The ethnification of electoral conflicts in Kenya: Options for positive peace

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Abstract

Kenya has since the re-introduction of multiparty politics in 1991 experienced periodic electoral conflicts. In the analysis of these conflicts, however, there is an evolving tendency to perceive their causes as merely, or mainly, manifestations of negative ethnicity. In other words, there is the tendency on the part of the state, and non-state actors, to deliberately 'ethnify' extra-ethnic conflicts in the country in a phenomenon herein conceptualised as ethnification. The ethnification of extra-ethnic conflicts has caused the country to continually drift into an electoral-conflict trap. The failure to address substantive extra-ethnic factors which have historical, structural, institutional, legal, and cultural standpoints has constrained the pursuit of positive peace in the country. This paper, therefore, examines the evolving tendency to treat extra-ethnic electoral conflicts from the ethnic-identity premise. The centrality of underlying causes and rationales of electoral conflict that are extra-ethnic is highlighted, and a way forward for the pursuit of positive peace in the country is recommended.

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1. Introduction: The ethnification of electoral conflicts in Kenya

In contemporary conflict transformation processes, state and non-state actors at the national, regional, and global levels identify a broad range of factors that cause conflicts. A clear understanding of this range of factors is critical in instituting a proper foundation for conflict resolution in the pursuit of positive peace amongst people within societies and states. Kenya, like several other states in Africa, has experienced a series of conflicts, and in particular, electoral conflicts. The state of internal conflict in Kenya has prevented the maintenance of peace in the country. Since independence in 1963, the country has experienced electoral reversals and tensions (Kanyinga et al. 2010:16). This has led to a situation in which peace is mostly absent, or, if present, is just negative peace. The negative peace is, however, periodically interrupted by periods of manifest conflict, especially during general elections.

As a multi-ethnic country, Kenya's pluralist elections are inevitably marked by ethnic undercurrents and strategising. Since the re-birth of pluralist democratic politics in Kenya in 1991, the country once defined as the beacon of peace in Africa has repeatedly suffered electoral conflict. During the 1992, 1997, 2007, and 2017 general elections, the country experienced electoral violence that led to loss of lives and internal displacement of persons (Kenya National Commission on Human Rights [KNCHR] 2017:5; Commission of Inquiry into Post-election Violence [CIPEV] 2008:383; Mwagiru 2008:1; Akiwumi Commission 1999:1; Oyugi 1997:55). While the triggers of these conflicts in the country are multi-dimensional and include historical, structural, institutional, legal, and cultural factors, they have always reflected an underlying ethnic-identity problem. This is because the foundation of pluralist democratic politics in the country was anchored on political party structures and strategies that originally segmented the country along ethnic alignments. Political leaders blatantly camouflage

ethnic alignments as issues of nationalism as they attempt to secure ethnic backing and patronage that can propel them to power. Although the triggers of these electoral conflicts in the country are extra-ethnic, their analyses, and related interventions thereof, have frequently been selfishly ethnified and tainted by ethnic favouritism. This phenomenon is herein conceptualised as ethnification.

This study therefore seeks to examine the ethnification of the electoral conflicts that Kenya has experienced thus far, exploring its observable characteristics and underlying rationales. It also seeks to recommend a way forward in the pursuit of peace in Kenya. A brief historical background of electoral conflicts in the country is presented in the second section, while the various dimensions to electoral conflicts are examined in the third section. The fourth section explores the case of the 2007 electoral violence from the different extra-ethnic dimensions and shows how the conflict was ethnified and the rationale thereof. The fifth section provides options for positive peace for Kenya while the last section concludes by giving the way forward.

2. The historical context of electoral conflicts in Kenya

The historical trajectory of conflicts in Kenya, as is the case with other African states, assumes the colonial narrative. Since the invasion of Kenya in 1885, the British instituted the divide-and-rule strategy that ushered in their unfettered plunder of the country's economic resources. The colonialists disempowered the indigenous communities by isolating them from Kenya's rich economic zones (Munene 2012a:14; Oyugi 1997:42).

The quest for independence, as was articulated by the indigenous communities, resulted in colonial resistance. In the period from 1952 to 1958, Kenyans under the Mau liberation banner, successfully defeated the imperial powers and regained their sovereign rule when they acquired independence in 1963. However, the structural inequalities initially entrenched by the colonialists were accentuated by the newly inaugurated native rulers. This perpetuated structural differences that heightened

the unequal distribution of economic and political resources (Wamwere 2008:20).

In particular, class patronage in the unequal distribution of the land resource during the reign of President Jomo Kenyatta (1963–1978) entrenched structural differences amongst the indigenous communities. The annexation of huge tracts of land, especially the productive 'white highlands' that were previously owned by the colonialists, was recognised as a terrible impropriety by the communities (Ajulu 1998:77; Adeagbo 2011:174). Besides grabbing prime lands, the Kenyatta administration entrenched structural injustices that have transcended political regimes to the present-day Kenya.

Similarly, the distribution of political resources, especially in the personalisation of power during the Kenyatta administration, established genuine resource distribution grievances that entrenched political divisions in the country. Notably, the colonial constitution, and the government institutions that were created thereof, advanced imperialist interests through neo-colonial power brokers. Yet, the political leaders in the Kenyatta administration would have known too well that the inequitable distribution of resources, both economic and political, was a recipe for violence given the overlap of ethnic and regional identities in the country. Through domination and manipulation of the political institutions, these leaders turned elections into structures for rewarding loyalists and punishing dissenting voices (Ajulu 2008:34; Mutua 2008:75).

President Daniel Moi's administration (1978–2002) heightened the unfettered accumulation of state resources. The personalisation of state power, and the articulation of the political interests of the ruling elite, led to the massive plunder of state coffers and heightened the demand for constitutional and institutional reforms in the country. Nevertheless, Moi engaged in the divide-and-rule tactic thereby playing the ethnic card instituted by President Kenyatta into Kenya's political contest. The president fiddled with ethnicity to gain political mileage (Ajulu 2008:35).

In order to hold on to power, Moi strategically seized the functions of state institutions. Through the Constitution of Kenya Amendment Act Number 7 of 1982 Section 2(A), the president transformed the country into a *de jure* one-party state (Korwa and Munyae 2001:2; Korwa and Vivekananda 2000:78). In return, this led to political agitation for constitutional reforms. However, the political leaders who were agitating for these reforms were temporarily silenced through political detention, while others were summarily silenced, eternally, through assassinations (Press 2015:205; Mutua 2008:75; Throup and Hornsby 1998:54).

The re-introduction of the democratic multiparty politics in Kenya in 1991 led to the embattled history of electoral conflicts in the country. Democratic politics occasioned the creation of a multiplicity of political parties, most of which were conceived without substantive political ideologies and served solely as political instruments to acquire political power. These parties were established by regional kingpins who made their ethnic positioning the basis for their power. The political parties were therefore rendered ethnic in their configuration against the nationalistic Kenya African National Union (KANU) party that had a well-established nation-wide support and patronage (Ajulu 1998:74).

The 1992 general elections were a major milestone in the development of the embattled democratic discourse in Kenya. After a protracted period of iron-fist rule under the Moi regime, the elections promised extraordinary relief after years of massive plunder, bad governance, and human rights violations. However, Kenya's quest for democratic transition was dealt a massive blow by the political machinations of the Moi administration (Throup and Hornsby 1998:179). During this election, electoral malpractices were observed, in particular vote rigging and voter buying. The well-coordinated electoral conflict that was experienced in the Rift Valley during this election was disastrous (Oyugi 1997:54; Kenya National Assembly 1992; Akiwumi Commission 1999:2). In addition, political participation in this election had been reduced to ethnic mobilisation of the unemployed youth through propaganda and violence.

Similarly, the 1997 general elections were organised against a backdrop of an unrelenting quest for change of the Moi regime. The opposition parties, much divided against a common adversary, KANU, could not front a strong opposition against the then incumbent, President Moi. The electoral campaign during this election had exhibited signs of looming violence. Electoral malpractices such as vote rigging were observed during this election. Besides, electoral violence was witnessed in towns like Mombasa and Eldoret with observed loss of human life, and the increase of Internally Displaced Persons (IDPs), especially in the Rift valley, Nyanza, Western and Coastal regions (Brown 2011:127; Akiwumi Commission 1999:2).

The rather peaceful general election of 2002, sometimes described as a 'transition election', realised the democratic intentions of regime change and assured the people a period of relative, albeit negative, peace. During this election, President Mwai Kibaki, under the National Rainbow Coalition (NARC) umbrella, secured a landslide victory. This election provided the opportunity for a transition from Moi's authoritarian regime to a democratic regime (Brown 2004:328).

The Kibaki administration, however, failed to inspire the resolve to pursue positive peace in the country. The immediate breakdown of the coalition over an alleged failure to honour a pre-election power deal, a supposed Memorandum of Understanding (MoU) as defined by the coalition partners' leaders, Raila Odinga of the Liberal Democratic Party (LDP) and Kibaki of the National Alliance of Kenya (NAK), led to renewed political antagonisms in the quest for constitutional reforms in the country (Ajulu 2008:49).

The 2007 general election, as discussed in detail in section 4, was held amidst deep political tensions. The campaign process was generally peaceful. The political parties, largely the Orange Democratic Movement (ODM), the Party of National Unity (PNU), and ODM-Kenya, established nation-wide campaign machinery. Towards the end of the campaign period, opinion polls showed a head-to-head race between Raila Odinga and Mwai Kibaki (Independent Review Commission [IREC] 2008:62).

During the electoral campaigns, hate media was perpetuated through vernacular radio stations. *Kass* FM radio, broadcasting in Kalenjin language, allegedly aired materials of xenophobic nature against the Kikuyu community. *Kameme* and *Coro* FM radio stations broadcasting in Kikuyu dialect had programmes that encouraged ethnic chauvinistic divisions. In addition, phrases such as '*madoadoa*' (blemishes) and 'getting rid of weeds', in reference to the non-Kalenjin community living in Rift Valley, were aired by *Kass* FM. In addition, *Inooro* FM played Kikuyu dialect songs that imaged Raila Odinga as a murderer and even characterised the Luo community as lazy hooligans who do not pay rent (IREC 2008:100; Mwagiru 2008:12).

During this election, and especially the pre-election campaigns, militant groups instigated fear amongst Kenyans. For a long time, communities in Kenya had nurtured youths who had graduated to militias. These militias were supported by politicians. The Mungiki, Kalenjin Warriors and Baghdad Boys, for instance, were aided with financial support and weapons (machetes and arrows) that were subsequently used in the 2007 violence (CIPEV 2008:34; International Crisis Group 2008:11; KNCHR 2008:26; Khadiagala 2008:4).

After the presidential elections results were announced by the Electoral Commission of Kenya (ECK) Chairman, Samuel Kivuitu, spontaneous and organised violence erupted that led to 1 133 people killed, an estimated 700 000 people displaced, and excessive material damage (CIPEV 2008:383). Through international intervention, the conflict was resolved by means of a mediation process that led to the signing of the National Accord and Reconciliation Act on February 28, 2008 (African Union Panel of Eminent African Personalities 2008:42; Kenya National Assembly 2008; Mwagiru 2008:148). This contrived to bring about peace in the country (Munene 2012b).

But why do these electoral conflicts always assume a '*vita vya kikabila*' (tribal conflicts) ethnic dimension? An analysis of extra-ethnic dimensions in Kenya's electoral conflicts is explored in section 3 below,

highlighting deliberate attempts to ethnify electoral conflicts through an ethnification agenda.

3. Characterising electoral conflicts in Kenya

An analysis of electoral conflicts in Kenya is compounded with contradictions and contestations, not least, in the democratic dispensation. Different dimensions of electoral conflict in Kenya can be examined. While the historical dimension is articulated in the foregoing section, an analysis of the structural, institutional, legal, cultural, and ethnic-identity factors in Kenya's electoral conflicts is hereinafter examined.

3.1 Structural inequalities and interest aggregation

The historical background points to prevailing structural inequalities in the distribution of both economic and political resources, which played a major role in the cycle of electoral conflicts in the country (Mwagiru 2008:10; Wamwere 2008:30). In particular, the inequitable distribution of the land resource in the productive and economically viable regions in the country is observed as the main trigger of electoral conflicts in the country. Patterns of electoral conflict in the country mirror the contestations about the rightful owners of land in the Rift Valley, central highlands and the coastal regions. The unfettered accumulation of land by the ruling elite during the Kenyatta and Moi regimes relegated a portion of Kenyans into being squatters in their own land. Their quest to redeem their 'rightful' ownership of these lands has occasioned conflict, which was largely manifested during elections (CIPEV 2008:17; Lafargue and Katumanga 2008:22).

Besides the land question, the ruling elite in the country aggregated their political and economic interests using state machinery. In the effort to oppose particular economic and political interests of the 'establishment', political actors contest the policy agenda of incumbent leadership. Such contestation provokes the electorate, fuelling open defiance of the leadership. For instance, following president Moi's iron-fist rule, civil society initiated calls for democratic consolidation in the country. In response to the

unfettered centralisation of executive power and the heightened plunder of state coffers, civil society's quest for equitable distribution of political resources in the country led to violent confrontations (Kanyinga 2002:48; Mutunga 1999:27; Wanjohi 1993:30).

Economic marginalisation of some parts of the country has also heightened electoral conflicts in the country. As examined in section 2, the marginalisation of the 'less productive' regions of the country by the Kenyatta and Moi regimes disenfranchised the people. Inequitable economic resource distribution and skewed infrastructure development in most parts of the country heightened economic inequalities that trigger conflicts. In addition, resource-based conflicts occasioned by economic marginalisation have elicited the 'we' versus 'them' rich-poor dichotomy that sets the majority poor Kenyans against the minority elite (Nunow 2014:104).

It is due to such marginalisation that there is increased proliferation of militia groups, for instance, the Sabaot Land Defence Force, the Mungiki, Taliban and Mombasa Republic Council, who seek to agitate for inclusivity in the distribution of economic resources, and in particular, land (Nunow 2014:104; Mutahi 2005:84). The unfettered corruption during the Moi and Kenyatta regimes, as highlighted in major scandals such as the Goldenberg and Anglo Leasing, has further ruined the economic stability of the nation. This has intensified the grievances already experienced over matters arising during the electoral campaigns.

3.2 Institutional inadequacies in electoral contentions

In order to address the structural deficiencies highlighted in 3.1 above, critical institutions have been established, but they have yet failed to address electoral conflicts. At the heart of every electoral conflict in the country is an error of omission, or commission, by relevant state and non-state actors. State institutions have a tendency to intensify electoral conflicts in the country. For instance, the IREC (Kriegler Commission) observed that the commissioners and staff of the ECK were ill-prepared

to manage the 2007 general election. Even after declaring the incumbent, president Kibaki, as the winner of the contest, the then Chairman, Samuel Kivuitu, confessed in the full glare of the media that he actually could not certainly confirm the candidate who won the election (IREC 2008:2). The swearing-in of the president-elect at dusk in State House by the then Chief Justice Evans Gicheru heightened tensions in the country and eventually occasioned electoral violence.

In addition, institutions that are charged with investigating perpetrators of electoral conflict have repeatedly failed to implement their mandates. During the 1992, 1997, and 2007 electoral conflicts, there were hardly any perpetrators who have been prosecuted. And if any, they must have been found 'not guilty' of electoral offences, let alone criminal acts. The parliamentary motion in the quest to establish a Special Tribunal for Kenya to investigate and try the perpetrators of the 2007 electoral conflict was, on two occasions, defeated in the National Assembly with calls for 'Let's not be vague, let's go to Hague' (Girachu and Rugene 2009). The subsequent establishment of the International Crimes Division in the High Court to try the perpetrators of electoral conflict has failed to realise any justice for the victims and the perpetrators.

While state actors such as the electoral commission, judiciary and parliament have exacerbated the cycle of electoral conflicts, non-state actors too, consciously, heighten electoral tensions in the country. For instance, media stations in Kenya broadcast 'untruths' that perpetuate electoral conflicts. The media give greater attention to reporting on conflict and allocate less coverage to peace initiatives (Iraki 2014:95). Media stations broadcast biased and unverified accounts that heighten hatred among disenchanted viewers. Besides, they publish opinion polls that are choreographed by their political financiers (Oucho 2010:507; Mutahi 2008:145). Media stations also articulate foreign interests in their reporting and hence relegate national interest to obscurity (Munene 2008:153). Media houses even establish political affiliations that advance a certain political agenda with a view towards perpetuating their corporate interests (Iraki 2014:92; Makokha 2010:286; Ogenga 2008:127).

Besides, international state actors in Kenya perpetuate particular foreign interests. Foreign actors, who want to pursue political or economic interests in the country fuel political antagonism that manifests during electoral contests (Munene 2012a:109). For instance, the US funding of regime change programmes in the country in the wake of the 2013 general elections, and the blatant rejection of Uhuru Kenyatta's candidacy as expressed in the 'choices have consequences' clarion call by US Assistant Secretary of State, Johnnie Carson, are indications of how foreign states fuel open defiance to regimes during elections (Gabe 2013; Lough 2013).

In addition, Non-Governmental Organisations (NGOs) in Kenya perpetuate electoral conflicts in the country (Wamwere 2008:178). Some NGOs who thrive on the peace 'enterprise' have a conscious interest in perpetuating 'hate dialogue' with a view to increasing their profit and donor money (Munene 2014:4). The peace workers and peace employers are uncomfortable when generic peace exists and therefore manufacture conflicts to disrupt peace. These inadequacies observed within state and non-state institutions have heightened the need for enactment of legal regimes that would assure the realisation of peace in the country.

3.3 Legal infrastructure for peace

In addressing the aforementioned historical, structural, and institutional inadequacies, the need to reform the country's legal infrastructure has been highlighted as critical in the realisation of peace. The country's infrastructure for peace is deficient of legal frameworks that would assure pre- and post-election peace. The clamour for constitutional reforms in the country led to the repealing of Section 2 (A) of the Constitution in 1991 thereby occasioning a return to multi-party democracy. In response, civil society organisations, for instance, the Citizen's Coalition for Constitutional Change, the Centre for Multi-Party Democracy, and the National Council of the Churches of Kenya, agitated for constitutional reforms (Nasong'o 2014:100; Mutunga 1999:17). Political parties, for instance the Forum for Restoration of Democracy and the Democratic Party, were also involved in the quest for constitutional review (Nzomo 2003:190; Munene 2001:55).

The return of a multiparty democratic system, however, ushered in a zero-sum electoral cycle in the country. Electoral processes were henceforth structured within a legal regime that isolates the winners from the losers at the end of every electoral cycle. This accentuated the 'we' versus 'them' dichotomy in the country. On the one hand, the ruling political party dominates and has assured access to political and economic resources. On the other hand, the opposition is marginalised, with a minimal share in political and economic resources.

The enactment of the Constitution of Kenya Review Act 1997 provided a legislative framework to guide a people-centred quest for a new constitution. The establishment of the Prof. Yash Pal Ghai-led Constitution Review Commission heightened the impetus for a new constitution. The subsequent enactment of the Constitution of Kenya Review Commission Act of 2001 led to the formulation of a draft constitution (Bomas draft) that was presented for adoption at the Bomas Constitutional Conference, but was rejected. The then Attorney General, Amos Wako, nevertheless, presented another draft (Wako draft) to the Parliament for adoption, leading to the 21st November 2005 referendum. This draft was, however, also rejected (Wamai 2014:67). This heightened political tensions in the country, culminating in the 2007 electoral conflict.

In 2008, parliament enacted the Constitution of Kenya (Amendment) Act that provided a legal framework for constitutional review. The Committee of Experts and the Parliamentary Select Committee presented a draft constitution to the parliament that was approved on April 1st 2010. On August 4th 2010, the draft constitution was subjected to a referendum and adopted. The Constitution of Kenya, 2010, hence created a legal framework for addressing historical, structural and institutional inadequacies. It has entrenched key principles of democracy and good governance which include: devolution of power, human rights, equality, inclusiveness, accountability and transparency, separation of powers, rule of law, public participation, civil liberties, institutionalism, and sustainable development. It is however deficient on peace. While the constitution is instrumental in addressing structural and institutional deficiencies in the pursuit of peace, there is

hardly any constitutive Act which expressly legislates on the pursuit of peace in the country, not even the National Cohesion and Integration Act, 2008. The National Policy on Peacebuilding and Conflict Management, 2012, nevertheless provides a framework which if enforced can realise a sense of peace in the country.

3.4 The 'culture of violence' in elections

Besides the historical, structural, institutional, and legal dimensions, electoral conflicts in Kenya may further be explored from a cultural dimension. There is a culture of violence in the country which is firmly ingrained in societal norms and practices. In most communities, the youth, in particular boys, are encultured to be warriors. For instance, in the Kalenjin community, boys are initiated into adulthood through cultural rights that fashion them as warriors and as protectors of their community and property, especially land (CIPEV 2008:76; KNCHR 2008:60). Besides, electoral violence in the country is funded through organised criminal militia networks that are 'ordained' by cultural elders. The networks are covertly funded by political actors who have interests in power aggregation in the country (Lafargue and Katumanga 2008:25).

The oathing practices repeatedly observed during electoral periods show the importance of culture as a dimension when analysing conflicts in the country. The practice of oathing is embedded within the cultures of communities, and, as to religion, most communities have sentimental attachment to their cultural traditions. Such traditions also affect the conflict management processes (Munene 1997:31). Cultural propaganda that is passed down across generations heightens the 'we' versus 'them' dichotomy which permeates the country's political processes. The oathing ceremonies involve making sacrifices to the ancestors aimed at protecting one's family, land, and other property in times of conflict. The youth are therefore encultured into being militants, who always align with those who share their cultural indoctrinations.

Communities who practise male circumcision as a cultural aspect fallaciously regard men from other communities without this initiation practice as unfit to hold national leadership positions (Human Rights Watch [HRW] 2008:4). For example, during electoral campaigns, candidates from the Luo community have been taunted as unfit for national leadership, simply because they are 'culturally inferior'. Cultural tags, for instance '*ihii*' (uncircumcised boys), are attached to such leaders (CIPEV 2008:107; KNCHR 2008:128).

In addition, electoral conflicts in Kenya are culturally engendered. On the one hand, men are encultured to be warriors in their communities and are in most cases the perpetrators of physical violence. On the other hand, women are viewed as victims of electoral violence. However, women are not only victims, but also perpetrators who are used as weapons of war (Ali 2014:71). While girls and women do not necessarily join the boys and men in violence, they provide resources and praises of war to men to fight for their families. This acts as a catalyst to the conflicts (Golicha and Elema 2014:116). This culture of violence hence advances the 'we' versus 'them' dichotomy between competing ethnic identities as explored in 3.5 below.

3.5 Competing identities: 'Forty-two against two'?

The identity dimension, most especially the ethnic-identity dimension, is one of the most significant when it comes to analysing electoral conflicts in Kenya (Wamwere 2008:9; Oyugi 1997:53). Kenya is composed of forty-four ethnic identities, commonly defined in the derogatory form as 'tribes'. The argument is therefore used that electoral conflicts in the country are based on ethnic affiliations. It should be considered, however, that Kenyans co-exist peacefully until the political leadership elevates ethnic persuasions and sensitivities in their quest for political power especially during elections.

The apparently fallacious 'Kikuyunisation' and 'Kalenjinisation' of political debates on power distribution in the country propagate ethnic hatred and repudiate any well-intended argument for national unity. 'Kikuyunisation'

and 'Kalenjinisation' subtleties are used to promote the continued domination of the Kikuyu and Kalenjin ethnic identities in national leadership. Three of Kenya's presidents; Jomo Kenyatta, Mwai Kibaki, and Uhuru Kenyatta, are from the Kikuyu ethnic group while Daniel Moi is from the Kalenjin ethnic group. Since these two ethnic identities have dominated political leadership, there is a growing agitation against them. Further, ethnic-based appointments into positions of authority intensify the ethnic identity-based political discourses (Munene 2012a:138).

The tendency to isolate these ethnic groups in analysing electoral conflicts in the country has permeated national discourses on Kenya's conflict transformation process. The constant ethnification of political arguments has taken centre-stage in electoral processes in the country. For instance, the consistent serialisation of electoral contestations using ethnic connotations such as: 'ethnic coalitions', 'ethnic entrepreneurs', 'ethnic chieftains', 'ethnic cleavages', 'ethnic manipulation, and 'ethnic chauvinism', anchors an ethnic perspective that erroneously permeates national dialogues on conflict resolution (Murithi 2009:3).

Besides, there is an emerging tendency for regional and religious arguments to assume ethnic alignments. The incessant calls, as recorded during the 1997 elections, for the people from the countryside (*wabara*) to leave the Kenyan coastal towns highlight the regional ethnic identity-based arguments in Kenya's electoral process. In addition, the calls for secession emanating from complaints of marginalisation by successive governments have heightened regional differences in the country. For instance, in 2008, the Mombasa Republican Council militia group under the '*Pwani si Kenya*' slogan ('The Coast is sovereign territory independent of Kenya') heightened calls for the territorial independence of the coastal region (Chonghaile 2012; Goldsmith 2011). After the August 8, 2017 general elections, there were also repeated calls for secession with a view to isolate the Central and Rift Valley regions of Kenya due to their perceived ethnic domination in the country's political leadership. This secession debate had previously been raised in March 2016 by David Ndii, a prominent economist, who in an article entitled 'Kenya is a cruel marriage, it's time we talk divorce' elicited

national conversations on issues of economic and political marginalisation in the country (Madowo 2017; Ndii 2016).

Religious identity differences have also permeated Kenya's ethnic discourse. Religious leaders openly enter into political alignments during election periods. For example, Raila Odinga's signing of the Memorandum of Understanding with the Muslim community under the National Muslim Leaders Forum in 2007 was a clear attempt to introduce religion-based ethnic divisions in Kenya's already polarised political scene (Cussac 2008:50; Maupeu 2008:286). These regional- and religious-identity differences are oriented along ethnicity as the prime factor for political alignments.

After exploring the historical, structural, institutional, legal and cultural factors playing a constitutive role in 'ethnifying' electoral conflicts, and thereby obstructing the pursuit of positive peace in Kenya, we may now turn to an exposition of the ethnification of the 2007 electoral conflict.

4. The ethnification of electoral conflicts: The 2007 conflict

The 2007 electoral conflict provides a case illustration of the continued ethnification of electoral conflicts in Kenya. Peace scholars, peace practitioners, and political commentators most importantly identify structural factors in the distribution of economic and political resources as the key triggers of electoral conflict in Kenya. However, analyses by scholars and practitioners mostly give prominence to the identity-based ethnic dimension and focus less attention on the extra-ethnic dimensions.

Notably, commentators observe that structural factors, and in particular the distribution of the land resource is the main trigger of the 2007 electoral conflict. For instance, Mwagiru (2008:10) posits that the inequitable distribution of the land resource that was carried out after the post-colonial period is the main trigger for electoral conflicts in the country. This argument is further reiterated by Munene (2012a:14) and Wamwere (2008:20) who assert that the colonialists hived-off huge productive tracts

of land from the native communities. At independence, these lands were never returned to the rightful owners, but were occupied by the elite who to the present-day perpetuate the interest of the ruling class. This argument is asserted by Oucho (2010:496) who observes that the 2007 electoral conflict was a manifestation of long standing structural factors especially in the inequitable distribution of land in the country.

Institutional weaknesses in Kenya are also highlighted in the context of the 2007 electoral conflict. The ECK lacked the political integrity, independence and capacity to administer a credible general election. The mismanaged tallying process and contested announcement of presidential election results contributed to the electoral conflict (IREC 2008:2). The arbitrary unilateral appointment of ECK commissioners by the then incumbent, President Kibaki, to replace the commissioners whose terms had ended, was also observed as a contentious issue (IREC 2008:31). The independence of the judiciary and its ability to administer a fair electoral petition was questioned. In the outbreak of the 2007 electoral conflict, the ODM leadership was categorical that it would not petition the matter in law since the courts were prejudiced against the opposition. Political parties as institutions also contributed to the electoral conflict due to the ethnic utterances of their leadership during the electoral campaigns (IREC 2008:56). The politicisation of the Administration Police (AP) during the campaigns further heightened electoral tensions (Kariuki 2008:158).

Besides state actors, non-state actors also fuelled the electoral conflict. During the 2007 electoral conflict, Faith-Based Organisations (FBOs), and the clergy, orchestrated ethnic hatred by advancing and defending the biased political positions of the ethnic communities in defiance of their professed religious ideals (CIPEV 2008:217; Maupeu 2008:291). Hate speech perpetuated by radio stations, and in particular vernacular stations, spurred the electoral conflict. *Kass* FM radio, broadcasting in the Kalenjin language, and *Kameme, Coro* and *Inooro* FM radios, broadcasting in the Kikuyu dialect, aired ethnic chauvinistic comments that heightened animosity between the communities (CIPEV 2008:295; IREC 2008:100).

Legal inadequacies also contributed to the electoral conflict. In 2007, political power in the country was centralised. Therefore, the competition in the quest for access to and control of political leadership was observed as a cause of the electoral conflict. Lack of legislative policy frameworks to address historical injustices, and in particular, of a land policy to guide in the resolution of the land question, was observed as a cause to the electoral conflicts. Besides, there was the apparent lack of a legal framework to guide in national cohesion and integration (Oucho 2010:498).

Oathing ceremonies took place (CIPEV 2008:69), and there were reported cases of forcible circumcision of Luo men in Naivasha and parts of Central Kenya (HRW 2008:48; KNCHR 2008:60). The argument of an engendered culture of violence is well supported by evidence that Sexual and Gender Based Violence (SGBV) was employed as a tool for intimidation during and after the 2007 electoral conflict. Concerns were also raised about sexual violence on women in the IDP camps (Bayne 2008:3; CIPEV 2008:252).

However, while extra-ethnic factors and in particular historical, structural, institutional, legal, and cultural factors sufficiently explain the cause of the 2007 conflict, commentators 'ethnified' its analysis. For instance, Wamwere (2008:39) gives prominence to the ethnic dimension, claiming that ethnicity is like a national ideology and a way of life in Kenya. In his analysis of the conflict, Wamwere perpetuates the fallacious narrative that Kenya is a country that has structured ethnic hatred, a country which has an ethnic legacy, a country whose philosophy is ethnic accumulation, and a country whose leaders propagate ethnic power. He observes that Kenya has adopted *tribe* as its standard unit of domicile identity and further argues that the country is held captive by negative ethnicity and is on an assured path towards genocide. This argument was shared by influential leaders in the country, for instance, Raila Odinga, who argued on Aljazeera television that the government under the leadership of Mwai Kibaki was committing genocide (Hasan 2016).

In addition, Wamwere (2008:30) portrays the Kikuyu elite as people who huddle together and organise themselves as a single ethnic-based political

force in order to defend their 'extraordinarily' enterprising interests in the country. Wamwere observes that the 'Kikuyu diaspora' (in reference to members of the Kikuyu community living in the Rift Valley and Coast regions), has entrenched ethnic elite tyrants who have robbed people of their land all over Kenya.

The CIPEV (2008:344) also emphasises the ethnic dimension in the analysis of the 2007 violence. It highlights that the conflict had a distinct ethnic dimension and was organised by ethnic leaders on the basis of ethnic groups, and in particularly the Kikuyu, Kalenjin, and the Luo. The analysis insinuates the ethnic dimension by identifying the number of people killed on the basis of their ethnic identity. For example, the report highlights that the Luo, Kikuyu, Luhya, Kalenjin, and the Kisii ethnic communities were the most affected with 278, 268, 163, 158, and 57 people killed, respectively. This analysis 'ethnifies' the true reflection of the conflict. Rarely does the report define the victims as Kenyans; they are generally identified on the basis of their ethnicities.

The KNCHR analysis of the conflict assumes the ethnic dimension. In a report on the conflict, KNCHR highlights that there was existing ethnic rivalry between the Kikuyu and the Kalenjin communities. This gives prominence to the ethnic characterisation of the electoral conflict. The report establishes the argument that there were widespread and systematic ethnically targeted killings. At the extreme, KNCHR (2008:5) establishes a narrative that leaders tried to perpetuate genocide against the Kikuyu.

KNCHR's analysis further asserts that Kenya administers ethnic politics based on ethnic chauvinism. The report notes that Kenyans only elect their ethnic kin due to the zero-sum political competition in the country. It highlights that the widespread ethnic mobilisation in the country contributed to the electoral conflict. In addition, the report maintains the 'foreigner-indigenous' analysis of Kenyans living in the Rift Valley. In particular, the Kikuyus who live in contested zones in the Rift Valley are seen as foreigners hosted by the indigenous Kalenjin (KNCHR 2008:52).

The analysis hence gives prominence to the ethnic dimension in examining this electoral conflict.

In a report of the organised violence observed in the Rift Valley, HRW (2008) also establishes an ethnic standpoint in its analysis. HRW clearly points out that the tension over land ownership was the main structural trigger of the conflict. The report also indicates that lack of a strong constitutional order contributed to the violence. HRW (2008:36) however, defines the conflict as ethnic-based by outlining how ethnic tensions that transcended the previous general elections had permeated the 2007 electoral conflict. The report further observes that political manipulation of ethnicity is a tradition in Kenya. HRW (2008:35) further accentuates the inter-ethnic hatred narrative between the Kikuyu and the Kalenjin by noting that the ethnic reprisals in Rift Valley were orchestrated by Kikuyu militias. The land question in the analysis fades, and ethnic hatred is accorded prominence. The Kalenjin-majority Kikuyu-minority argument advanced in this report perpetuates the ethnification of the electoral conflict. Phrases like 'ethnic-tensions', 'inter-ethnic violence', 'ethnic-based reprisals', 'ethnic-rhetoric, 'kikuyu chauvinism' and 'ethnic kinsmen' are prevalent in the analysis of the report. This accentuates the ethnic characterisation at the expense of other extra-ethnic dimensions that actually occasioned the electoral conflict.

A review of the electoral conflict by Bayne (2008) also propels the ethnic dimension at the expense of extra-ethnic factors. The report highlights that the main triggers of the conflict were structural factors such as historical land injustices, and institutional factors such as the blatant attempt to manipulate the results of the presidential vote by the ECK. Bayne (2008) further notes that institutions such as the media and political parties promoted the conflict. The report also indicates that the conflict was fuelled by organised militia activities. However, Bayne (2008:4) relegates these extra-ethnic dimensions and proposes an ethnically charged argument that the conflict was an ethnic contest between Kalenjin and Kikuyu communities. In Bayne's analysis, the political contest between the belligerent parties (PNU and ODM), the patrimonial winner-take-it-all

constitution, disempowered institutions, and weakness of the security sector are barely examined. This analysis thereof shifts from the other extra-ethnic dimensions to the ethnic warfare argument.

In a review of the electoral conflict and related interventions, Murithi (2009), argues that the electoral conflict was occasioned by an increased instrumentalisation of power which was used to gain, secure, and entrench economic advantage in the country. However, the analysis shifts from instrumentalisation of power to the ethnic manipulation and ethnic chauvinism that were entrenched in Kenya during the pre-colonial and colonial period. Murithi (2009:2) de-emphasises the interest-based dimension of instrumentalisation of power and instead ethnifies the conflict by engaging in ethnic connotations such as 'ethnic power blocks, 'coalitions of ethnic groups', 'smaller ethnic groups', and 'ethnic dictatorship'. This characterisation ethnifies the analysis.

The foregoing analysis of the 2007 electoral conflict highlights the tendency to ethnify extra-ethnic conflicts in Kenya's electoral process. What could be the underlying rationale for ethnifying extra-ethnic conflicts in the country? First, the 'we' versus 'them' dichotomy in Kenya's electoral processes is not based on sound ideological or policy standpoints, but on ethnic alignments. The multi-ethnic nature of the country's demography has fortified ethnicity as an identity factor with which individuals within communities associate. In essence, the country has not crafted a sense of nationhood, but is more a conglomerate of ethnic nations.

Secondly, colonialism pitted ethnic communities against each other. As examined in section 2, the white settlers displaced the indigenous communities from the rich productive zones in the country, especially in the productive central highlands, the Rift Valley, and the coastal regions. The displaced communities were therefore made squatters on their own land. In re-settling in other parts of the country, they were seen by the local communities as strangers and intruders. The antagonism that was entrenched amongst the different communities transcends discourses

on integration and national cohesion and has hence permeated national politics.

It is therefore due to extra-ethnic factors and lack of nationhood that the cycle of electoral conflict persists in Kenya. The failure to address historical, structural, institutional, legal and cultural inadequacies constrains the conflict resolution process in the country. While addressing the extra-ethnic factors can result in positive peace, it is in ethnifying the conflicts that political leadership can identify with their followers with a view to gaining political mileage and patronage. In whipping up ethnic emotions, politicians heighten differences amongst the people and perpetually cause the country to drift into the electoral conflict trap. Once the violence is provoked, political leaders are able to rise into national leadership either through appointments or in power sharing arrangements, as was observed after the 2007 electoral conflict.

5. Options for pursuing positive peace in Kenya

The ethnification of extra-ethnic conflicts, and in particular, electoral conflicts, has had a negative effect in the pursuit of positive peace in Kenya. After the 2007 general election, and the subsequent spontaneous and organised violence that erupted, the country adopted major structural, institutional and legal interventions that contrived to bring about peace. However, the occurrence of violence in the country after the 2017 general elections indicates that the country is yet to realise effective conflict transformation. While the Constitution of Kenya 2010 has laid a legal infrastructure that would assure peace and stability in the country, there still persist historical, structural, institutional, legal and cultural deficiencies that constrain the pursuit of peace.

In the endeavour to realise positive peace, several interventions need to be initiated. Firstly, there is the need to address historical injustices that were meted out to the local communities during the colonial era. In particular, there is the urgency to resolve injustices surrounding land distribution in the country. Land that was annexed from local communities during the

colonial period should be re-allocated or re-assigned to rightful owners. This will resolve the antagonisms amongst the communities who assert claims and counter-claims on the ownership of tracts of land in the Rift Valley, central highlands, and coastal regions. In addition, there is the urgency to address other economic inequalities with a view to fostering equalisation and countering the apparent marginalisation of less developed regions in the country.

Secondly, there is a need to ensure structural reforms in the country especially in the distribution of the political power resource. The political atmosphere in the country has, since the advent of multi-party democratic politics, been ethnified. Political alignments, and realignments, are based on ethnic configurations. Hence, political parties and coalitions or alliances are not anchored on sound ideology, but on the tyranny of ethnic numbers. This ethnifies the political processes including but not limited to electoral campaigns and voting processes. In addressing this challenge, there is therefore the need to reform the power structure in order to counter the zero-sum electoral processes in the country that on the one hand elevate some parties as winners while on the other hand relegating other parties, and their related coalitions, to being perennial losers.

Thirdly, institutional strengthening is of great import in assuring positive peace in the country. Institutional failure contributes significantly to the cycle of conflict in the country. The tragedy is that key institutions in the country have been ethnified. Hence, political appointment into critical institutions is seen as rewarding certain ethnic groups in the country with a view to gaining loyalty and political patronage. Besides, the independence and integrity of key institutions are diminishing. Key institutions that would assure peaceful transfer of power are increasingly being compromised by the ruling elite. For instance, the electoral commission has on several occasions been accused of manipulating electoral results, thereby leading to violence in the country. In 2007, ODM party's candidate Raila Odinga accused the ECK of rigging the elections in favour of the then incumbent, President Kibaki. In the 2013 general elections, the Coalition for Reform and Democracy (CORD) accused the Independent Electoral

and Boundaries Commission (IEBC) of rigging the elections in favour of Jubilee Alliance's candidate Uhuru Kenyatta. Subsequently, in the August 8 2017 elections, the National Super Alliance (NASA) accused the IEBC of rigging the presidential elections in favour of Jubilee Party's candidate and the then incumbent, President Kenyatta. Consequently, NASA filed a petition in the Supreme Court. The Court nullified the results citing IEBC's irregularities and illegalities in the transmission of the results and called for fresh elections that were held on October 26 the same year. It is by strengthening institutions, and in particular the IEBC, that the country will be able to break away from the cycle of electoral conflicts and attain positive peace.

Fourthly, while institutional strengthening can assure integrity in electoral processes, it is in enacting and enforcing sound legal regimes that the country would attain national cohesion and integration. The Constitution provides a legal framework that if fully enforced can lead to peace and stability. Through devolution of economic and political power, the country has since the enactment of the Constitution moved towards equality and inclusivity. However, the structure of governance requires a legal review in order to counter the zero-sum political contests in the country. The presidential system of government constrains political stability in the country, as the winning political party or coalition fully enjoys power at the expense of losers. Probably, a parliamentary democracy would best assure equitable power distribution in the country as winners will have relatively fewer gains to win and losers will have relatively less gains to lose.

Fifthly, there is a need to institute measures to counter the culture of violence in the country. This would involve promoting tolerance and understanding among all ethnic, religious and regional formations in the country. This will help to promote nationhood which is critical to enhancing peace and stability in the country. It is also important to address the prevailing social constructions and cultural stereotypes that identify some communities as inferior to others. In addition, there is the need to tame hate speech and hate media that accentuate the prevailing negative cultural and ethnic differences in the country. Of greater import is the

need to engage a gendered discourse on conflict resolution in the country with a view to integrating the efforts of both men and women in the pursuit of positive peace for the posterity of the nation.

6. Conclusion and way forward

Electoral conflicts in Kenya are well defined in historical, structural, institutional, legal, cultural, and ethnic-identity discourses. There is however a deliberate attempt to 'ethnify' extra-ethnic electoral conflicts in the country. The ethnification process has been accentuated by analysts and commentators who in their explication of the conflict transformation process in the country exalt the ethnic dimension without according prominence to other critical extra-ethnic dimensions.

In the endeavour to attain the still elusive positive peace in the country, peace and conflict scholars, and practitioners, should realise the need to propel Kenya's peace discourse beyond the ethnic dimension. In their quest for conflict transformation, they should interrogate the historical, structural, institutional, legal, and cultural factors that accentuate the cycle of electoral conflicts in the country. As Munene (2012b) argues, peace is a contrived reality, in that it has to be deliberately created. In the pursuit of positive peace, it is, therefore, the duty of state and non-state actors to interrogate the extra-ethnic causes of electoral conflicts in the country.

In a nutshell, as analysed in this study and typified in Table I below, this paper highlights the need to understand the various dimensions for analysing electoral conflicts in Kenya. The paper highlights that it is rather fallacious to always give prominence to the ethnic-identity dimension at the expense of other extra-ethnic dimensions in the analysis of electoral conflicts. No doubt, the tendency of state and non-state actors to ethnify extra-ethnic conflicts has constrained conflict transformation processes in the country. It is therefore the obligation of all actors to counter the ethnification agenda since it constrains the pursuit of positive peace in the country.

Table I: Dimensions applicable in the examination of peace and conflict episodes in Kenya's electoral process (1992–2017)

Dimension/ Year	Defining characterisations of the electoral processes before, during and after the elections and their effect on peace					
	1992	1997	2002	2007	2013	2017
1. Historical	Unresolved historical injustices about land distribution contributed to the conflict.	Unresolved historical injustices about land distribution contributed to the conflict.	Resolving historical injustices about land distribution remained key campaign agendas for opposition parties.	Unresolved historical injustices about land distribution triggered the conflict in the Rift Valley, Central and Coast regions.	There were established initiatives to address historical injustices through the land and TJRC commissions.	The land question fairly addressed. IDPs resettled. TJRC report not fully implemented.
2. Structural	Centralisation of power, executive control of the judiciary and parliament, and adoption of pluralist politics heightened the political antagonism.	Centralisation of power, executive control of the judiciary and parliament and marginalisation of opposition regions heightened political antagonism.	Increased civil society calls for independence of institutions and decentralisation of power through political reforms heightened antagonisms.	Centralisation of power, executive control of the judiciary and parliament, and extreme human rights violations heightened violence.	Devolution of power enshrined in the Constitution of Kenya (2010) assured equitable distribution of political economic resources and stability.	Devolution has led to equitable distribution of resources. It has however, balkanised the country along ethno-political county lines.
3. Institutional	Weak institutions, e.g. ECK, judiciary, and police contributed to the violence. Political parties and civil society activities led to violent antagonism with State.	Weak institutions, e.g. ECK, judiciary, and police contributed to the violence. Political parties and civil society activities led to violent antagonism with State.	Strong party coalitions (NARC), vibrant media and civil society groups contributed to reforms. ECK Peace committees were critical in peace-building.	Weak institutions esp. the ECK, judiciary, police, fuelled the violence. Hate media, pollsters, FBOs, NGOs, and political parties heightened the violence.	Institutional reforms in the executive judiciary, parliament, and police assured stability. TJRC, NCIC, and land commissions assured reforms.	Lack of credibility in IEBC led to violence. The integrity of the Supreme Court was put into question. NCIC failed to address hate speech.

4. Legal	Quest for constitutional reforms in repealing of Section 2A heightened tensions between civil society, political parties, and the State.	Agenda for constitutional reforms by IPPG, NCEC heightened tensions between the civil society, political parties, and the State.	Political parties and civil society agenda for constitutional reforms united the nation against the dictatorial KANU regime.	The failed constitutional reform agenda, i.e. the 2005 referendum, heightened political antagonisms.	The Constitution of Kenya (2010) laid the framework for peace and stability. The ICC process acted as deterrence to conflict.	Legal infrastructure for peace had failed. There was failed enforcement of legal regimes that would assure peace.
5. Cultural	Militias propagated ethnic killings and forced displacement. Militia oathing activities were embedded on cultural standpoints.	Militias propagated ethnic killings and forced displacement. Militia oathing activities were embedded on cultural standpoints.	Militia group activities reduced compared to 1992/1997 elections. Militia/vigilante groups were outlawed by the State.	Militia groups engaged in organised killings, forced displacement, SGBV, e.g., rape, forced male circumcision.	Militia activities reduced after vigilante groups were again outlawed by the State. The State 'silenced' key vigilante operatives.	Militia activities resurfaced. While militia groups were outlawed by the state, oathing activities still took place.
6. Ethnic-identity	Ethnic politics led to forcible removal of some ethnic groups from the Miteitei farm in the border of Rift Valley, Western and, Nyanza regions.	Ethnic politics led to forcible removal of some ethnic groups from the Rift Valley, Western, Nyanza and Coast regions.	NARC had national outlook. This united the country's political agenda against KANU. Ethnic politics were relegated, momentarily.	Hate media propagated ethnic animosities. The '41 Against 1' ethno-political narrative led to ethnic animosity against the Kikuyu community.	Ethnic hatred was not pronounced. Jubilee Alliance had united the two major antagonistic communities, i.e. Kikuyu and Kalenjin.	Social media fuelled ethnic hatred. Ethnic coalitions and the '42 Against 2' ethno-political narrative heighted animosity.
Effects on peace in the country	Violence experienced in the country. At least 1 500 died, 300000 displaced, mainly in Rift Valley, Western and Nyanza regions (Barkan 1998).	Violence experienced in the country. At least 100 killed, 100000 displaced in Rift Valley, Coast, Western and Nyanza regions (Kagwanja 2003).	Negative peace experienced due to shared interests for regime change. There were no major post-election violence incidences reported.	Violence experienced in the country. At least 1 133 killed, 800000 displaced, mainly in Rift Valley, Nyanza, and Coast (CIPEV 2008).	Peace experienced due to the structural, institutional, legal reforms in the country. There were no major post-election violence incidences reported.	Violence experienced in Nairobi and Kisumu. At least 37 killed before NASA filed a petition at the Supreme Court (KNCHR 2017).

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