & Clark, 2003). This chapter provides a constructivist grounded theoretical analysis of the research findings with close reference to the main research question, the study objectives, literature review, Paris' 2009 Institutionalisation before Liberalisation (IBL), liberal peace and the Institute for Democracy and Electoral Assistance (IDEA) approaches to electorally-related conflicts.

Grounded theorists identify categories and concepts that emerge from text and link these concepts into substantive and formal theories (Denzin and Lincoln 2002:15). Treatment of the data and their analytical outcomes is the main theme of Charmaz's (2000) explanation of how researchers undertake studies using constructivist grounded theory. Constructivism entails making meaning from the data, and rendering participants' experiences into readable theoretical interpretations. According to Mills, Bonner and Francis (2006:4) the common characteristics of grounded theory include; theoretical sensitivity, treatment of the literature, coding, diagramming,

and identifying the core category; with a view to discerning a constructivist approach to inquiry. In this study, the data was analysed into themes, subthemes, and categories that were verified by an independent coder according to the research objectives. Meaning of verifications and identification of core categories resulted in seventeen core themes that will be constructively discussed in this chapter. They include:

- i. Consequences of conflict management measures in electorally related conflicts
- ii. Institutional reforms and peacebuilding
- iii. Improvements in peacebuilding measures (how and when?)
- iv. Success of peacebuilding in transforming electoral conflicts
- v. Failures of peacebuilding in transforming electoral conflicts
- vi. Awareness of peacebuilding efforts, ideas, skills and knowledge
- vii. Attitudes and behaviour of Kenyan citizens after peacebuilding
- viii. Attitudes towards leadership and ethnicity
- ix. Reconciliation and healing of the vicious circle of electoral conflict
- x. International Criminal Court intervention into Kenya electoral conflict
- xi. Causes and course of electoral conflicts
- xii. Forms of electorally related conflicts
- xiii. The Independent electoral Body Commission (IEBC) incompetence
- xiv. Effects and consequences of electoral conflicts
- xv. Prevention and solutions to electoral conflicts
- xvi. Elections do not resolve conflicts but creates a post election crisis
- xvii. Other indicators for democracy than elections

Below is an analysis of the key codes from the above sub-questions in relation to the main objectives of the study. The analysis is presented by numbers in tables that focuses on the core codes and sub-codes that originated from responses in the focus group interviews and individual interviews in agreement to issues about the conflict. The figures in the tables for instance (2/5) 2 represents a numerator and 5 the denominator. The numerator is the number of individuals who responded positively to selected questions in the sub-codes as indicated by (yes), while the denominator indicates the number of individuals in the focus group interviews and individual interviews. The analysis is as provided below.

7.2. Consequences of conflict management measures in electorally related conflicts

The table below presents an analysis of responses in the focus group interviews and individual interviews in response to the consequences of conflict management measures in electorally related conflicts.

Core code	Sub-code	Focus group interviews response to (yes)	Individual interviews response to (yes)
Conflict management measures	Conflict management measures have mitigated electoral conflicts	1/5	5/30
Conflict management measures	Conflict management measures have succeeded in transforming electoral conflicts?	2/5	8/30
Conflict management measures	Conflict management measures have failed in transforming electoral conflicts?	4/5	23/30
Conflict management measures	Conflict management measures are significant?	4/5	25/30

Table 8: consequences of conflict management measures in electorally related conflicts

7.2.1. Research analysis and conflict management measures in Kenya

Research findings indicate that conflict management measures have not been successful in transforming electoral conflicts. For instance, asked if conflict management measures had succeeded in transforming electoral conflicts, only 8 out of 30 respondents in individual interviews agreed that conflict management measure had succeeded in transforming electoral conflict. Those who responded positively were to a large extent employees affiliated to conflict management bodies in Kenya. A majority of the respondents; for instance 4 out of five in the focus group interviews were of the opinion that conflict management measures had failed in transforming electoral conflicts in Kenya. However, 25 out of 30 respondents in individual interviews concurred that conflict management measures were significant in transforming electoral conflicts in Kenya and the measures had at least transformed positively the status of electoral conflicts when compared to previous years. In this regard, the author advocates strongly for conflict management measures to be undertaken among the efforts to mitigate electoral conflicts in Kenya. Moreover, the author advises that grassroots civilians should be more involved in issues to do with conflict management measures and not only should conflict management measures involve individuals working in peacebuilding organisations, governmental officials and politicians.

7.2.2. Institutionalisation before liberalisation (IBL) and conflict management measures in Kenya

(Paris 2004:188) calls for conflict management measures such as the regulation of incendiary “hate speech”, promoting economic reforms that moderate rather than exacerbate societal tensions; and the development of effective security institutions and a professional, neutral

bureaucracy. Research findings revealed that indeed conflict management measures were being undertaken by the government and peacebuilding organisations. For instance, research findings revealed that a penalty was imposed for perpetrators of hate speeches, economic reforms were going on although inequitably. The police and legal institutions were being reformed but still, the reforms had not yet achieved their objectives fully despite the fact that a slight improvement and sanity had been enacted and achieved by the police and legal institutions. Still, a neutral bureaucracy had not been realised in the government and, research findings revealed bias in the allocation of governmental positions and resource distribution. The author maintains that if the government is not biased in its functioning and all ethnic communities are treated equally when it comes to resources and allocations of governmental positions then electoral conflicts will definitely be mitigated.

7.2.3. Liberal peace and conflict management measures

Doyle (2005:463) argues that the logic underlying the core of liberal peace theory and its three pillars includes republic representation, an ideological commitment to fundamental human rights, and transnational interdependency. As the research findings revealed, electoral conflicts in Kenya have not yet been transformed and republican representation is a very crucial initiative in the effort to contain electoral conflicts. Democracy prevails in Kenya but republican representation in the government is nevertheless asymmetric, with two major ethnic groups holding the prime governmental positions and consequently biased resource distributions. Since, as the research findings indicate, there is still a lot to be done in reforming the police and legal institutions, it follows that ideological commitment to fundamental human rights has not yet been

fully attained by the government. If more attention is focused on human rights, then electorally related conflicts will definitely be mitigated.

8.2.4. Institute for Democracy and Electoral Assistance (IDEA) and conflict management measures

Institute for Democracy and Electoral Assistance (IDEA) 2013 points out that some of the faults of conflict management measures in transforming electoral conflicts includes, but is not limited to: contested electoral laws, unfit electoral systems, inadequate electoral administrative rules, human rights violations and inadequate voter training and education. In the same way as Paris 2009, and the liberal peace perspective to electoral management, IDEA calls for reforms in electoral systems, for instance reforming the electoral body and rules that govern it in order to manage and transform electorally related conflicts. IDEA also emphasises the observance of human rights as a measure of mitigating electoral conflicts.

7.3. Institutional reforms and peacebuilding

The table below indicates the analysis of responses about institutional reforms and peace building.

Core code	Sub-code	Focus group interview response to (yes)	Individual interviews response to (yes)
Institutional reforms	Have institutional reforms taken place?	4/7	23/30
Institutional reforms	Have institutional reforms transformed electoral conflicts?	2/8	10/28
Institutional reforms	Is institutional reform relevant?	4/5	25/30

Table 9: Institutional reforms and peacebuilding

7.3.1. Research analysis, institutional reforms and peacebuilding

According to the research analysis, a significant number 23/30 in individual interviews and at least 4/7 in focus group interviews accepted that institutional reforms had taken place in Kenya. Notable were the reforms in the legal system, the constitutional reforms, the electoral body reforms and police reforms. However, only 10/28 participants in individual interviews argued that institutional reforms had transformed electoral conflicts. Many believed that institutional reforms had either done little, or had not transformed electoral conflicts at all, nor contributed to peacebuilding. Although it was agreed by many participants, (25/30 in individual interviews and 4/5 in focus group interviews that institutional reforms were relevant for peace building efforts, It was generally noted that actually, institutional reforms were active on the ground although, the reforms had not been implemented effectively and neither achieved their objectives. However, a little progress was gained towards peacebuilding through institutional reforms; especially the constitutional review and the reforms of the legal institutions.

7.3.2. Institutionalisation before liberalisation IBL, institutional reforms and peacebuilding

Paris' (2004 & 1999) Institutionalisation before Liberalisation (IBL) theory proposes the designing of electoral rules that reward moderation instead of extremism, developing effective security institutions and a professional, neutral bureaucracy before competitive democratic elections take place. In the Kenyan context, effective security institutions are being put in place; for instance the legal reforms and the ongoing police reforms. The good thing is that the reforms are in place but the bad thing is that the reforms have not yet achieved their objectives, and the

responsible institutions and officials have not taken the reforms sufficiently seriously. As a result, as the data indicates, institutional reforms in Kenya have not yet achieved a lot towards peacebuilding although there are ongoing reforms. Corruption and political influence have dented institutional reforms in Kenya. If competent institutional reforms are carried out without corruption and political influence, then a sustainable peace building process would be achieved.

7.3.3. Liberal peace, institutional reforms and peacebuilding

Liberal peace operations are mainly institutionally focused and see peace as lying in the institutions of governance, for instance; state actors, international actors, policy makers, elite-led officials and nongovernmental organisations in a top-down approach (Richmond 2008:4). In this regard, liberal peace advocates for institutional reform as a measure to achieve peacebuilding objectives. Richmond adds that institutionalisation in liberal peace focuses on individuals, society, justice, development, welfare, norms, transnationalism; institutionalism or functionalism that offers an opportunity for the negotiation of a form of peace that is more sustainable because it is more broadly inclusive of actors and issues. Research findings indicate that institutionalisation in the Kenyan context has not critically focused on issues such as justice, equity and human rights protection. As a result, institutionalisation has not yet achieved its objectives and mandate of peacebuilding in Kenya although some marginal progress has been achieved.

7.3.4. Institute for Democracy and Electoral Assistance (IDEA), institutional reforms and peacebuilding

Towards institutional reforms, the Institute for Democracy and Electoral Assistance (IDEA) 2013 accentuates constitutional reforms, electoral body management and system and legal reforms in electoral conflict-prone states. IDEA also calls for the observance of human rights through policy reformulations to protect humanity and thus foster peacebuilding. In the Kenyan context such reforms are taking place but at a very slow pace and its impacts have not yet made significant progress towards peacebuilding.

7.4. Success of peace building in transforming electoral conflicts

Core code	Sub-code	Focus group responds to (yes)	Individual interviews responds to (yes)
Peace building	Has peace building succeeded ?	3/9	8/30
Peace building	Are grassroots individuals aware of peacebuilding ?	2/7	5/25
Peace building	Is peace building relevant?	5/7	24/30

Table 10: Success of peace building

7.4.1. Data analysis and successes in peace building

Analysed data reveals that peace building in Kenya has not succeeded in transforming electorally related conflicts. Eight out of thirty respondents in individual interviews were of the opinion that peace building had succeeded, while the remaining twenty two respondents in individual interviews believed that peace building had failed (see table above). Only two out of seven respondents in focus group interviews agreed that grassroots civilians were aware of peace building initiatives that were taking place. The two were employees affiliated to peace building

organisations. However, after explaining to participants what peace building was, a majority of the respondents believed that peace building was a relevant initiative, and that it could transform electorally related conflicts in Kenya. Twenty four out of thirty respondents in individual interviews believed that peacebuilding was relevant.

7.4.2. Institutionalization before liberalisation IBL and peace building

In response to peacebuilding, democracy and elections, Paris 2004 calls for the postponing of elections until moderate political parties have been created, and mechanisms to ensure compliance with the results of the elections have been established. Moreover, Paris states that there should be developed effective security institutions and a professional, neutral bureaucracy in order successful elections to take place. This could only be achieved by having successful peace building initiatives in place. Unfortunately peacebuilding seems not to have fully succeeded, but has at least calmed violent conflict, leaving a latent conflict that could yet escalate in future.

7.4.3. Liberal peace and peacebuilding in Kenya

Because it is evident that peace building in Kenya has not been successful, the tenets of Liberal Peace should be applied along with the peacebuilding process in Kenya, in order at least to attain substantial peace. In Liberal Peace thinking, interveners (peacekeepers and peace builders, nongovernmental organisations, donors and officials) are required to focus on democratisation, human rights, development and economic reforms (Richmond 2008:104). Moreover, according to Liberal Peace ideas, peace building should be a multilevel and multidimensional approach,

attempting to incorporate the local civilians, state and regional aspects of actors in dealing with conflictual dimensions of a wide range of issues and dynamics.

7.5. Failures of peace building in transforming electoral conflicts

Focus group interview responses from organisations involved in the peace building process for instance; the Electoral Institute of South Africa (EISA), pointed out the following elements that contribute to inadequate peace building in Kenya: lack of sufficient resources to spearhead the peace building process; lack of grassroots civilian participation or consent in the peace building process; lack of proper coordination among actors in the peace building processes, including the government, peace building organisations and civilians; ignoring cultural issues that could contribute to peace building, and the fact that the peace building process seemed to be owned by peace building organisations, and government and international actors, rather than its recipients; which includes the majority grassroots civilians. In this regard, peace building in Kenya is largely an elite based top-down approach, and mainly institutionally focused. According to the Liberal Peace proponents, (Richmond 2008:4) to achieve a sustainable peace, peace builders should come to terms with the lived experiences of individuals and their needs in everyday life, their welfare, culture and traditions. This aspect seems to have been ignored or not been taken sufficiently seriously among peace building interveners in the Kenyan context.

7.6. Awareness of peace building efforts, ideas, skills and knowledge

Research analysis indicates that a majority of Kenyans and especially local civilians were not aware of peace building efforts, ideas and skills. Those who were aware of peace building initiatives included governmental officials, politicians, and elites involved in peace building

organisations. Grassroots individuals who constitute the broader population in the country were not informed about peace building and were not even aware that there were peacebuilding initiatives in the country. This is an indicator that peace building has not actually succeeded fully in the Kenyan context. A few of the civilians who thought that peacebuilding had succeeded, had the perception that an absence of war meant that there was peace. They didn't consider the possibility of latent conflict.

7.6.1. Peace building awareness and liberal peace

Data analysis indicates that only two out of seven respondents in focus group interviews and five out of twenty five respondents in individual interviews argued that peace building ideas, knowledge and skills had reached grassroots civilians. An important aspect of the liberal peace is the argument that conflict cannot really be transformed, managed or resolved unless the concerns of Civil Society are met, or that there cannot be a liberal peace unless there is a vibrant Civil Society involved in the peace building process (Richmond 2008:104). In this regard, peace building in Kenya could be failing to meet its objectives since, as the data indicates, grassroots individuals are not actively being incorporated into the peace building process. Peace building in Kenya seems to be taking a top-down approach, involving elites, nongovernmental organisations, and governmental officials with little involvement of civilians; contrary to the liberal peace approach. Grassroots individuals should be actively involved in the peace building process and the peace building process should be more of a bottom-up than a top-down approach.

7.7. Attitudes and behaviour of Kenyan citizens after peace building

The table below presents an analysis of the attitudes and behaviours of Kenyan citizens after the peace building process. The analysis is based on the focus group interviews and individual interviews as presented below.

Core code	Sub-code	Focus group interview responses to(yes)	Individual interview responses to (yes)
Attitude and behaviour	Are all ethnic groups happy with one another?	2/7	3/28
Attitude and behaviour	Has peace building transformed negative ethnicity?	3/8	4/30
Attitude and behaviour	Do majority of the different ethnic tribes trust one another?	1/7	3/25

Table 11: Attitude and behavioural change after peacebuilding

Clearly, research findings analysis indicates that ethnic groupings in Kenya are not in harmony with one another. In focus group interviews, only two out of seven respondents and in individual interviews, three out of twenty-eight respondents were of the opinion that ethnic groups in Kenya were in harmony with one another due to the absence of pronounced violent conflict during the 2013 general elections. Responding to whether peace building had transformed negative ethnicity, only four out of thirty respondents in the individual interviews were of the opinion that through peace building, negative ethnicity had been transformed into positive ethnicity. To a large extent, these were individuals affiliated to peace building organisations, and might have been obliged to defend their institutions. Twenty six respondents out of thirty in individual interviews maintained that negative ethnicity prevailed and that peace building had not transformed negative ethnic attitudes at all. Also noted in the analysis was the fact that a majority of Kenyans from different ethnic groupings did not trust individuals from different ethnic groupings other than their own. Only three out of twenty five respondents in individual

interviews trusted individuals from different ethnic groupings, while the remaining twenty-two had little or no trust at all in individuals from ethnic groupings other than their own. This clearly points to the fact that negative ethnicity is still a major problem for peace building in Kenya.

7.8. Attitudes towards leadership

The table below presents an analysis of respondents' attitudes towards leadership in Kenya.

Core code	Sub-code	Focus group interview responds to (yes)	Individual interviews responds to (yes)
Leadership attitudes	Is leadership still an appealing phenomenon?	3/7	13/30
Leadership attitudes	Is leadership genuine in Kenyan context?	3/6	10/26
Leadership attitudes	Are you impressed with the way elections are conducted and their outcomes?	3/8	5/29

Table 12: analysis of respondents attitudes towards leadership in Kenya

7.8.1. Analysis of attitudes towards leadership

Responding to their attitudes towards leadership, three out of seven respondents in focus group interviews and thirteen out of thirty in individual interviews had a feeling that leadership was appealing. Majority of these respondent who had a positive attitude towards leadership were affiliated to the ruling coalition and from the advantaged communities that were benefited most from the government. The analysis indicates that just more than a half of the respondents had a negative attitude towards leadership. This, could be as a result of the electoral commission not observing Paris' 2004 tenet that postulates that elections should be postponed until moderate political parties have been created, and mechanisms to ensure compliance with the results of the elections have been established. Negative attitudes towards leadership emanated from the incredible electoral results from the electoral commission and especially presidential result. For liberal peace to be achieved republican representation should exist (Doyle 2005). In the Kenyan

context, republican representation in the government is skewed and as attitudes of just more than a half of Kenyans seems not impressed with the elections and leadership.

7.9. Reconciliation and healing of the vicious electoral conflict

As the analysis of peace building indicated that indeed peace building has not been successful in Kenya, the reconciliation and healing of the vicious circle of electoral conflicts has not been achieved. To achieve reconciliation, Paris' 2004 Institutionalisation before liberalisation (IBL) theory encourages the development of civil-society organizations that cuts across lines of societal conflicts, and proscribes those that advocate violence. Moreover, to achieve cohesion, Paris calls for the promotion of economic reforms that moderate rather than exacerbate societal tensions. In the Kenyan context, economic reforms are skewed and seem to be exacerbating societal conflicts.

Although, research findings indicated that there was a Peace Accord that was signed between the Kalenjin elders and the Kikuyu elders; the most antagonist tribes in Kenya, the Accord seemed to have been motivated by the fact that at the moment of signing, leaders of the two ethnic groupings had formed the sitting government and shared same predicament of being 2008 post election violence suspects with cases pending at the Hague. According to the author, the healing of the vicious cycle of conflict in Kenya through the Peace Accord is a latent conflict that could be escalated later if the coalition between the Kikuyu and Kalenjin ethnic groups collapses. Moreover, it remains unpredicted if the following wishes of President Uhuru Kenyatta will ever become a reality.

'...it will be confirmed when the rights of all citizens are protected through legislation that upholds the spirit of our constitution. When women and young people are both seen and heard at the decision making table at national as well as devolved levels of government. When all communities in Kenya are confident that they have a government that listens to them and addresses their needs'

If the above words of President Uhuru Kenyatta could be implemented into a reality, then reconciliation and healing of the vicious circle of electoral conflict could be achieved. However, it remains vital for the electoral commission in Kenya to always think of postponing elections until moderate political parties have been created as Paris 2004 notes. Ethnic political parties in Kenya could easily trigger electoral and post-electoral conflicts in the future Kenya.

7.10. International Criminal Court (ICC) intervention into Kenya electoral conflict

Due to the in capabilities of local legal institutions in Kenya, the ICC intervened to solve the 2008 post election violence conflicts. The table below presents an analysis of the ICC interventions.

Core code	Sub-code	Focus group interview (yes)	Individual interview (yes)
International criminal court (ICC)	Was ICC intervention necessary?	5/7	24/30
International criminal court (ICC)	Has ICC transformed electoral conflict in Kenya	3/6	17/30
International criminal court (ICC)	Has ICC provided justice to those afflicted by 2007 post election violence ?	2/7	5/28
International criminal court (ICC)	Is ICC impartial in the rulings against the 2007 post election violence perpetrators?	3/7	12/27
International criminal court (ICC)	Should ICC continue intervening into Kenyan electorally related conflicts?	5/7	17/30

Table 13: International Criminal court intervention (ICC) in Kenya electoral conflict

7.10.1. Analysis of the ICC interventions in electorally related conflicts in Kenya

Data analysis revealed that five out of seven individuals in focus group interviews and twenty four out of thirty in individual interviews agreed that the ICC interventions into Kenyan electorally related conflict was necessary. The supreme reason that was given to support for ICC intervention was the fact that Kenyans had no trust in the Kenyan courts nor the African Union legal institutions. The Kenyan court had already failed Kenyans in responding to electoral conflicts and an independent external intervention that would be deemed neutral was needed. And this was the ICC.

On the issue of ICC transforming electoral conflicts in Kenya, three out of six respondents in the focus group interviews and seventeen out of thirty in individual interviews agreed that the ICC had transformed electoral conflicts in Kenya. The reason given was the fact that through the ICC interventions, at least the 2013 general elections were a bit calm with a few incidences of violence. Another respondent in a focus group interview noted that through the ICC interventions, prominent perpetrators of the 2007 post elections violence had been arraigned in the Hague and as a result, other politicians shied away in involving themselves with electoral violence in fear of being prosecuted in future. In general, about half of the respondent were optimistic that the ICC had transformed electoral conflicts in Kenya. Although, there were a few responded who argued that the ICC had intervened into Kenyans domestic issues and was exacerbating ethnic divisions and was biased in how it conducted its prosecutions.

Responding to the question of whether the ICC had provided justice to the victims of the 2008 post election violence (PEV), only two out of seven respondent in focus group interviews and five out of twenty eight in individual interviews were of the opinion that the victims of 2008

PEV had received justice through the ICC. Their argument was based on the fact that at least, the perpetrators of the 2008 PEV had been arraigned in the Hague. Majority of the responded disagreed that the victims of the 2008 PEV had not received justice. For instance, five out of seven individuals in the focus group interviews and twenty three individuals out of twenty eight respondents in the focus group interviews maintained that the ICC had not done justice to the victims of the 2008 PEV. They noted that none of the arraigned suspects had been found guilty, and although a few individuals had been compensated, majority of those who were afflicted with the 2008 PEV had not received any kind of justice from the ICC.

About the issue of ICC impartiality in its rulings against the 2007 post election violence perpetrators, three out of seven respondents in the focus group interviews and twelve out of twenty seven in individual interviews agreed that the ICC has been impartial in its conduct of cases against the 2008 PEV suspects. Majority of the participants, for instance, 15 respondents out of twenty seven in individual group interviews maintained that the ICC had not been impartial in its ruling against the convict suspects. For instance, they questioned that how comes that during the PEV, the Kikuyu ethnic community had their own gangs that assaulted the Kalenjins and the Kalenjins also had their own gangs that assaulted the Kikuyu's but through the ICC rulings, all the Kikuyu convicts had been freed while all the Kalenjin convicts still had a case to answer. Some respondents thought that the ICC had been biased in the ruling to withdraw the case against president Uhuru Kenyatta and to leave his deputy president with a case to answer in the Hague.

Whether ICC should continue intervening into Kenyan electorally related conflicts or not, fairly a good number and above average were of the opinion that the ICC should continue intervening into electoral conflicts in Kenya. For example, five out of seven respondent in the focus group interviews and seventeen out of thirty respondent in individual interviews advocated for the continual intervention of the ICC into electoral related conflicts in Kenya. The main reason was the fact that majority of the respondents did not at all have trust in Kenyan courts and even the African Union interventions. Also, they advocated for the ICC continual interventions because of the ‘realised sanity’ in the 2013 general election that had few incidents of violence but left a lateen conflict.

7.10.2. IBL, liberal peace, and ICC interventions in Kenyan electoral conflict

According to Paris (2004:188) institutionalisation before liberalisation (IBL) theory, in order to manage electoral conflicts, peace builders should first develop effective security institutions and a professional, neutral bureaucracy. In this regard, ICC was justified to have intervened into Kenya electoral conflicts since Kenya did not have effective security institutions. For instance, the legal institution in Kenya could not have managed to handle PEV conflicts and neither could they display neutrality even though the ICC has not been effectively impartial in dealing with PEV in Kenya. To achieve peacebuilding objectives, Paris call for effective institutions in place before getting into competitive democracy.

Focusing on the liberal peace theory, Richmond (2008:109) notes that interveners into conflicts should focus on liberal democratisation, human rights, rule of law, justice and institutionalisation. Moreover, Doyle (2005:463) notes that the logic that underlies liberal peace include; ideological commitment to fundamental human rights, and transnational interdependency. In this regard, the themes of human rights, rule of law and justice features more in the liberal peace perspective. Thus, in the Kenyan context, it was only through the ICC interventions that justice could have been achieved for the PEV victims. Institute for Democracy and Electoral Assistance (IDEA) also calls for international interventions into protracted electoral conflicts through institutions like the ICC.

7.11. The Independent Electoral Body Commission (IEBC)

Analysis about the perceptions of Kenyans towards the Independent electoral Commission of Kenya is presented in the table below.

Core code	Sub-code	Focus group interview responses (yes)	Individual interviews responses (yes)
Independent electoral body commission (IEBC)	Is IEBC competent enough to carry out competitive elections?	2/8	5/25
Independent electoral body commission (IEBC)	Was the IEBC transparent and genuine in the 2013 general elections ?	2/6	12/30
Independent electoral body commission (IEBC)	Does the IEBC needs institutional reforms or and an overhaul?	5/7	23/28
Independent electoral body commission (IEBC)	Can IEBC be trusted in the next general elections 2017 as it ?	2/7	4/27

Table 14 : perceptions towards (IEBC)

7.11.1. Analysis of perceptions towards IEBC

Analysis of the research findings revealed that the IEBC was not competent enough to carry out competitive elections. For instance, only two out of eight individuals in focus group interviews and five out of twenty five in individual interviews were of the opinion that IEBC was competent enough to carry out elections. Twenty out of twenty five individuals in individual interviews maintained that the IEBC was not competent enough to hold any election. The major reason given to why IEBC was not competent enough to hold elections was the fact that the 2013 general elections had been accompanied by many irregularities by IEBC officials. It was revealed that the IEBC, purchased inadequate voting equipments that failed during the voting day and it was short of resources for carrying out its mandate. Paris Institutionalisation before Liberalisation theory argues that to prevent electoral conflicts, electoral managing bodies are supposed to postpone elections until mechanisms to ensure compliance with the results of the elections have been established. In this regard, the IEBC has failed in its mandate of conducting general elections.

Focusing on the issue whether the IEBC was transparent and genuine during the 2013 general elections or not, twelve out of thirty individuals in individual interviews were of the opinion that the IEBC was transparent. The simple reason they gave was the fact that there were no escalated post election violence as in 2007 general elections. Eighteen individuals out of thirty in the individual interviews argued that the IEBC was not transparent and genuine during the 2013 general elections. The reason given was the fact that there were many court cases related to electoral conflicts including the presidential petition that was taken up to the supreme court.

Since the data analysis reveals that the IEBC was not transparent in performing its mandate and was not competent enough during the 2013 general elections, respondents argued that the IEBC as it was needed an overhaul and comprehensive institutional reforms to be able to successfully conduct another general election. Twenty three out of twenty eight participants in individual interviews and five out of seven respondents in focus group interviews maintained that the IEBC needed an overhaul and comprehensive institutional reforms in order to be competent enough in any subsequent election. The Institute for Democracy and Electoral Assistance (IDEA) calls for constitutional and legal reforms, reforms in electoral managing institutions and legal reforms to combat electoral conflicts. In this regard, it is important for the IEBC to undergo institutional reforms constitutionally and as a result, electoral conflicts could be managed. Respondents had strong perception that the IEBC was not trust worth to conduct the 2017 general election without undergoing institutional reforms. Twenty three respondents in individual interviews believed that IEBC was not competent enough to conduct 2017 general elections.

7.12. Elections do not resolve conflicts but creates a post election crisis

Core code	Sub-code	Focus group interview respondents to (yes)	Individual group interviews respondents to (yes)
Elections	Are competitive elections still an appealing phenomenon?	3/7	10/26
Elections	Do elections transform or resolve conflicts ?	2/6	13/30
Elections	Do elections create post-elections conflicts and violence?	6/7	23/28
Elections	Is the country safer without elections?	2/7	10/30

Table 15: perceptions towards elections crisis

7.13. Analysis of the perceptions towards elections

Analysis of perceptions of respondents towards competitive elections revealed that, Kenyans seemed to be losing interest towards elections. Only ten out of twenty six respondents in individual interviews were the only ones that believed that elections was an appealing phenomenon. However, the remaining sixteen participants in individual interviews maintained that competitive elections was not an appealing phenomenon any more since elections in Kenya lacked transparency, did not produce genuine outcomes and caused violence. About half of the respondents had the perceptions that elections transform and resolve conflicts. Above a half of the respondents, for instance, seventeen respondents out of thirty participants in individual interviews believed that elections do not transform nor resolve conflicts. Instead they believed that elections in Kenya were the main triggers of deep-rooted conflicts. As a result, twenty three participants in individual interviews out of twenty eight and six participants out of seven in focus group interviews maintained that elections caused post elections conflicts and violence. Two out of seven in focus group interviews and ten out of thirty in individual interviews were of the opinion that the county could be safer without elections. However, majority still believed that elections was crucial aspect of governance that the country could not do away with. Twenty out of thirty participants in individual interviews disagreed that the country will not be safe if elections were removed from the constitution and done away with. Generally, Kenyans still have hopes in elections and if elections in Kenya are handled with sanity then, through elections conflicts Kenyan conflicts could be transformed, managed, or resolved. Peace building will be achieved. In this regards, the Liberal peace and Institutionalisation before liberalisation theory calls for organised and competent elections as a means of transforming and managing conflicts in liberal democracy.

7.14. Conclusion

This chapter has provided a constructivist grounded theory analysis of the main themes and core categories that emanated from the research findings. Institutionalisation before liberalisation theory, liberal peace and the institute for democracy and electoral assistance approaches to peace were used to discuss the analysis. Some of the core themes covered include; the International Criminal Court (ICC) interventions into Kenya electoral conflict, Kenyans perceptions towards the Independent Electoral and Boundary Commission (IEBC), perceptions towards elections, attitudes towards leadership and reconciliation. The next chapter will provide conclusions and recommendations of the study.

CHAPTER EIGHT: CONCLUSIONS AND RECOMMENDATIONS

8.0. Introduction

This chapter provides the conclusions drawn from the research findings and analysis. The conclusion focuses on the main research question and the objectives of the study. Moreover, this chapter discusses the reliability and validity of the research findings and analysis. Recommendations will be given according to the research findings and analysis in response to the main research question and objectives.

8.1. Conclusions about findings and analysis

In response to the main research question regarding how conflict management measures and peace building processes are succeeding or failing in transforming the electoral conflicts in Kenya, research findings and analysis indicates that conflict management and the peacebuilding processes in Kenya have transformed electoral conflicts in Kenya from escalated violent conflict in 2007 to a latent conflict that could escalate in future if triggered by elections or other triggers. Constitutional review, institutional reforms and peace building measures like peace accords, and enactment of truth, justice and reconciliation commissions were some of the intervention measures that were undertaken. However, the interventions were short-term rather than long-term. And as a result, escalated violent conflicts have been transformed and managed but have left behind latent conflict. The researcher concludes that for effective peacebuilding in Kenya, intervention measures should be undertaken for a long-term tenure rather than short-term. Factors retarding peace building in Kenya include: insufficiency of resources, lack of vigorous

involvement of local civilians in the peace building processes and language difficulties in conveying of peace education, among other factors.

One of the research objectives is to discover the consequences of conflict management measures in relation to election-related conflicts in Kenya. Research findings indicates that conflict management measures such as the intervention of the International Criminal Court (ICC), the negotiation and mediation procesese by the African Union (AU), and the United Nations transformed and managed electoral conflicts in Kenya, and deescalated violent conflicts in 2008. Through external interventions and the ICC, the 2013 general elections were less violent. Despite of the 'success' during the 2013 general elections, the ICC has been critisised by some ethnic communities in Kenya for being biased in handling cases against some of the prosecuted individuals. Moreover, the post election violence victims claim that they have not yet received any justices from the ICC interventions into post-election violence cases. The researcher concludes that the ICC interventions has managed to transform election related conflicts in Kenya, however, the ICC still is indebted to offer genuine justice to the post-election violence victims. The ICC should also be impartial in its judgements against cases fasing post election violence perpetuaters. Through the ICC prosections and convictions, the most antagonistic ethnic tribes in Kenya united. Consequently, through biased judgements by the ICC of the cases facing the convicts, the unity of the two ethnic groupings could dissolve and even escalate again if triggered by electoral conflicts.

The study also intended to discover the successes or failures of peace building in transforming and resolving electoraly related conflicts in Kenya. Based on the research findings and analysis, the researcher concludes that peace building measures have been important in the management

of electoral conflicts in Kenya. For instance, through peacebuilding, some peace accords have been agreed upon, a slightly positive ethnicity has been achieved and the 2013 general elections were fairly violence free. However, research analysis and findings reveal that peace building efforts and principles have not reached a large audience (grassroots populations) and the negative attitudes and behaviours of the ethnic protagonists have not changed. As a result, negative ethnicity still prevails and Kenya is faced with a latent conflict that could be escalated again by future elections.

8.2. Conclusions about the reliability and validity of the findings and analysis

This study adopted a qualitative methodological approach. However, according to Morgan and Smircich (1980:492) & Cutcliffe and McKenna (1999:374-380), some researchers continue to raise epistemological issues about the problems of objectivity and the validity of qualitative research findings. In response to the question of qualitative reliability and validity, Horsburgh (2002:13) notes that the application of quantitative conceptualisation of reliability and validity is inappropriate in the evaluating of qualitative research, as the purpose and focus of the paradigms are not directly comparable. Thus, to achieve reliability and validity in this study, the researcher applied methodological and theoretical triangulation. Methodologically, the researcher used multiple approaches to collect data including focus group interviews, selective individual interviews and observation. Theoretically, research findings were analysed by the constructivist grounded theory with reference to grounded theory. Liberal peace theory, the Institutionalisation before Liberalisation (IBL) paradigm and the Institute for Democracy and Electoral Assistance (IDEA) approaches were used to discuss, verify and analyse research findings in order to achieve validity. In this regard, Golafshani (2003:597) and Cutcliffe and McKenna (1999:379) note that

triangulation illuminates ways to test or maximise the validity and reliability of qualitative studies by engaging multiple methods of data collection and analysis.

8.3. Recommendations according to the research findings and analysis

Through research findings and analysis, the researcher recommends that peacebuilding initiatives and processes should be undertaken as a long-term process rather than a short-term process and although the top-down approach to peacebuilding should be embraced, the bottom-up approach where by many civilians are practically involved in the peace building process should be embraced more. Civil education about peacebuilding, elections and electorally related conflicts should be taught to the majority citizens. Moreover, peace building should not just be undertaken as an elite phenomenon but as a process that also involve the directly affected citizens. The researcher also calls for equitable resources distribution by the government among different ethnic groupings to mitigate ethnic differences and negative ethnicity. Ministerial posts and governmental employment opportunities should not be skewed along selected ethnic groupings to avoid negative ethnicity. The devolved county governments should be supported by the national government in terms of funding to ensure that all parts of Kenya are treated equally. The constitution should be adhered to, it should be protected and not amended in favour of the elite needs. Constitutional reviews should involve citizens and not only the parliament. And the reviews should be legal and constitutional. Also, legal and security institutional reforms should be an ongoing process and should be carried out competently and uncorruptly. As a result, security and justice will be achieved and electoral conflicts will be de-escalated. Research findings and analysis indicates that the Independent Electoral and Boundary Commission (IEBC) failed in the way it carried out the 2013 general elections. Thus, this study recommends that the IEBC should undergo

institutional reforms and even overhauled to attain competence in subsequent elections and mitigate electoral conflicts in Kenya.

8.4. Recommendations by other institutions and scholars

Scognamillo and Bernard (2011:31) note that conflict analysis can also be used as a tool for action in itself, for instance in building national confidence by looking beyond conflict issues to issues such as livelihood and inequality, links between proximate and structural causes, and coherence between electoral assistance and conflict prevention programming. Through the literature review and knowledge from other researchers, several recommendations have also been proposed towards the management of electoral conflicts and peace building in Kenya. The recommendations have been directed to the; government of Kenya, the International Criminal Court (ICC), the civil society in Kenya, institutions involved in peacebuilding, the judiciary and security organs and the National Cohesion and Integration Committee (NCIC) as discussed below.

8.4.1. Recommendations by the Institute for Justice and Reconciliation (IJR)

In agreement with the research findings and analysis recommendations by the researchers, Nderitu (2011:1-2) notes that the 2011 policy brief by the Institute for Justice and Reconciliation (IJR), raised recommendations for consideration in efforts towards achieving social cohesion in Kenya. The recommendations are aimed at preventing an escalation of violence into a pre-conflict phase, and are framed within the political, socio-economic, and ideological context within which justice and reconciliation could be sustainably developed. The recommendations

included recommendations to the government, recommendations for the NCIC, recommendations to the civil society and recommendations to the United Nations (UN).

8.4.2. Recommendations for government

- i. Ensure that lead actors in Government define specific conflict-prevention goals and factor the promotion of conflict-prevention and protection objectives into policies and legislation.
- ii. Diffuse tensions within ethnic communities, uphold the rule of law, and respect the independence of the ICC by co-operating with the court where required.
- iii. While the ICC process is ongoing, take decisive steps to bring to account perpetrators of post-election violent crimes. This would serve as a deterrent to the perpetration of future such crimes, while at the same time responding to the grievances of victims of these crimes.
- iv. Enforce the Witness Protection Act, and protect the dignity and rights of victims, victim communities, witnesses and intermediaries who have not yet come forward on post-election related violence for fear of stigmatisation.
- v. Disarm and demobilise militia groups, and provide tailored, individually focused and sustainable solutions for long-term reintegration linked to the provision of security for disarmed communities.
- vi. In the absence of a proportional representation system, formalise political inclusion through power-sharing arrangements at the political centre, including convocational arrangements in which seats are distributed among ethnic communities and minority groups.

8.4.3. Recommendations for National Cohesion and Integration Committee (NCIC)

- i. Strengthen access to top leadership, including the Kenyan President and Prime Minister as well as the Panel of Eminent African Personalities and local parliamentarians.
- ii. Create platforms that allow frequent engagement with, and contributions to, peace-building processes.
- iii. Ensure the continuous flow of information and advice to government on issues that threaten peaceful co-existence.
- iv. Provide a policy-planning tool and guidelines on conflict prevention that can be mainstreamed across all government departments. In this way, conflict prevention can be mainstreamed across all areas of public policy.
- v. Draft a memorandum to invite the Cabinet to approve a conflict-prevention strategy, and direct all Ministries and Government departments to take appropriate and necessary action towards its implementation.
- vi. Strengthen and update links with international mediation support groups and “groups of friends” to ensure widespread support for the KNDR.
- vii. Strengthen conflict-prevention partnerships with the private sector.
- viii. In partnership with media houses, run conflict-awareness and prevention campaigns in the national print and broadcast media.
- ix. Co-ordinate conflict prevention and management meetings for law enforcement agencies; this should include creating a standing high-level platform that brings together the Chief Justice, the Commissioner of Prisons, the Independent Electoral and Boundaries Commission, and the Kenya Police. This should extend to Provincial and District level.

- x. Strengthen the role of elders as agents of peace-the implementation of international conflict prevention standards, modelled on western approaches, presupposes the existence of functioning traditional-justice mechanisms; as such, traditional elders should be linked to national peace processes and institutions.
- xi. Recognise and promote the importance of collective involvement in policy dialogue on critical issues around sustainable peace, security and development, promoted through community-level peace agreements, social contracts and policy frameworks.
- xii. Bring more women to the peace table, and ensure that women are well represented during negotiations; involving women is likely to add a broader and more long-term perspective, plus a focus on critical priorities and needs, and may thus contribute to stronger and more enduring peace agreements and social contracts.
- xiii. Review government policies and draft legislation to ensure that specific conflict-prevention goals are defined.
- xiv. Strengthen co-operation between structures, and particularly between the Government and civil society, by way of training specialists in multi-track diplomacy and the consultative validation of conflict-prevention agendas.
- xv. Foster and publicise intra-ethnic dialogues across the counties to give Kenyans opportunities and forums in which to engage with each other. Officials from national institutions charged with enhancing peace and security should attend such events.
- xvi. Ensure implementation of the recommendations contained in the ethnic audit conducted during 2011, which suggest that individuals from all ethnic communities in Kenya have equal access to civil service jobs.

- xvii. Conduct scenario analyses on the likely impact of the ICC's actions on the rapidly approaching future elections, and assess support for a broad-based societal coalition against violence ahead of the elections. And from the findings, prepare a blueprint for conflict prevention to inform international activities aimed at supporting peaceful and democratic future elections.

8.4.4. Recommendations for civil society

- i. Initiate community dialogue sessions throughout Kenya, aimed at assessing the immediate needs of communities in forging a way forward towards reconciliation and cohesion.
- ii. Conduct analysis and engage with the Truth, Justice and Reconciliation Commission to develop a reconciliation policy that includes consultations with victims and aims to develop well conceived and inclusive reparations programmes.
- iii. Conduct conflict mapping, and identify and implement context-specific intervention strategies.

8.5.5. Recommendations for the United Nations

- i. Acting through the relevant offices in Kenya, and in line with the Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies,
- ii. support domestic reforms, help build the capacity of national justice-sector institutions, and
- iii. facilitate national consultations on justice reform and transitional justice.

8.5.0. Way forward

According to the research findings as well as (Malik 2014:1), since the restoration of multiparty competition in Kenya in the early 1990s, three of Kenya's five presidential elections-1992, 1997, and 2007 have been accompanied by severe violence in the form of ethnic clashes. However, the elections of 2002 and 2013 were relatively peaceful but with impending latent conflicts. Also observed through the research and by Malik is the fact that while the conflicts of the 1990's largely took place before the elections, the 2007-2008 violence occurred exclusively after the results of the elections were announced. The post-election violence of 2007-2008 was the worst incident of election related conflict in Kenyan history. The research also notes that election violence targeted entire groups perceived as political and ethnic rivals. In this regard, the researcher fore sees a situation where by if peace building is not undertaken as a long term process and the research recommendations are not implement, Kenya risks getting again into escalated electorally triggered violent conflicts in future.

8.6.0. Possibility of future election violence in 2017 general elections or subsequent referendums

Preventing mass violence does not mean that election-related violence was absent in Kenya during the 2013 general elections, or that elections were peaceful. Failures to make these distinctions in analysis and evaluation risk distorting estimations of the potential for future violence, potential triggers, and underlying conflict drivers. While widespread violence was averted in 2013, the risk of future violence remains high. The 2013 electoral stability was largely achieved by factors that suppressed rather than addressed conflict drivers and potential triggers. Many of the factors that prevented widespread violent

conflict are no longer present or supported in the post-election period, including early warning systems, peace messaging, media self-censorship, and high police presence. Other factors are proving unsustainable as the memory of the 2007-08 post-election violence and the fear of prosecution by the ICC slowly fades. At the same time, hope is dwindling in the newly devolved system of governance, local and national reconciliation, land reforms, and a fair system for Internally Displaced People (IDP) resettlement. Moreover, high levels of inter-communal violence and ethnic mistrust since 2013 elections raises concerns about the ability of strategies for election violence prevention to minimise the risk of a conflict relapse (Elder, Stigant and Claes 2014:2, 20.)

Research findings and analysis of this thesis clearly indicates that peacebuilding efforts have not been fully successful in Kenya. Moreover, most of the intervention measures that were put in place were of short-term duration. Research findings and analysis are in agreement with Elder, Stigant and Claes (2014:2) that the notion of Kenya as a ticking time bomb is prevalent within the local population. There is a widespread expectation that violent conflict could erupt even before the 2017 elections as the long-standing grievances that fuelled violence in 2007-2008, and were merely suppressed during the 2013 general elections, have not been adequately managed, transformed or resolved. According to the research findings, although peacebuilding efforts surged in the months preceding the 2013 general elections, they largely disappeared after the election day, even though divisions among communities remain deep and new triggers of conflicts have emerged. Mombasa, Marsabit, Bungoma, the Rift Valley province, Kakamega and Nyanza province stand out as among the regions facing a particularly high risk of imminent latent conflicts that could be escalated by future elections (Research findings and Elder, Stigant and Claes 2014:2).

Predicting future post-election violence (PEV), research findings notes that compounded by the perception that high levels of unemployment and poverty impact different ethnic groups disproportionately, the economic situation is only further fuelling the perceptions of communal disparity and polarisation thus a possible trigger of future PEV. In a different perspective, Elder, Stigant and Claes (2014:19) observes that the evictions at the coast, and in the forestland, dangerous perceptions regarding the discriminatory nature of the Internally Displaced People (IDP) resettlement scheme, heavy-handed counterterrorism efforts, and corruption scandals at the county level might spark more localised inter-or intra-communal conflicts that could escalate during the subsequent general elections. Moreover, new frontiers for conflict at the county and sub-clan level further pose additional challenges for a political system that remains highly centralised and driven by ethnic identity. The withdrawal of international assistance has further increased the risk of future violence, particularly when the civil society is increasingly under threat and operating within a shrinking space (Elder, Stigant and Claes 2014:20).

In agreement with research findings, analysis and recommendations, Kivuva (2015:1) notes that in Kenya, there is consensus about the value of increased democratisation and the opening up of the political space to more participants-more political parties, more media outlets, free expression of views, and more freedoms. However, Kivuva also argues that recently in Kenya, anti-democratic features, including rigging of elections, violence, bribery, and attempts to close political spaces for some groups-has also increased. As a result, despite more than two decades of democratisation in Kenya, the transition does not seem to have yielded significant changes in the institutional composition of the country. And even when institutions have changed, this does not seem to have brought about meaningful socio-economic and security gains for the citizenry (See also research findings, analysis and recommendations in this regard). In agreement with

research findings that the peacebuilding process in Kenya has not yet succeeded, Kivuva (2015:1-7) drawing on the results of Afrobarometer surveys in Kenya, examines the changing perceptions of Kenyans regarding the country's democratic transition and the benefits that the transition has brought to them. According to Afrobarometer (an African-led, non-partisan research network that conducts public attitude surveys on democracy, governance, economic conditions and related issues across more than thirty countries in Africa) commenting on the perceptions of Kenyans towards democracy, Kivuva notes that in 2010, the country promulgated a new progressive constitution, which increased levels of freedom in Kenya, especially freedoms of expression and association. Kenyan's perceptions of their 'freedom to say what you think' and 'freedom to join any political organisation' remain high and did not change significantly between surveys in 2008 and 2011. Despite these freedoms, Kenyans do not see their country as a full democracy. Moreover, just as this research findings revealed that peace building has not been successful in Kenya, results from Afrobarometer 2011 survey reveal that only 9% of Kenyans consider their country a full democracy while the rest denounce that Kenya is a full democracy. In a significant shift in perceptions of democracy and democratisation, the number of respondents who consider Kenya either not a 'democracy' or 'a democracy with major problems' increased from 17% in 2003 to 47% in 2011 (Kivuva 2015:1-7). In a similar vein, the level of satisfaction with democracy declined over time. Kivuva further notes that parallel to decreasing levels of satisfaction with Kenya's democracy, perceptions of economic conditions are on the decline as well (in this regard see research analysis and findings also). In the Afrobarometer research findings, when asked about the country's economic conditions in 2003, 45% of respondents stated that they were fair or very good. But this proportion decreased to 28% in 2005, to 12% in 2008, and to 10% in 2011. The overall trend from 2003-2011 clearly

reflects that peoples optimism about the country's future economy has been eroded. Research findings indicates that poverty is a trigger of post-election violence. Alongside anxieties about personal living conditions and the economy, perceptions of corruption and governance may be factors contributing to public dissatisfaction with democracy in Kenya. Afrobarometer findings revealed that people's perceptions towards how the government handles corruption dropped from a high level of approval (85%) in 2003 to an approval rating of only 26% in 2011 (Kivuva 2015:1-7). Research findings indicated that corruption is among the causes of electoral conflict and an increase in corruption means tha there are high chances of elections being rigged and acampanied by post-election violence.

Considering findings in this research, afrobarometer's research findings, Elder, Stigant and Claes (2014:1-20) findings, it is clear that electoral conflicts in Kenya have not yet been adequately transformed and managed. Moreover, the peacebuilding initiatives that were put forward to resolve Kenya's electoral conflict have not succeeded, were of a short-term nature and have left a latent conflict that still calls for transformation, management and resolution where possible.

8.7.0. Transforming, managing and mitigating future elections and post-elections conflicts in Kenya

For Kenya to transform, manage or solve electoral conflicts, it should work jointly with the United Nations peacebuilding missions. For instance, the United Nation Development Programme (UNDP 2013) noted that UNDP works to support countries to strengthen national capacity for the prevention, management, and resolution of conflict; providing training and

advice to national and local institutions and leaders, so that they can manage conflicts constructively and engage peacefully in political transitions, through such activities as:

- i. Supporting the development of national and local conflict early warning and response systems to address recurring violence, and ensure peace during moments of high stress, such as elections.
- ii. Building the conflict management capacity of key national institutions (judicial, human rights, security and civil institutions) so that they can mediate conflict around contested issues and resolve specific disputes without the need for external mediation;
- iii. Training national and local mediators and facilitators to serve as intermediaries that build the community's trust in institutions, improve relationships, and facilitate collaboration and coordination among polarised groups and sectors; and
- iv. Establish and convene formal and informal opportunities for dialogue to address specific conflicts, and build consensus around constitutional or governance reforms.

Scognamillo and Bernard (2011:31), paraphrasing critical European Community (EC) documents on conflict prevention and analysis note that the EC stresses the need to focus on root structural causes of conflict. Moreover, the EC embraces an integrated approach to conflict transformation, management, and prevention, including economic and trade integration as the liberal peace tennets posit, the macro-economic environment, security sector reform, and the main streaming of conflict sensitivity in external assistance. This should be achieved by improving partnerships with regional and international organisations, and flexibility and adaptability of competent peacebuilding instruments.

Focusing on Electoral Management Bodies (EMBs) for example the Independent Electoral and Boundary Committee (IEBC) in the Kenyan context, Scognamillo and Bernard (2011:33) note

that planning in potentially conflictive environments requires EMBs to focus on the following themes:

- i. Technical descriptive activities that are operational in nature, concerning the administrative steps required to organise and election.
- ii. Political descriptive activities of negotiation on electoral legislation, electoral official appointments, qualifying candidates, resolving disputes and managing electoral conflicts. Besides, political agreements on electoral timing, sequencing and other aspects of the electoral process should be appropriately decided.
- iii. Peacebuilding descriptive activities including prosecution of war criminals; demobilisation, disarmament, and reintegration (the DDR process) and demining.

In addition, the researcher recommends that the mandate of the National Cohesion and Integration Commission (NCIC) should be an ongoing long-term process and not a periodical, temporal process. The NCIC was created to address the post-election crisis and the underlying issues that caused the crisis. NCIC was mandated to facilitate and promote equality of opportunity among Kenyans irrespective of ethnic and political alignment, promote good relations, harmony and peaceful-co-existence between persons of the different ethnic and racial communities of Kenya and to advise the government on all aspects thereof (Nderitu 2011:1-2).

Moreover, the researcher is in agreement with Malik (2014:1) that elite choices about the ethnic composition of electoral coalitions set the stage for whether or not violence will accompany any particular election. More specifically, Malik notes that when politicians build alliances between hostile communities, election-related conflict is unlikely to occur even in places where there has been a history of such violence. It is time we paid attention to the processes-including those of coalition-building-that play into the escalation and de-escalation of violence over time only then

will we have good ideas and approaches for containing electoral conflict in future (Malik 2014:39).

8.8.0. Conclusion

This chapter provides conclusions about the research findings and analysis. Conclusions about the reliability and validity of the research findings and analysis has also been discussed. Moreover, the chapter provides recommendations according to the research findings and recommendations by other institutions and scholars towards peace building and management of electoral conflicts. The chapter also provides intervention measures to mitigate and manage electorally related conflicts. In this regard, the researcher in reference to the study findings, analysis and information from the Institute for Justice and Reconciliation (IJR) provides recommendations to the government of Kenya, the National Cohesion and Integration Committee (NCIC), the civil society, and the United Nations (UN). The chapter also foresees the possibility of future violence in the 2017 general elections, or any subsequent referendum. In response, the chapter provides measures for transforming, managing and mitigating future elections and post-elections conflicts and proposes further research into the theme of election-related conflicts.

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Addendum One: Questions leading the focus group interviews and the individual interviews

1. What do you think are the causes and courses of electoral conflicts in Kenya?
2. What do you think are the specific forms of election related conflicts in Kenya?
3. What do you think are the effects and consequences of electoral conflicts?
4. What in your opinion could be the solutions to electoral conflicts and how might such conflicts be prevented?
5. Do you think that elections help in resolving conflicts or create a post-election crisis?
6. Do you believe there are other indicators for democracy than elections?
7. Are you aware of and do you have any knowledge, or experience of peace- building in Kenya as a result of electoral conflicts?
8. What specific peace-building measures have been taken before?
9. Do you think these have been successful?
10. Have these been improved recently?
11. How have they been improved?
12. When were they improved?
13. Has there been any large-scale training of political leadership/security forces in conflict management or peace-building?
14. Thinking about the peace-building process, do you feel that it has succeeded or failed in transforming the electoral related conflicts in Kenya?
15. Have peace-building efforts, ideas, skills and knowledge in Kenya reached the majority of the population? And are the majority population aware of the peace-building efforts and their success in transforming the conflict?

16. Is the peace-building process in Kenya changing the attitudes and behaviours of Kenyan citizens and solving the tribal and political party differences?
17. Does leadership still appeal to ethnic difference, and other dangerous issues?
18. Has peace-building in Kenya managed to reconcile and heal the broken vicious circle of electoral conflicts in Kenya?

Addendum Two: Permission Letters



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Kenya

Center for Disaster Management and Humanitarian Assistance

Department of Peace and Conflict Studies

MMU/CDMHA/PCS/VOL.1

Date: 26th March, 2012

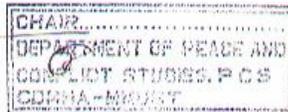
Dr. Gravin Bradshaw
Conflict Transformation and Management Programme
Dept. of Political and Governmental Studies
Faculty of Arts
Nelson Mandela Metropolitan University
South Africa

Dear Dr. Bradshaw,

Subject: Letter of Permission for Research into Electoral Conflict

This is to give Solomon P. K. Muhindi (Student No. 208062984) express permission to conduct his PhD research amongst the members of the departments of Peace and Conflict Studies as well as (where applicable) Emergency Management and Humanitarian Assistance of Masinde Muliro University of Science and Technology.

Yours faithfully,



Prof. Frank K. Matanga
Chair, Peace and Conflict Studies Department

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Department of Peace and Conflict Studies

16th June 2012

Dr. Gravin Bradshaw
Conflict Transformation and Management Programme
Dept. Of Political and Government Studies
Faculty of Arts
Nelson Mandela Metropolitan University
South Africa

Dear Dr. Bradshaw,

Subject: Letter of Permission for Research into Electoral Conflict

This is to grant Solomon P.K. Muhindi (Student No. 208062984) permission to conduct his PhD research in the organisation.

The Electoral Institute for Sustainability of Democracy in Africa (EISA) is a not for profit organization which, over the years and through its numerous activities, has been able to establish itself as a leading institution and influential player dealing with elections and democracy related issues in the African continent.

The organisation will therefore be able to provide Mr. Muhindi with the necessary information required towards completion of his research.

Sincerely,

Felix Odhiambo Owuor
Country Director-EISA Kenya

Patron: Sir Ketumile Masire (Botswana)
Board of Directors: Mr Leshelle Jhoahlane, (*Chairperson*) (Lesotho), Mr Yusuf Aboobaker (*Mauritius*),
Ms Otilia Aquino (*Mozambique*), Mr Denis Kadima (*Executive Director*), Dr Muzong Kodi (*DRC*),
Professor Tom Lodge (*United Kingdom*), Justice Lewis M. Makame (*Tanzania*), Justice Anastasia Msosa (*Malawi*),
Dr Christiana Thorpe (*Sierra Leone*), Ms Ilona Tip (*South Africa*)



CATHOLIC DIOCESE OF ELDORET

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Website: www.cdekenya.org

19th oct.2012

Dr.Gravin Bradshaw,

Conflict Transformation and Management Program

Dept.Of Political and Governmental Studies

Faculty of Arts

Nelson Mandela Metropolifan University

South Africa

Dear Dr.Gravin

Ref. Letter of permission to conduct research about electoral conflicts in Kenya.

Catholic Justice and Peace Commission have been working in the field of peace building and conflict transformation for a number of years. It is mandated by the Catholic Church to work for social justice and peace for all people.

As an Institute we shall permit Mr. Solomon P.K. Muhindi (SRG./NO.208062984) to carry his research within our. We shall give him every support he requires to succeed in his research work.

Thanks

Yours faithfully

James Kimosoi

INCORPORATING: *The Diocesan Secretary, The Procurator,*
Departments under: *The Development & Social Services Directorate and The Pastoral Directorate.*

Barngetuny Plaza,
2nd Floor, Room No. 3
Ronald Ngala Street
P. o Box 4500-30100
ELDORET

**MANYONI ORINA & CO.
ADVOCATES
Commissioner for Oaths**

Cell Phone: 0723 441804

Email: lydiamanyoni@yahoo.com.

L.K ORINA LLB (HONS) NBI, DIP. (KSL)

Our Ref :

DATE: 19th OCTOBER, 2012

Your Ref:

Dr. Gavin Bradshaw (Research supervisor)
Conflict transformation and Management Programme
Department of Political and Governmental Studies
Faculty of arts
Nelson Mandela metropolitan University.

Dear Sir,

RE: LETTER OF PERMISSION FOR RESEARCH INTO ELECTORAL CONFLICT

This is to grant **SOLOMON P.K MUHINDI** (student No. **208062984**) permission to conduct his research on **ELECTORAL CONFLICT MANAGEMENT** in our firm and we are willing to assist him where necessary to enable him complete his research.

Yours faithfully,
MANYONI ORINA & COMPANY ADVOCATES


L.K ORINA.

Addendum 3: Ethics Clearance



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Ref: H/12/ART/PGS-0049

01 MARCH 2013
Mr S P K Muhindi
P O Box 204
TIRIKI
KENYA
222

Dear Mr Muhindi

CONFLICT MANAGEMENT IN KENYAN ELECTORAL CONFLICT: 2002 - 2012

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/12/ART/PGS-0049** and is valid for three years, from 07 November 2012 – 07 November 2015. 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

Mrs N Mngonyama
FACULTY ADMINISTRATOR

cc: Promoter/Supervisor
HoD
School Representative: Faculty RTI
